



**TOWN OF
BROOKLINE, NEW HAMPSHIRE**

PLANNING BOARD

**P.O. BOX 360 – 1 Main Street
BROOKLINE, NH 03033-0360**

Telephone (603) 673-8855
Fax (603) 673-8136

kristen@brookline.nh.us valerie@brookline.nh.us
<http://www.brookline.nh.us>

PLANNING BOARD MEETING

Minutes

August 15, 2019

Present: Eric Bernstein, Co-chair (voting)
Alan Rosenberg, Co-Chair (voting) (left at 9:00pm)
Chris Duncan, Member (voting)
Ron Pelletier, Member (voting)
Peter Keenan, Alternate,
Drew Kellner, Alternate Selectboard Representative (Voted) (Left at 7:10)
Steve Russo, Selectboard Representative (voting at 7:10)
Absent: Jill Adams, Alternate and Valérie Rearick, Town Planner

Minutes

Alan made a motion to approve the February 21, 2019 minutes as written. Peter seconded. Vote yes 3-0.

Chris made a motion to approve the July 18, 2019 minutes as amended. Ron seconded. Vote yes 5-0.

Selectboard Representative

Drew said Steve Russo will be the new Selectboard Representative to the Planning Board and Drew will be the Alternate Selectboard Representative when needed.

Road Performance Guarantee

The Planning Board reviewed the letter from Dennis LaBombard (Town Engineer) of LaBombard Engineering which stated the construction bond estimate should be a total of \$316,926.00. \$205,195 for Marjorie Drive and \$111,731 for Eastman Drive. This doesn't include the retaining wall that was built on Marjorie. **Ron made a motion that the Planning Board recommend to the Selectboard a Performance Guarantee in the amount of \$316,926.00 for Marjorie Drive and Eastman Drive. Alan seconded. Vote yes 5-0.**

Retaining Wall Marjorie Drive, Eastman Drive

In attendance for this discussion Dennis LaBombard (Town Engineer) of LaBombard Engineering, Jerry Farwell, CL Farwell Construction, Romeo Dubreuil, Brookline Building Inspector, Mike Wenrich, Brookline DPW Director.

Dennis said there is a retaining wall on the right-hand side of Marjorie Drive. During the design phase, they said there was going to be a two-tiered precast concrete retaining wall with a concrete vehicle barrier and what was built was a retaining wall out of stone that will have a guard rail on top of it. This differs from the original design plan. This retaining wall also hasn't been designed by

anyone. Since that wasn't the deal, he has suggested that an as built drawing be submitted complete with dimensions of the road, elevations and a typical section provided at the tallest point (which is the weakest link). The submittal should include the proposed guard rail; as well as offset locations. A NH Licensed Professional Engineer should also submit an approval of this design. He doesn't have an issue with the stone retaining wall even though it wasn't what was submitted originally it looks ok and he assumes the neighbors are ok with, but he hasn't spoken to them. Basically, they have deviated from the approved plan and now the Board has to approve it or amend it. The Board can request the precast retaining wall if that is what they would like to do.

Jerry said the wall is much shorter than the approved design, less intrusive. The biggest difference is going to be the guard rail now. **Chris** said a picture would be helpful, but the bigger concern is going down the path of doing the work without approval sets a bad precedence that the town is very flexible. It's just a shame. He is not opposed to this type of wall but certainly a design engineer will need to sign off on it. This is just a difficult situation, but it could have been avoided. **Jerry** said anything less than four feet doesn't need to be designed. **Romeo** said that is correct, but he believes that wall is well over four feet tall. **Jerry** said he was trying to make it less intrusive. It is shorter than the original design. **Ron** asked Dennis what he thought. **Dennis** said the original design was a two-tiered pre-cast concrete section and is was a little longer than what is there, a shorter wall was called for and it is not as drastic as the original plan. It is further away from the road. His gut says it will probably be ok, but he doesn't want to make that determination. He would like to see an engineer approve this design. **Ron** asked who would be liable if something goes wrong. **Dennis** said it depends on when, if the developer owns it still, it would be his responsibility and when the town owns it this will be the town's responsibility. **Eric** asked Mike if he had any comments. **Mike** said procedurally this could have been avoided, whether it is fine or not should be determined by a licensed professional because this will eventually belong to the town. What was approved by this Board was a plan not a guide, and there are procedures in place to amend a plan, but it seems it will be fixed at this point. **Eric** believes they should go with Dennis recommendation but does the Board want to go out and review this. The Board agreed to a site walk on August 29th at 6:30pm, and then add it to the September agenda.

Conceptual Discussion: Dayna Carignan, home business. Presentation only, no application necessary.

No one was in attendance for this discussion.

