



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

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**PLANNING BOARD MEETING
Minutes
September 17, 2015**

Present: Alan Rosenberg, Co-Chair (voting)
Eric Bernstein, Co-Chair (voting)
Richard Randlett, Member (voting)
Brendan Denehy, Selectboard Representative (voting)
Jill Adams, Alternate (Voting for Ron)
Valérie Rearick, Town Planner

Absent: Ron Pelletier, Member and Judy Cook, Alternate.

Minutes

Brendan moved to approve the minutes of the August 20, 2015 Planning Board Meeting Minutes as amended. Eric seconded. Vote yes 4-0.

Nomination of second Co-Chair

Richard made a motion to nominate Eric Bernstein as the second Co-Chair of the Planning Board. Brendan seconded. Vote yes 3-0 Eric abstained.

Alan asked Jill to vote for Ron at this meeting. **Jill** agreed.

2015-6: D-52-7-Deborah, Walz, 9 Kodiak Road, - 2 lot subdivision

In attendance for this hearing Randy Height (Meridian Land Services), Deborah Walz (owner), Donna Marsh (realtor), John Drugan (Abutter), David Bertoni (abutter), and Maribel McKenna (abutter).

Alan asked if all the fees have been paid and abutter notified for this case. **Valérie** said yes.

Brendan made a motion to accept case 2015-6: D-52-7. Eric Seconded. Vote yes 5-0.

Randy said this is an existing 5 acre lot and they are proposing to subdivide 2 acres to create another lot. This will leave the original lot with 3 acres. The new lot will come off of Wadsworth Drive consisting of 2 acres. They have already received state subdivision approval. They have complete a test pit to prove it is a lot viable for a septic. **John Drugan** said he is concerned with the water supply. Does anyone know how this will be impacted? **Richard** said he doesn't believe this will impact his well. **Randy** said there is no way to quantify either way if it will or will not impact the water supply. There are no ways to know especially in bedrock. He thinks it is highly

unlikely that it will affect him. There are no regulations in place other than a 75 foot radius from a septic. **John** asked what the recourse would be if this does affect his well. **Alan** said there is no recourse. **David Bertoni** asked if they were allowed to have a copy of this plan before they leave tonight's meeting. **Alan** said yes. **David** said his lot is downhill from everyone and his concern is the septic from this new lot contaminating his well and he would like to know if they will be told where the well will be located on this new lot before it is installed. **Randy** said when someone goes to build they dig test pits this tells them if this lot is viable for a septic system. The Town and the State review the septic design so there is no issues with it leaking into the ground water. **Maribel McKenna** said she is concerned about the septic as well but also about the wildlife in the area. **John** said they moved here for the rural setting and asked if the new owners of this lot want to cut trees down, is there anything that the abutters could say as to what needs to stay so they don't wipe out all the trees. **Alan** said it would be up to the property owner but most people come here for the rural character setting. **David** asked if this lot is preconditioned to be built on or can someone buy it and leave it as is. **Alan** said it can be built on or left as is. **Valérie** read the conditions of approval:

1. All fees associated with this case review and meeting attendances shall be paid prior to the recording of the final plan.
2. A letter from the Surveyor shall be received stating that all bounds re in place before a Certificate of Occupancy is issued for the new lot.
3. The applicant shall submit 8 paper copies of the final plan and a permanent, reproducible Mylar.

Brendan made a motion to approve case 2015-6: D-52-7 with the conditions stated. Eric seconded. Vote yes 5-0.

2015-5:H-75- Clover Hill Realty Trust – Cont. from August 20, 2015 meeting.

In attendance for this discussion Attorney Robert Parodi, George & Amy Razzaboni (Razzaboni Home Builders), Randy Haight (Meridian Land Services), Attorney Laurie Perrault, Susan Desantis (owner of Clover Hill Realty Trust), and, Jack Flanagan (4 Sawtelle Road).

Alan said since the last meeting the Board has consulted the Town Attorney. There were two concerns at the last meeting one was the waiver and the second was vesting.

Alan said the original plan was approved on September 02, 2004. No appeal of Planning Board decision to approve the plan was filed with the Court within the 30 days following the issuance of the notice of decision.

The road waiver from 2004 is still valid. There was no appeal of the original granting of the waiver and the appeal period has expired. The Planning Board's "re-affirmation" of that waiver at the January 2014 meeting is not legally binding as there was no proper notice given that it was an item for that meeting, plus it is not really in the Planning Board's scope to make such a ruling. It has no bearing on this case and should not be considered. The only fact that matters is that the 2004 waiver was never appealed and the appeal period has expired.

The judge's ruling in the HOP case regarding the improper granting of the 2006 waiver (making it null and void) was based on a procedural issue in that the hardships cited for granting the waiver were never a part of the formal waiver request. The judge had remanded the case back to the Planning Board and if the applicant had decided to reapply for the waiver with the proper documentation there was no reason that it could not have been granted. The applicant never came back with that request. The voiding of the 2006 waiver has no impact on the 2004 waiver. They are two separate issues.

