



**TOWN OF  
BROOKLINE, NEW HAMPSHIRE  
PLANNING BOARD**

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**PLANNING BOARD MEETING  
Minutes  
June 21, 2012**

**Present:** Alan Rosenberg, Co-Chair (voting)  
Dana MacAllister, Co-Chair (voting)  
Ron Pelletier, Member (voting)  
Richard Randlett, Member (voting)

**Absent:** Valérie Maurer, Town Planner, Darrell Philpot, Selectmen's Representative, Judy Cook, Alternate and Kevin Gorgoglione, Alternate.

**7:00 PM- Meeting start**

**Minutes**

**Richard made a motion to approve the Planning Board minutes of June 7, 2012 as written. Ron seconded. Vote yes 4-0.**

**NRSP # 2012-1:C-46-7,C-46-8 – Lot Line Adjustment**

In attendance for this hearing is: Mr. Higginson from Meridian Land Services. Mr. Higginson explained that this lot line adjustment is just a land swap of 701 Square Feet. The two lots involved are C-46-7 owned by David and Cari-Lynn Mackie and Lot C-46-8 is owned by Scott and Miki Elms located on Jefts drive. The property owners would like to build an addition but will need more room to keep it within the setback. This will be an even swap of 701 square feet.

**Richard made a motion to accept case # 2012-1: C-46-7, C-46-8. Dana seconded. Vote yes 4-0.**

**Alan** said this is a pretty straight forward swap of land. **Alan** read the conditions of approval:

1. The applicant shall submit 8 paper copies of the final plan and one permanent, reproducible Mylar.
2. A letter from Meridian Land Services stating that all bounds have been set shall be provided to the Board prior to the recording of the final plan.
3. All fees associated with the case review shall be paid prior to recording of the final plan.

**Dana made a motion to approve case 2012-1: C-46-7, C-46-8. Ron seconded. Vote yes 4-0.**

**Subdivision & NRSP Regulations amendments, review Legal Counsel's Recommendations.**

**Alan** read through the letter from Town Counsel in regard to the amendments the Planning Board would like to

make to the Subdivision regulations and the NRSP Regulations.

“**I.** The proposal redefines both "Active and Substantial Development or Building" and "Substantial Completion". The Planning Board is empowered to define these terms by RSA 674:39 (III). The suggested change would appear to be adequate for its purpose with one change. I do suggest that an addition to the first clause of the definition of both terms to read as follows: *"In the absence of a condition of approval by the Planning Board, specific to the subject project...."*

**Ron** said if Town Counsel is suggesting that this be added we should do so. The Board agreed.

2. Bonding. Section 4.9 has several proposed changes that mostly involve the substitution of "Performance Guarantee" for "Completion bond" and "Maintenance Guarantee" for "Completion Bond". I recommend that the new terms have a definition in a new numbered section that reads substantially as follows:

Performance/Maintenance Guarantee: a surety provided through a cash savings account held by the Town of Brookline or a local regulated financial institution, by a Letter of Credit issued by a local regulated financial institution, or through a bond issued by a regulated insurance company authorized to do business in the State of New Hampshire. The Letter of Credit format must be approved by Town Counsel and must include a "self-calling" provision: *"If thirty days before expiration, the issuer has not been advised in writing by the Town of Brookline that all improvements and/or maintenance guaranteed by the letter of credit have been satisfactorily completed, the surety is automatically called fifteen days prior to expiration. In such an event, the issuing institution shall immediately, without any action on the part of the town, forward payment to the Town of Brookline in the amount of the Performance Maintenance Guarantee. All Bonds must include a notification provision whereby both the Planning Board and the Board of Selectmen receive any cancellation notices. All bonds must either be issued by a domestic New Hampshire insurance company or contain specific terms subjecting the issuer to the jurisdiction of New Hampshire Courts and to New Hampshire law other than "choice of law" provisions. All surety packages shall include language or a document explicitly authorizing the Town of Brookline to take ownership of the Guarantee proceeds upon any default by the applicant or successor in interest or any violation of Planning Board approval. All surety packages shall also include language or a document that, upon an event of default, explicitly grants the Town of Brookline the right to enter onto the subject private property in order to complete the work set forth and required by the Planning Board approval. In addition, I recommend changing the heading of this section from "Bonds" to "Financial Guarantees".*

**Alan** said Town Counsel is recommending definitions and suggest changing the heading to Financial Guarantees. It also looks like Town Counsel suggests limiting the guarantee to cash instead physical things of things for example cars, building lots, or homes. The Board agrees with Town Counsels recommendations.

3. Section 4.8 is a section on roads that specifies in several subsections that a Performance/Maintenance Guarantee will be required. However, the details of those guarantees is in Section 4.9. While I realize that the natural flow is from Section 4.8 to Section 4.9, I recommend that a cross-reference be placed in the Section 4.8 wherever appropriate *"See Section 4.9 below."*

The Board agreed with Town Counsels recommendation.