Case # 2019-3: J-18 – Dunton Family Real Estate: 2-lot Subdivision. Continued from June 20 & July 18.

In attendance for this hearing Randy Haight, Meridian Land Services.

Randy said the Mr. Dunton would like to withdraw this case at this time.

Case # 2019-5: G-39 – David & Amy Fessenden: 4-lot subdivision off Russell Hill Road. Continued from July 18.

In attendance for this hearing Randy Haight, Meridian land Services. Dennis LaBombard, LaBombard Engineering (Town Engineer), Romeo Dubreuil, Brookline Building Inspector, Mike Wenrich, Brookline DPW Director.

Eric said the Driveway Easement document has been updated from the last meeting and is in your packet. Please review and make sure there are no further comments. **Randy** said they have revised the easement language as requested even though the house will be built on Russell Hill Road for lot G-39. They have heard back from Fish and Game and they asked that the last page have a list of the endangered species that they are concerned with in this area. If someone sees any of these animals in

this area Fish & Game would like to be contacted. They have also done test pits and infiltration tests and they have provided that documentation to Dennis. He is still looking for more information and they will work with him. **Randy** said the BCC asked them to lower the culvert and they did that. **Chris** said the development of the plan now has a tremendous amount of information and this is very detailed compared to the last meeting. The culvert pipe that you spoke of is at the same grade as the existing land, so the Conservation Commission's request has been answered. **Randy** said Fish and Game asked that they change the pipe from a plastic pipe to a reinforced concrete pipe. They felt it would make a better atmosphere for the wildlife. The Building Inspector had a chance to revisit the zoning and found the distinction between a conventional lot and a back lot, so **Randy** added that wording to the plan it is located on note number 5. It states the site is within the residential agricultural zone. Minimum lot frontage is 200 feet with 80,000 square feet of land, exclusive of wetlands (conventional lot) or minimum lot frontage of 30 feet with 5 acres of buildable area of at least 80,000 square feet of land excluding wetlands. Building setbacks are 30' front, 15' side and rear with 50' from the wetlands. **Chris** asked if they will be requiring a streetlight. **Eric** read the subdivision regulation section 5.3.1 which state the "Planning Board *may* require the installation of a street lighting meeting town requirements". **Alan** said he doesn't believe it would be needed at this location. The Board agreed. **Eric** said the well radius for Lot G-39-2 looks like it spills over onto abutting lot G-39-3. **Randy** said that is fine as the state allows for that radius to spill over. **Eric** said it looks like there is a typo of the driveway easement on page 2 article 5 which states "G-39-1 and G-39-1" one of those should be corrected. **Randy** agreed he will correct that. **Eric** asked if there was any discussion about the off-site improvements. **Mike** said his comments regarding the road systems that feed this development stays the same because it hasn't changed however, he can see this plan differently because it is not located at the problem area. He said the offsite improvement fee is a system that we will need to look at, but this is not the time to do that and at this time he would recommend the \$1,500 per lot but moving forward they should look into the offsite improvement fee for each development. He also wanted to state that posted outside the planning board office in the policies it states that any revised plans and/or additional information related to an accepted application must be submitted no less than 15 day prior to a scheduled meeting or it will not be discussed. He has been to a couple of meetings now and he has seen that not followed and that does this board an immense disservice. From his perspective, he would like to see the Board have the time to review the plans and any new information the 15 days prior to the scheduled meeting so they are informed for the meeting.

Katrina Loff (90 Russell Hill Road) at the base of Russell Hill Road and Averill Road, asked if there is a proposal for that land to be developed because they are surveying that area. **Eric** said they do not have any plans in front of them. **Katrina** said if that land is going to be developed would that be the time to look at the road and the integrity of this road. **Mike** said yes that holds more of the same weight as the application that was pulled today located on Averill Road. **Katrina** said she just wanted to make sure that this road is still on the radar. She asked if the stop sign at the end of the road would still be an option. **Mike** said yes if the residents would like that it could be a temporary fix. **Jason Machado** (72 Russell Hill Road) said adding more cars to that road is just dangerous. Something needs to be done before any new houses are built on the road. **Mike** said one solution is to make it a one-way road. **Romeo Dubreuil** (Brookline Building Inspector) said on the two front lots the septic system is in the setbacks and per the Zoning Ordinance they are not allowed in the setbacks. **Randy** said we have to stay 35 feet away from a ditch line. These septic areas are 4,000 sf on the plan but once they are built, they are only about 800sf. The State requires us to put the 4,000-sf septic design on the plans in order to get subdivision approval. **Randy** said this has never been interpreted that way in Brookline and has never been implemented. **Chris** said would you be able to accommodate this. **Randy** said he believes that is an incorrect interpretation and the town has never held it to that standard before. If the Board feels that strongly about it he will move them but he respectfully

