

Nottingham Planning Board
September 24, 2014

Accepted: 10-22-2014

Members Present: Arthur Stockus, Chair; Susan Mooney, Secretary; Dirk Grotenhuis, SRPC Rep; John Morin, CIP Rep; Mark Carpenter, BOS Rep; Charlene Andersen; Teresa Bascom, Alternate; Robert “Buzz” Davies, Alternate; Gary Anderson, Alternate

Members Absent: Eduard Viel, Vice Chair; Paul Colby, Code Administrator; Mary Bonser, BOS Rep

Others Present: JoAnna Arendarczyk, Land Use Clerk; Peter and Steve White, Applicants; Gwen Friend, Abutter; Jack Mettee, Planner/Consultant

Alternate seated and voting:

- Teresa Bascom for Ed Viel

Alternates participating but not voting:

- Mr. Davies
- Mr. Anderson

Call to Order at 7:00pm

Public Hearing

- **Case #P14-010-SUB** – Application from Leonard White Revocable Trust for acceptance, compliance review, and final approval of a 6 Lot Subdivision for Map 66 Lot 2. Total acreage is 36.2Ac. The land is located on Raymond Road, Nottingham, NH and is identified as Tax Map 66, Lot 2 and is owned by L.F. White Revocable Trust.

Mr. Chairman read the above Public Notice and commented that Mr. Colby had written a letter suggesting acceptance of the application as complete.

Motion was made by: Mrs. Mooney to accept the application as complete

Seconded by: Mr. Grotenhuis

Vote: 7-0-0 motion passed

Public Hearing opened at 7:02pm

Mr. Chairman reread the above Public Notice and stated the following:

- **The Public Notice was posted on Saturday September 6th in the Foster’s Daily Democrat**
- **The last abutter’s notice delivery receipt was received September 18th**

Roscoe Blaisdell, the Surveyor, Wetland scientist and Septic designer, introduced himself as well as his clients, Peter White and Leonard White, Trustee’s of the L.F. White Revocable Trust. He described the location of the land as being on Raymond Road, opposite side of Barderry Lane and White’s Grove Road. He described the land as having nice topography with a few wetlands. The test pit results were good and Mr. Blaisdell stated that he can meet all the Wetland setbacks.

The plan:

- Five (5) new building lots
- three (3) common driveways with easements

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- lots sizes ranging from two (2) acres to three (3) acres in size
- one (1) remainder 23.76 acres lot in the back- left untouched at this time

Public comment:

- Gwen Friend- 150 Raymond Road: attended for informational purposes only and commented that the plans seemed reasonable.

Public Hearing closed at 7:08pm

Deliberation:

Mr. Chairman read Mr. Colby's comments as well as the Fire Chief's comments which resulted in the conditions listed in the Notice of Decision. (*File*)

The applicant had requested relief from installing a cistern based on proximity to the existing Raymond Road cistern (#18). Mr. Chairman instructed Mr. Blaisdell, per the Fire Chief's comments, to give the calculated distance from cistern #18 to each of the proposed structures on the plan, to the Land Use Clerk who will forward the calculations to the Fire Chief.

Mr. Grotenhuis requested to have a description of the owner's easement for the power lines noted on the plans.

It was noted that the plans had not been reviewed by the Conservation Commission (*as required: Section III- Procedure and Review B. 1. (a) Subdivision Rules and Regulation amended September 2009*). Mr. Blaisdell stated that he would be willing to do that.

Mrs. Mooney informed him of the next Conservation Commission meeting date (October 20, 2014) and to contact the Chairman of the Commission to get on the agenda.

Mr. Chairman listed the conditions raised during the Hearing:

1. State of NH Subdivision approval
2. State of NH DOT driveway permit approval
3. Note added to plan indicating- Subdivision is subject to the Nottingham Impact Fee Schedule
4. Monuments for lots need to be set and documented
5. Conservation Commission comments letter
6. Note of power line ownership added to plan
7. Provide to the Nottingham Fire Chief the distance from each proposed lot to cistern #18 on Raymond Rd.
8. Fire Department approval letter

Motion made by: Ms. Andersen to accept the Subdivision based on the 8 conditions listed above.

