

NOTTINGHAM ZONING BOARD OF ADJUSTMENTS

November 12th 2013

Members Present: Michael Russo, Chair; Bonnie Winona-MacKinnon; Terry Bonser; Robert Davidson;

Members Absent: Romeo Danaïs, Kevin Bassett, Alternate; Jim Crowell, Alternate;

Others Present: JoAnna Arendarczyk, Land Use Clerk; Peter Landry, Contractor; George Robinson Applicant; Cheryl Robinson, Applicant; Jeff Gallant, Applicant; Matthew Curry

Mr. Chairman called the meeting to order at: 7:00pm

Mr. Chairman changed the order of the agenda and moved the review of the September minutes to after the evenings cases were heard.

Mr. Chairman then stated the rules of the hearing.

Mr. Chairman opened the first case:

Case 13- 003-VA: Application from George & Cheryl Robinson for a Request for Variance from Article IV Section T.2b and T.3b. of the Zoning Ordinance, frontage requirements for a back lot subdivision. Tax Map 23 Lot 13, 14 King Fisher Road, owned by George & Cheryl Robinson.

Mr. Landry introduced himself and the applicants for this case as well as their son Matthew Curry.

Mr. Landry restated that the applicants were seeking relief from the Zoning Requirements as stated in the case listing.

Mr. Landry also spoke about some of the history on the case. The lot is an existing 36.4 acre lot owned by the applicants, created by subdivision approved by the Planning Board in 1984 on a private road. (It still is a private road today)

The applicants have a 70-ft parcel that fronts (abuts) along the private road (King Fisher private Road). The 36.4 acre lot is located at the end of the 20-ft private way of King Fisher Road.

He then spoke about the applicants plans to create a 12 acre lot for their son and that it is understood that once the Variance is approved they will need to go to the Planning Board for approval on the Subdivision.

The basis for the Variance request is to allow one (1) lot to be created without the minimum 200-ft frontage under the backlot subdivision section of the Zoning Ordinance.

Mr. Landry offered to go into detail on the Supporting Information part of the application.

Mr. Chairman agreed that would be helpful.

1. Granting the variance would not be contrary to the public interest because there is no adverse effect on the public interest, the character of the neighborhood will be unaltered, and there is no threat to the health, safety or general welfare of the public.
2. If the Variance were granted, the spirit of the ordinance would be observed because the frontage intends to prevent overcrowding, but with the ample lot width and restriction of "No Further Subdivision" the spirit and intent is still being met.

Mr. Chairman stopped Mr. Landry to ask Mr. Robinson if he wanted to withdraw at this time due to not having a full quorum.

NOTTINGHAM ZONING BOARD OF ADJUSTMENTS

November 12th 2013

Mr. Robinson stated he is ok with continuing.

3. Granting the variance would do substantial justice because a gain by the general public by enforcing the Zoning Regulations cannot outweigh the loss to an individual landowner without first being compensated for such loss on undertaking.
4. If the variance is granted, the values of the surrounding properties would not be diminished because of the creation of one (1) additional lot at the end of a dead-end roadway. Proposed use of such lot to conform to applicable or allowable uses (residential). It is more likely than not that this project will not decrease surrounding property values (based on the proposal).
5. Unnecessary Hardship: No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because all other provisions of the "Backlot Subdivision" regulations can be met. Sufficient frontage (20' min) exist for each lot to have its own driveway located within its frontage (where it abuts King Fisher). And the proposed use is a reasonable one because "Spirit & Intent" of zoning being met, substantial justice would be met, and proposed use conforms to surrounding properties.

He then went on: Explain how, if the criteria in the previous statements are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from the other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. *The current "Backlot Subdivision" regulation allows for this type of use. The status of "King Fisher" Road is now private, but provisions for future R.O.W. dedication are considered and is a part of this application. The hardship lies in the fact that the roadway is private and therefore "frontage" does not exist.*

Mr. Landry mentioned the plans at the planning level should the Variance be accepted.

Mr. Chairman asked if Ft. Hill Road is a private road.

Mr. Landry stated that to his knowledge it is a public town maintained road.

Mr. Bonser clarified that King Fisher is private.

Mr. Landry agreed and pointed out on the map.

Mrs. Winona-MacKinnon asked if there are existing homes on the land.

Mr. Landry answered that there is, he mistakenly forgot to include it on the map. It is located roughly between the "4's" in the 24.4 acre section labeled George and Cheryl on the sketch. There is an existing house and an existing driveway.

Mr. Chairman asked for clarification on lot 13-1.

Mr. Landry stated that is an abutter. That lot came from a subdivision in 1984.

Mr. Chairman asked if there has been any thought as to where the building may occur in the back lot.

Mr. Robinson pointed to the location on the sketch and Mr. Landry described the location as the South-East corner off the "frontage", in 200'-300' labeled Matt's Lot.

Mr. Chairman asked about how far away that location is from Nottingham Lake.

Mr. Robinson said he figures 600'-700'.

NOTTINGHAM ZONING BOARD OF ADJUSTMENTS

November 12th 2013

Mr. Chairman then advised them that anything built anywhere near 1,000 ft near Little River they must notify the Lamprey River advisory committee. (He was the former chair of that committee)

Mr. Landry stated that he was aware of that.