disagrees with the interpretation. **Jerry Tanguay** (Glendale Homes) said it is a 4,000-sf box and the septic will only be 800 sf and there will be no issues keeping the septic out of the setback. **Eric** asked Romeo once this plan is approved if every individual septic design will go in front of you and you can make sure the actual septic is out of the setback. **Romeo** said correct. **Mike** asked where the 4,000sf came from just for his own information. **Randy** said in 1967 the state came up with the 4,000-sf septic box and it has never changed. **Dennis** said it boils down to setting a precedence and 4,000-sf is the number you need to get state approval. **Ron** asked Randy if he has ever seen a septic system go into the setback. **Randy** said yes absolutely all the time. **Chris** asked Romeo if he has seen a septic system built into the setbacks in Brookline. **Romeo** said yes, we have. He approves the septic plans, but some septic designers don't even put the setbacks on the plan. He has to chase it down. **Peter** asked Mike what it would take to make that road a one-way road. **Mike** said it would be up to him and he would need to discuss it with the Selectboard if there is a desire to have that done. **Eric** suggested the resident could go to the Selectboard and request it. **Chris made a motion to approve application # 2019-5: G-39 – David & Amy Fessenden: 4-lot subdivision off Russell Hill Road with the following condition of approval:**

- **All fees associated with the case review and meeting attendance shall be paid prior to the recording of the final plan.**
 - **Prior to the issuance of a building permit for the created lot, the distance from the propose dwelling location and the fire pond on West Hill Road shall be measured by the Fire Department / Building Inspector to ensure that the distance does not exceed the 2,500 feet maximum, or a home sprinkler system will need to be installed.**
 - **A final agreement for Off-Site Improvement shall be signed and recorded prior to the recording of the final plan.**
 - **A note regarding the underground utilities for the common driveway shall be added to the final plan.**
 - **A letter from the Surveyor shall be received stating that all bounds are in place prior to the issuance of a CO.**
 - **The applicant shall submit 8 paper copies of the final plan and a permanent, reproducible Mylar.**
 - **Adding note 13 to the easement and correction to lot numbers on page 2.**
 - **Shifting the 4,000-sf septic square outside the lot setback.**
 - **All conditions of approval shall be noted on the final plan.**
- Ron seconded. Vote yes 5-0.**

Case # 2019-6: F-113-1&2, F-114-1&2, Sidney & Margaret Hall, Lot Consolidation & Revision Plan.

In attendance for this hearing Randy Haight, Meridian Land Services. Dennis LaBombard, LaBombard Engineering (Town Engineer), Romeo Dubreuil, Brookline Building Inspector, Mike Wenrich, Brookline DPW Director.

Randy said this is a case of cleaning up. There are four lots here and only two have road frontage so the purpose of this plan is to consolidate non-conforming lots F-113-1, F-114-1, and F-114-2 into one lot, then revise the lot common lot line between lots F-113-1 and F-113-2 so that both lots conform to the back lot zoning, as shown. Lot F-113-2 will retain an access easement over the existing driveway within the westerly 400' portion of revised lot F-113-1. They are in the process of selling these lots. The easement will be on lot F-113-1. This is an existing common driveway easement. **Eric** said fees are paid and abutters have been notified. **Alan made a motion to accept plan # 2019-6: F-113-1&2, F-114-1&2, Sidney & Margaret Hall, Lot Consolidation & Revision Plan. Seconded by Chris.**

Vote yes 5-0.

Randy said they have met all the issues that were listed in the staff report by Valérie. For the purpose of planning they are making the existing house lot more conforming. **Eric** said they just need to decide on impact fees for this new house lot. **Randy** said note number 9 on the plan speaks to the impact fees. Impact fees will be imposed once a building permit is sought. Right now, they are just looking to make a conforming lot. They are not creating a new lot, just improving the conditions of the original lot. **Eric** said since these lots do exist there will be no need for off-site improvement fees. The Board agreed. **Randy** said he will adjust note number 9 to state there will not be off-site improvement fees. **Eric** asked if they would be willing to add an easement to gain access to the Stone House. **Randy** said no you can certainly ask but they are not willing to grant an easement to that. **Mike** said the driveway does not meet our regulations, currently there is no paved apron, maybe they could review it and see if there is a way to improve this driveway to meet our regulations or better the situation. **Alan** read the condition of approval list on the staff report.

- All fees associated with the case review and meeting attendance shall be paid prior to the recording of the final plan.
- A letter from the Surveyor shall be received stating that all bounds are in place prior to the recording of the final plan.
- The applicant shall submit 8 paper copies of the final plan and a permanent, reproducible Mylar.
- All conditions of approval shall be noted on the final plan.
- Adjust note 9 to state impact fees only will apply to lot F-113-2

Alan made a motion to approve plan # 2019-6: F-113-1&2, F-114-1&2, Sidney & Margaret Hall, Lot Consolidation & Revision Plan with the conditions of approval just listed. Seconded by Chris. Vote yes 5-0.