Seconded by: Mrs. Mooney

Discussion: Mr. Grotenhuis expressed concerned about granting the approval with so many conditions. Especially if a Cistern is needed because the lot lines will have to change.

Both Mr. Blaisdell and the White's stated that they would be installing sprinkler systems if the distance to the existing cistern isn't acceptable, so the lot lines would not change.

Vote: 7-0-0 motion passed

Mr. Blaisdell asked how much time they have to complete the process before presenting the Mylar for signatures.

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Mr. Chairman informed him that he has a year to complete the process.

Maple Ridge Subdivision Extension

Mr. Chairman read the letter requesting a 12-month extension for the signing of recordable Mylars to the second Planning Board Hearing in September, 2015.

Mrs. Mooney added that Samuel Demeritt, the Conservation Commission Chairman had sent an email endorsing the extension request.

Motion made by: Mrs. Mooney to grant the extension as requested.

Seconded by: Ms. Andersen

Vote: 7-0-0 motion passed

Other

▪ **Review Draft 3 of the Steep Slope Protection District- meeting with Jack Mettee**

Before Mr. Mettee presented his draft to the Board, Mr. Anderson presented a few points from a study he found done across the country in 2005 by the Land and Sky Regional Council, labeled: *Ridge Line and Steep Slope Regulations in Mountain Communities*. To consider for Nottingham's Regulations:

- A development should be carried out so as to be visually unobtrusive and environmentally sound while being considerate of the owner's property rights.
- Identifying a specific need for the restrictions on the steep slopes.
- How are the steep slope areas that are scattered around town, concentrated?

Mrs. Mooney stated that there is a document titled *Steep Slope and Ridgeline Protection* that can be found on DESNewHampshire.Gov. The document lists 10 topics to address when doing Steep Slope Ordinances.

Mr. Carpenter states that Mr. Anderson's points echo a question the Board of Selectmen have. Is there a specific area that is in Nottingham that can actually be developed that is in a Steep Slope Zone?

Ms. Andersen recommended that Mr. Carpenter refer to the Sand and Gravel map and described some of the areas of potential development that fall under the proposed Ordinance.

Mr. Carpenter was satisfied with the response.

Mr. Mettee stated that the Board seemed more concerned about the environmental effects and not so much the aesthetics aspect but that can be added. A statement about the land owner rights could also be added. He cautioned if that were added it would have to be considered for all ordinances because every ordinance has an impact of land owner rights in some way.

Mr. Carpenter asked the Board if the Steep Slope Ordinance would be applicable to all property owners or new subdivisions only.

Collectively the Board members stated that it is intended for new subdivisions.

Mr. Carpenter asked if there is wording to address that.

Ms. Andersen stated that it would be in the Subdivision Regulations.

Mr. Chairman pointed out wording in the Draft in section 3c that conflicts with the fact that it is intended to apply to new subdivisions.

Mr. Carpenter asked that the intent be clear within the ordinance.

There was a lengthy discussion on the applicability of the proposed ordinance regarding the minimum lot size the ordinance applies to. Some of the Board members wanted the

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size and restrictions to be rigid and provide protection of the area within and around the slopes whereas others deemed it unacceptable to restrict landowner's rights to use their land as desired. It was decided to have Mr. Mettee work out some simple suggested language, similar to those provided by Ms. Andersen that defines the applicable minimum lot size and exceptions. The Board will review the options he will provide. Mr. Mettee handed the Board members a Memorandum Re: Reconsideration of forest management on Steep Slopes by PB (*attached*). As well as copies of the Superior Court case (8/13/14) (*attached*). This led to a discussion regarding a line in the proposed ordinance about logging and soil erosion (*Draft 3- 6.c.1*) that was ultimately eliminated from the proposed ordinance.