4. In Section 4.9.06, there is language regarding “...*pre-existing Performance Guarantees that are not self-calling* ...”. This language specifies that the town will notify the developer 30 days prior to the expiration of a “Performance Guarantee” and will collect on that guarantee if it is not replaced 15 days prior to the expiration. While I think this may be an excellent policy for the Town to follow, I am not comfortable with this as a regulation. This places the responsibility squarely on the town instead of the developer and may lead to increased liability for the Town if a deadline is missed. I recommend this language be deleted in its entirety.

**Alan** said Town Counsel recommends this language be deleted. This was in the proposed corrections that we sent to Town Counsel for review not what is in the regulations now. **Ron** said they should send a letter to the Board of Selectmen stating that they will not have this section or wording in the regulations per advice of Town Counsel. **Alan** said the proposed change was going to state “4.9.06 Performance Guarantees shall be self-calling. The language of the performance guarantee shall provide that if 30 days before expiration, the issuer has not been advised in writing by the Town of Brookline that all improvements guaranteed by the Performance Guarantee have been satisfactorily completed; the Performance Guarantee is automatically called 15 days prior to expiration. The language of the Performance Guarantee shall provide that, in such an event, without any action on the part of the Town of Brookline, the Bank shall immediately forward a check to the Town of Brookline, payable to the Town of Brookline, in the amount of the Performance Guarantee, For pre-existing Performance Guarantees that are not self-calling, the Town will notify the subdivider, developer or successor within 30 days prior to the expiration date of the Performance Guarantee that a replacement guarantee is required. The town will collect on the Performance Guarantee 15 days prior to it expiration if a replacement guarantee, suitable to the Town, is not received by the close of business on that date. (2012)”

The Board agreed that a letter should be sent to the Board of Selectmen and the Town Administrator stating this paragraph will be removed per advice of Town Counsel.

#### Non-Residential Site Plan Review

The proposed changes in this document are primarily housekeeping with the exception of Section 6.6 Bonding and the definitions of “*Active and Substantial Development or Building*” and “*Substantial Completion*.” The “*Bonding*” section is proposed to match the corresponding Section in the Subdivision Regulations. My recommendations are, therefore the same as above. I also recommend adopting the same changes for the definitions as recommended for the Subdivision Regulations above.”

**Alan** said it looks like we are in agreement with Town Counsel so this information should go into the notice for the public hearing.

#### **Discussion regarding RSA 674:54, requirements for new Police Department**

**Dana** said he was looking for a regulation that speaks to why the Planning Board would not have to review plan for the addition to the Safety Complex plan. RSA 674:54 Speaks to that.

##### **“674:54 Governmental Land Uses. –**

I. In this section, “governmental use” means a use, construction, or development of land owned or occupied, or proposed to be owned or occupied, by the state, university system, the community college system of New Hampshire, or by a county, town, city, school district, or village district, or any of their agents, for any public

purpose which is statutorily or traditionally governmental in nature.

II. The state, university system, community college system of New Hampshire, county, town, city, school district, or village district shall give written notification to the governing body and planning board, if such exists, of a municipality of any proposed governmental use of property within its jurisdiction, which constitutes a substantial change in use or a substantial new use. Written notification shall contain plans, specifications, explanations of proposed changes available at the time, a statement of the governmental nature of the use as set forth in paragraph I, and a proposed construction schedule. Such notification shall be provided at least 60 days prior to the beginning of construction. Either the governing body or planning board of the municipality may conduct a public hearing relative to the proposed governmental use. Any such hearing shall be held within 30 days after receipt of notice by the governing body or planning board. A representative of the governmental entity which provided notice shall be available to present the plans, specifications, and construction schedule, and to provide explanations. The governing body or planning board may issue nonbinding written comments relative to conformity or nonconformity of the proposal with normally applicable land use regulations to the sponsor of the governmental use within 30 days after the hearing.

II-a. Any use, construction, or development of land occurring on governmentally owned or occupied land, but which is not a governmental use as defined in paragraph I, shall be fully subject to local land use regulations.

II-b. The construction and operation of any solid waste disposal facility on land owned or occupied by any city or town within another city or town shall be subject to local land use regulations to the same extent as if the land were owned and occupied by a private entity. Nothing in this paragraph shall affect the construction and operation of a solid waste facility on land owned by a solid waste management district formed under RSA 53-A or RSA 53-B or any combination of municipalities authorized by an act of the general court, if the land is located within a city or town that is part of the district.

III. This section shall not apply to:

(a) The layout or construction of public highways of any class, or to the distribution lines or transmission apparatus of governmental utilities, provided that the erection of a highway or utility easement across a parcel of land, shall not, in and of itself, be deemed to subdivide the remaining land into 2 or more lots or sites for conveyance for development purposes in the absence of subdivision approval under this title. For purposes of this subparagraph, "transmission apparatus" shall not include wireless communication facilities.

(b) The erection, installation, or maintenance of poles, structures, conduits and cables, or wires in, under, or across any public highways under RSA 231, or licenses or leases for telecommunication facilities in, under, or across railroad rights of way. For purposes of this subparagraph, "structures" shall not include wireless communications facilities.