Alan said the interpretation of the RSA related to vesting is that even though the plan is approved and recorded and legal documents have been processed, the plan is not vested. Vesting deals with the physical construction of lots in a subdivision. Because there are no physical manifestation of the subdivision, the plan would need to be revised so that it complies with current ordinances and regulations. This includes the following items:

- slopes and drainage to meet new state DES requirements
- setback and buffer changes
- underground utilities
- impact fees (add middle school and safety complex)

Randy said he believe that they have addresses all of these and everything is in place at this time. **Randy** said Dennis (Town Engineer) has a couple of thing that he would like addressed. They also had one driveway with a slope of more than 10% and that has been fixed on the plan. **Valérie** said you will need to add the impact fees on this plan. **Alan** said it is listed in note 16 but will need to be updated. **Randy** agreed. **Valérie** read off the proposed conditions of approval:

- All fees shall be paid prior to the issuance of a building permit.
- The applicant shall submit 8 paper copies of the final plan and one permanent, reproducible Mylar.
- All lot bounds shall be set prior to the issuance of a certificate of occupancy.
- All revised easement documents involving the Town of Brookline must be reviewed and approved by Town Counsel prior to recording the plan at the Registry of Deeds.
- Each new lot is subject to impact fees in 4 separate amounts as scheduled in the subdivision regulations. Fees for each lots shall be paid prior to the issuance of Certification of Occupancy is issued for each lot.
- All drainage, stormwater management and engineering issues identified by the Town Engineer must be resolved prior to recording the plan at the Registry of Deeds.

Eric made a motion to approve plan 2015-5: H-75 with the condition just stated. Richard seconded. Vote yes 5-0.

Public Hearing Subdivision Regulations Proposed Amendments

Alan opened the public hearing:

The board discussed the proposed changes to the regulations. **Richard made a motion to approve the proposed amendments to Section 5.3.01 Utilities and Section 4.9.01 Financial Guarantees of the Subdivision Regulations. Brendan seconded. Vote yes 5-0.**

The Subdivision Regulations have been amended to the following:

Section 5. Road & Utility Standards

Section 5.3. Utilities

5.3.01. -The Board may require the installation of street lighting meeting Town requirements in any subdivision where it deems them appropriate and/or necessary, especially at the intersection of a subdivision road, way, drive, street or any other means of access with an arterial or collector road. All required new street lights are done at the sole cost of the developer. All applications which include the creation of a new or upgraded road, way, drive, street or any other means of access to a created lot for a subdivision shall have underground utilities, installed according to specifications set by the appropriate utility companies. Utilities shall be located a minimum of

seventeen (17) feet off the centerline of the roadway pavement. Utilities shall be located so as not to conflict with new or existing roadside drainage systems. (8/21/97) (6/18/09)(9/17/2015)

And

Section 4. Plat Requirements

Section 4.9 Financial Guarantees

4.9.01-Prior to the issuance of a building permit, a Performance Guarantee or other surety shall be submitted to the Planning Board (for filing with the Selectboard), by the subdivider, developer, or his successors, in an amount sufficient to cover the cost of construction or completion of streets, utilities, public improvements, drainage structures, traffic signals, setting road bounds and bounds at all angles of individual lots, public parks or public recreation areas or other such improvements as required by the Board as shown on the Final Plat. (11/15/07) (08/02/2012) (9/17/2015)

Accessory Dwelling Unit Committee

Peter Cook and Webb Scales were in attendance as a part of the Accessory Dwelling Unit Committee. **Eric** read the proposed changes they made to this section of the ordinance.

The Board discussed the amendments to the Accessory Dwelling Unit Ordinance and agreed that this change will need to be voted on at Town meeting.

Proposed section 2000 of the Brookline Zoning Ordinance reads as follows:

2000.00 ACCESSORY DWELLING UNITS

2001.00 Purpose

To provide expanded housing opportunities and flexibility in household arrangements of a permitted, owner occupied, single family dwelling, while maintaining aesthetics and residential use compatible with homes in the neighborhood.

2002.00 Requirements/Limitations

Accessory dwelling units (ADU) shall be permitted in the Residential/Agricultural district by special exception granted by the Zoning Board of Adjustment and shall remain with the property. Such a special exception shall be granted upon a finding that the applicant has demonstrated the following:

2002.01 An Accessory Dwelling Unit shall be within or attached to and shall be secondary and accessory to the principal single family dwelling unit or accessory building which houses it.

2002.02 In granting a special exception, the Board of Adjustment must find that the secondary unit is developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single family residence.

2002.03 Only one accessory dwelling unit shall be allowed per principal dwelling unit and/or lot.

2002.04 The property owner must occupy one of the two dwelling units.

2002.05 Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.