The Board had asked Mr. Mettee to provide some examples of uses not permitted on slopes greater than 25% and a definition of what severe impact on a slope means. After some discussion it was decided not to provide some examples and a definition of severe impact was not necessary it was just a curiosity question.

Mr. Davies asked if this ordinance states that (*Draft 3- 3.c*) "such requirement will apply to any activity..." than it will affect anyone with a steep slope and a 5 acres of land to subdivide.

Mr. Mettee stated that it is implied.

Mr. Carpenter stated that there should be language in the ordinance that specifies this point.

Mr. Mettee pointed out that it states that a Single-family residential development is permitted... etc. (*Draft 3- 4.e*)

Several of the Board members debated that if this is going to pass with the voters it needs to specifically state that it applies to Major Subdivisions and new Site Plan applications.

Ms. Andersen suggested using the language in the Applicability section from the Minimum Lot Disturbance Ordinance that was worked on recently.

Mr. Mettee debated that ordinance was different because you're trying to protect a resource.

Mr. Carpenter stated that if someone owns land today on steep slope and they aren't subdividing a large number of lots than leave them alone. Those people in town who have property with steep slopes will not want to be restricted in any way. As he understands it the Planning Board is in agreement that this ordinance is for major subdivisions only and it better read that way.

Mr. Mettee stated that those people would be restricted because of the concern about soil erosion and sedimentation control and things like that.

Several members of the Board made it clear that the ordinance needs to clearly state that this ordinance isn't aimed at a single family subdivision.

Mr. Mettee dropped his reasoning and agreed to add some language based on what Ms. Andersen proposed.

The Board agreed to have Mr. Mettee change (*Draft 3- 4.a*) in the Permitted Activities section to read as follows: Forestry, logging and tree farming consistent with state laws. After a lengthy discussion the Board agreed to strike line Wildlife refuges. (*Draft 3- 4.c*) It was agree to have Mr. Mettee make the adjustments and send them to the Land Use Clerk for distribution.

- **Seating position of non-voting Alternates- Reply from the Legal Services**

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Mr. Chairman read the Board the reply from the Legal Services Counsel. (*Attached*) He added that he researched three other towns in the area with same language in their rules of procedure. He suggested that someone from the Board draft some language for the Board to vote on.

The Board discussed the pros and cons to having the non-voting Alternates sitting at a designated spot with the Board.

Mr. Chairman asked for volunteers to draft the language for the Rules of Procedure.

There are no critical cases at this time so there is no rush to have this draft finished.

Mr. Anderson and Mr. Chairman agreed to work on the draft together. This allows the influence of both an Alternate and an elected Board member's input in the language.

Ms. Andersen asked a few general questions:

- Boundary markers always a condition
 - Mr. Chairman clarified they are not set until the plans are approved
- Has the Wireless Communications Ordinance been found
 - It has been found
 - Updated Zoning Ordinances will be completed as time allows

Board of Selectman Update

- Budget season has started
 - A list has been started of some potential Warrant Articles.
- Installation of the projector and new broadcasting equipment will be completed next week- A portion of the Cable Franchise Fees Fund is paying for some of this
 - Forum Candidate's night (October 20th) will use the new broadcasting equipment in the gymnasium

Staff/ Board Members Update

- Municipal Law Lecture Series reminder
 - Reminder for those who signed up to attend
- Mr. Chairman and Mrs. Mooney gave an overview of their experience in the Planning Board booth at the Nottingham Family Day.
 - Handed out about a dozen copies of the proposed Ordinances
 - Received two complaints about the Impact Fees

Minutes

Motion made by: Mrs. Mooney to accept the minutes as amended.

Seconded by: Mrs. Bascom

Vote: 6-0-1 motion passed

Adjournment

Motion made by: Mrs. Bascom

Seconded by: Mr. Grotenhuis

Vote: 7-0-0 motion passed

Adjourned at 8:56pm

Respectfully submitted,

JoAnna Arendarczyk, Land Use Clerk