IV. In the event of exigent circumstances where the delay entailed by compliance with this section would endanger public health or safety, the governor may declare a governmental use exempt from the requirements of this section."

**Dana** said he thought they should have something official that states per RSA 674:54 the Planning Board has no recommendations or requirements for the new Police Department addition to the Safety Complex. **Ron** said he thought it should also state that when the Safety Complex was first discussed 8 years ago they came to the Planning Board and the Planning Board did review the plan.

**Ron** said the facilities committee did come in briefly this year and went over the addition and said that it was downsized from the original plan. **Ron** said he didn't want people to think the Planning Board hasn't seen this plan at all because we have.

**Alan** said they should just write a letter stating that even though not required, per RSA 674:54, the Planning Board has reviewed the new Police Department addition to the Safety Complex and has no comments or

recommendations for the addition. The only request is that at the time of completion the Planning Board receives a copy of the as built plans for the files here at the Town Hall.

**Job Fair for New Police Department Addition to Safety Complex**

**Dana** said they are holding a Job Fair at the Safety Complex on June 28<sup>th</sup>, 2012 from 5:00pm to 6:30pm. This is for local contractors who are interested to come in to review plans and ask any questions they may have.

**Sign Ordinance Discussion**

The Board agreed to add the sign ordinance discussion to the July 19, 2012 meeting.

**Meeting on July 5<sup>th</sup>, 2012**

The Board decided to cancel the July 5<sup>th</sup> meeting, attendance may be low due to the holiday.

**CIP**

**Alan** said he had not updated this meeting for the Capital Improvement Project.

**Economic Development Group**

**Dana** said the next Economic Development Group meeting is July 10, 2012 at 4:00 pm. He has sent a draft copy of the Intern Agreement to Valérie for her review. **Ron** asked if they had found the fund (\$500) to pay the intern. **Dana** said Tad Putney (Town Administrator) is going to work on that.

**Dana** said there was also a nice write up in the Nashua Telegraph on June 11, 2012 (see attached).

**Mixed Use Committee**

**Ron** said they haven't met since the last Planning Board Meeting. Right now they are waiting to hear the results of the grant application they submitted.

**Richard made a motion to adjourn at 8:05 pm. Dana Seconded. Vote yes 4-0.**

**Alan Rosenberg, Co-Chair** \_\_\_\_\_

**Dana MacAllister, Co-Chair** \_\_\_\_\_

**Ron Pelletier, Member** \_\_\_\_\_

**Richard Randlett, Member** \_\_\_\_\_

**The next Regular Planning Board meeting will be 7/19/2012.  
Minutes submitted by Kristen Austin.**

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**Brookline Planning Board adopts Master Plan that seeks to create stronger tax base in the community**

By DANIELLE CURTIS Staff Writer

BROOKLINE – If there was doubt that Brookline was a bedroom community, the 2012 update of the Master Plan has erased it.

In 2009, residential land and buildings made up 95.2 percent of the town's local assessed value, while commercial land and buildings made up 3.5 percent, according to the plan, officially adopted at a Planning Board public hearing in May.

But the town does not have plans to stay status quo. Quite the opposite: The updated plan outlines several strategies to create a stronger tax base for the community.

In Greater Nashua, Brookline's land use has left the community with the second-highest total tax rate – behind Mont Vernon – and the fourth-highest percentage of local assessed value from residential land and buildings.

According to Planning Board Co-Chairmen Dana MacAllister and Alan Rosenberg, focusing on economic development is the way to change those statistics.

While the Master Plan outlines numerous strategies for doing so, including the recent creation of a Board of Selectmen appointed economic development committee, it discusses only a few areas of town where development could occur.

Filling vacant buildings and helping existing downtown businesses thrive, MacAllister said, will be an important part of the community's future.

Most commercial development the town hopes to attract, however, will be focused on Route 13, according to the plan.

Traffic counts from the state Department of Transportation show that in 2009 about 5,800 cars were counted along Route 13 at the Massachusetts state line and 8,400 vehicles near Melendy Pond.

MacAllister said the road has long been an area planned for future development because it is already zoned for commercial and industrial uses. The economic development committee will work to create an inventory of the available land on the road to help make attracting more businesses easier.

Another committee in town is looking at creating a mixed use district along Route 130, which Rosenberg said would allow home-based companies, like small offices and shops. Currently, only residential uses are permitted on the road.

Still, while the authors of the updated Master Plan and residents agreed that more commercial development is needed, most also agreed the town should also strive to maintain the town's rural character.

"That's what attracted me to Brookline," MacAllister said. "It's a great town, so a lot of the economic development is tough."

While balancing the town's character with its need for a larger tax base is sure to be a challenge, town officials said they are confident the updated Master Plan will lead the town through these obstacles successfully.

"It's an aggressive plan ... but I think the goals are achievable," Rosenberg said. "Hopefully we're get a lot of volunteers willing to give some time to the town."

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