Alan left at 9:00pm.

Subdivision & NRSP Regulations and Zoning Ordinances Proposed Amendments

Eric read through the zoning Ordinance proposed changes:

Subdivision Regulations

3.1.02 (a.), Preliminary Conceptual Consultation Phase – Add the following sentence: “the applicants or their representatives or designees must attend a Conservation Commission meeting prior to discussion with the Planning Board.”

3.1.10 – Change: “A ninety (90) day review period (...)” to 65 days. (same amendment to be made in the NRSP regulations)

4.6.06, Plat Requirements – Last sentence of 1st paragraph: change “should” by “shall”.

4.9.05, Roads – Change “Road Agent” to read “DPW Director” (last sentence).

4.12.04, Open Space Development – Add the following language: “A pre-conveyance open space conservation easement deed shall be recorded and shall have an easement sunset upon conveyance to the Town or homeowners association”.

5.3.01, Utilities – 4th line: Add the following: “All applications, including a single lot subdivision, which include the creation of a new or upgraded road, way, drive, street, driveway, or any other mean of access **to** a created lot for a new subdivision (...)”

5.3.01, Utilities – Add new wording with “options” if the utilities need to cross a road.

Proposed additional language: “A new driveway shall have underground utilities the entire way to the house. If the single new lot is across the street from an existing utility pole, overhead wires could be used, if desired by the developer/homeowner, from the end of the new driveway to the house.”

Section 7, Driveway Regulations – Pending recommendations from the Driveway Committee, Re: slopes, grades. **The Building Inspector suggests** that eliminating the section giving him the authority to allow driveway with more than 10% slope would eliminate any loophole.

Appendix G, Cistern Specifications: #12: Change from 5” to 6” (as most of the fire trucks have a 6” suction - Fire Department request).

Non-Residential Site Plan Regulations

Title, Name of these regulations: change “Non-Residential Site Plan Regulations” to “Site Plan Regulations” as the Town has Home Businesses and Bed & Breakfasts regulations that are allowed in the Residential/Agricultural District.

3.3.03, Preliminary Conceptual Consultation Phase. Add the following language: “For large Non-Residential Site Plans, the applicants or their representatives or designees must attend a Conservation Commission meeting prior to discussion with the Planning Board.”

Appendix G, Cistern Specifications: #12: Change from 5” to 6” (as most of the fire trucks have a 6” suction - Fire Department request)

Zoning Ordinance

1506.01, Open Space Developments. Add the following language: “A pre-conveyance open space conservation easement deed shall be recorded and shall have an easement sunset upon conveyance to the Town or homeowners association”.

1800.00, Driveway Ordinance. (.4), third line: Change “Road Agent” to “DPW Director”.

Other new ordinances / regulations to consider:

- AirB&Bs regulations
- Storage / shipping containers
- Any other items from the Board?

The Board agreed they will need to be clearer with the Buildable area definition. **Chris** said he would like to know what the state considers as a buildable area.

Peter said they will also need to update the Off-Site Improvements process. Sounds like the firm in Milford that we mentioned at the last meeting would be a great place to start.

Chris said they need to figure out how to get the plan to the Conservation Commission to review them before they get to the Planning Board.

Romeo said that Avitar doesn't look at, regarding shipping/storage containers as structures and they do not assess them. **Ron** said his are assessed; he will look into it, but he is pretty sure they assess the ones on his lot. **Romeo** said that Brookline is the only town that allows them but doesn't assess them. **Eric** read the Section 5.3 regarding utilities and he believes the Board will need to clarify that section. Underground that includes the driveway to the house also. **Mike** said we need to make it so the planning board could make an exception if needed.

Sub Committee Updates

Driveway Committee

Chris said there are no updates. They have not met again.
Ron said he and Val Ogden were going to meet with the Building Inspector at some point.

Economic Development Committee

Ron said the signs are up. They are smaller than he expected. There is one by Chrysanthis and one a little further south of the Townsend Hill Road and Route 13 intersection.

General

Chris said it is great to have the DPW and the Building Inspector here at the meeting.

Ron made a motion to adjourn at 9:50 pm. Peter seconded. Vote yes 4-0.

Eric Bernstein, Co-Chair, _____

Alan Rosenburg, Co-Chair, _____

Chris Duncan, Member, _____

Ron Pelletier, Member _____

Steve Russo, Selectboard Representative, _____

**The next Regular Planning Board meeting will be September 19, 2019.
Minutes submitted by Kristen Austin.**