- 2002.06 An Accessory Dwelling Unit shall not be considered to be an additional dwelling unit for the purpose of determining minimum lot size.
- 2002.07 The gross living area of an accessory dwelling unit shall not be less than 350 square feet and not greater than 1,000 square feet.
- 2002.08 The above grade gross living area of the principal dwelling shall not be reduced to less than 1200 square feet.
- 2002.09 A building permit for an accessory dwelling unit must be approved and issued prior to the start of any work.
- 2002.10 The Accessory Dwelling Unit shall have a fire alarm system that is interconnected with the rest of the principal dwelling unit and any applicable accessory building in such a manner that the activation of one alarm will activate all of the alarms in the principal dwelling unit and any applicable accessory building.
- 2002.11 The driveway shall be designed to appear as a driveway of a single family residence, and no new curb cut from the street shall be constructed. Adequate off-street parking shall be provided to support the vehicles of the primary and accessory units.
- 2002.12 The existing, replacement or proposed septic system must be certified by a licensed septic designer or engineer as adequate to support the accessory dwelling unit in accordance with New Hampshire RSA 485-A:38 and the Town of Brookline septic regulations.
- 2002.13 The Emergency Management Director shall determine the house number for the accessory dwelling unit at the time of building permit application.

2003.00 *Change of Ownership*

If a property containing an approved accessory dwelling unit is conveyed and the new owner wishes to maintain the accessory unit, the new owner shall comply with this Section.

2004.00 *Procedural Requirements*

An application for a special exception under the auspices of this Section shall be filed with the Zoning Board of Adjustment. Such application shall meet the following requirements:

- 2004.01 Plans approved by the Fire Department and Building Inspector denoting, describing and/or identifying the intended accessory dwelling unit area as such shall be submitted with any application for an accessory dwelling unit and shall show two (2) means of egress from the accessory dwelling unit, other than a window.
- 2004.02 A building permit application shall have been submitted to the Building Inspector.

2005.00 *Existing Illegal Accessory Dwelling Units*

- 2005.01 Accessory dwelling units constructed prior to the adoption of this Ordinance without a building permit or certificate of occupancy shall apply to the Selectboard for a determination of compliance with this Ordinance. There shall be an amnesty period of 180 days from the date of adoption of this Ordinance in which to make an application for a determination and in which no penalty will be assessed for an illegal nonconforming accessory dwelling unit.

2005.02 Applications shall be accompanied by the filing fee, plans, and other documents requested by the Selectboard, or Selectboard's agent to enable them to evaluate compliance with Section 2000.00. The Selectboard [Building Inspector] shall issue one of the following:

- a. A determination of compliance with Section 2002.00 and a certificate of occupancy.
- b. A conditional determination of compliance with Section 2000.00 and a description of the corrective changes needed to bring the accessory dwelling unit into compliance. The required changes shall be completed within 90 days of the date of the determination of conditional compliance. Upon successful completion of the required changes, the Selectboard [Building Inspector] shall issue a certificate of occupancy; or
- c. A determination of noncompliance with one or more of the requirements of Section 2000.00, together with a listing of those requirements and conditions for which compliance cannot be achieved through corrective changes.

2006.00 Failure to Comply

2006.01 If the owner fails to comply with the requirements of this section, the use of the accessory dwelling unit shall be terminated within 6 months of the date of notice from the Selectboard [Building Inspector]. The owner shall be subject to penalty under RSA 676:17 for each day the accessory dwelling unit fails to comply with the requirements of this section after March 9, 1999.

2007.00 Enforcement Authority

2007.01 The Selectboard shall be the final authority on compliance and enforcement issues of this article.

Valérie said she will sent to Town Council for final review and she will schedule the Public Hearing for November. **Alan** said this will be on the ballot at town meeting. He thanked the Committee for all their hard work on this.

2016 Proposed Budget

The Planning Board will submit the following proposed budget for 2016 to the Selectboard.

<u>Line Item:</u>	<u>2016 \$ Proposed</u>
Consulting Services (NRPC)	\$1.
Town Planner	\$50,783
Legal Expenses	\$4,000
Outside Consulting Services	\$4,500
Training & Education	\$200
Recording Fees	\$200
Office Supplies & Equipment	\$250
Notices	\$100
CIP & Master Plan Update	\$1.
Membership	\$225
Mailings – Economic Development	\$1,600
Events / Signs	<u>\$3,000</u>
Total	\$64,860

Economic Development Committee

Valérie said they did not meet in August. The Bridal Show is scheduled for October 3rd at the Brookline Event Center from 12 to 4 pm. All the vendor slots are full at this time.

Capital Improvement Committee

Alan said he will have a draft together for the Planning Board to review at the next meeting.

Richard made a motion to adjourn at 9:10 pm. Eric seconded. Vote yes 5-0.

Alan Rosenberg, Co-Chair _____

Eric Bernstein, Co-Chair _____

Richard Randlett, Member _____

Brendan Denehy, Selectboard Representative _____

Jill Adams, Alternate _____

**The next Regular Planning Board meeting will be October 15, 2015.
Minutes submitted by Kristen Austin.**