Mr. Chairman asked if there were any abutters. Seeing none he asked Mr. Robinson if he spoke with his neighbors.

Mr. Robinson stated he had.

Mr. Chairman asked that Mr. Robinson pay attention to what the Lamprey River advisory committee and Planning Board says regarding run off from the driveway and roof.

Mr. Bonser then brought up the road names on the tax map being incorrect.

Mr. Robinson and Mr. Landry agreed they are not labeled correctly.

Mrs. Winona-MacKinnon verified that the property cannot be eligible to be subdivided again in the future under this Ordinance.

Mr. Landry agreed.

Mr. Chairman asked about regulations on Subdivision on Private Town roads.

Mrs. Winona- MacKinnon read Article II in the Zoning Ordinance Regulations:

C. Residential-Agricultural District

This zoning district shall encompass most of the Town of Nottingham as shown on the Zoning Map, as amended. It shall be a zone of low density residential and agricultural uses consistent with the Vision of the Master Plan to retain Nottingham's rural landscape.

1. No lot shall be less than two (2) acres in area;
 - a) Each lot shall have a minimum contiguous frontage of two hundred (200') feet, including a curb cut for approved access, except to the extent with regard to frontage of back lots approved in accordance with Article IV, Section T.
 - b) Each single parcel of land is required to contain a driveway (curb cut) within the required minimum frontage. The required driveway may be either a single or common/shared driveway serving no more than two residences;
 - (1) Shared driveways will be kept to the common boundary.
 - (2) Shared driveways will be put in each owner's deed of record.
 - c) Each lot must contain a 200'x200' square fit for building or a thirty thousand (30,000) square foot contiguous area lot envelope in which a house and septic system shall be placed to meet all existing setbacks ordinances, consisting of upland soils. However, a nonconforming lot shall be exempt from these provisions, provided it was legal under the provisions in effect immediately prior to the passage of this Ordinance or substantial amendments thereto, where approval can be granted without substantial detriment to the public interest and without substantially detracting from or nullifying the provisions and purpose of this Ordinance.

Each member of the Committee filled out the Findings of Facts sheet.

Mr. Chairman asked Mr. Robinson if he planned to contact the Lamprey River advisory after the Zoning Boards decision or during the Planning Board stage.

NOTTINGHAM ZONING BOARD OF ADJUSTMENTS

November 12th 2013

After some discussion it was decided that Mr. Chairman would forward the information to Mr. Robinson via e-mail.

Motion: Mr. Davidson made a motion to accept **Case 13- 003-VA:** Application from George & Cheryl Robinson for a Request for Variance from Article IV Section T.2b and T.3b. of the Zoning Ordinance, frontage requirements for a back lot subdivision. Tax Map 23 Lot 13, 14 King Fisher Road, owned by George & Cheryl Robinson. To create two lots each of which is 12 acres.

Second: Made by Mrs. Winona-MacKinnon.

Vote: 4-0 motion passed

7:49 opened new case:

Case 13-002-SE: Application from Jeffery & Deborah Gallant for a Special Exception Request from Article II Section C.2. of the Zoning Ordinance, to build a garage within 20' of lot line where 50' is required. Tax Map 24 Lot 13-2 18 Fort Hill Road, owned by Jeffery & Deborah Gallant.

Mr. Gallant spoke on his own behalf. He described his case:

He is seeking relief of the 50ft building setback in the form of a Special Exception.

The proposed structure is a 26'x36' garage constructed on a concrete slab to be located 20ft from the lot line.

It will blend in with the existing paved driveway and dwelling. No trees will need to be cut.

He has spoken with his neighbors with the exception of the neighbor across the street (no abutters present).

Mr. Landry helped him with his plan. They looked carefully to see if there was any other possibility for the build. Mr. Gallant stated the complications of other possible locations. This location though no most desired due to the turning radius it is the one that was best. Attaching the garage was considered but there is a telephone pole and the well that eliminated that possibility.

After the Board discussed possibilities within the 50ft range it was decided that this truly is the most workable with the least disturbances.

The Zoning Board members filled out Findings of Facts sheets.

Motion: Made by Mrs. Winona- MacKinnon to approve the request in **Case 13-002-SE:** Application from Jeffery & Deborah Gallant for a Special Exception Request from Article II Section C.2. of the Zoning Ordinance, to build a garage within 20' of lot line where 50' is required. Tax Map 24 Lot 13-2 18 Fort Hill Road, owned by Jeffery & Deborah Gallant.

Second: Made by Mr. Bonser

Vote: 4-0 motion passed

Correction of Minutes from September 10th 2013

Motion: Made by Mr. Chairman

Second: Made by Mrs. Winona- MacKinnon

Vote: 3-0-1 motion passed

Mr. Chairman asked about the updated RSA books.

NOTTINGHAM ZONING BOARD OF ADJUSTMENTS

November 12th 2013

Mrs. Arendarczyk stated that they've been ordered.

Other Business:

Mr. Chairman attended some LGC trainings and plans to put together a typed summary of his meetings for the other Board members.

Adjournment at 8:10pm

Motion: Made by Mrs. Winona- MacKinnon

Second: Made by Mr. Bonser

Vote: 4-0 motion passed

Respectfully Submitted,

JoAnna Arendarczyk