



TOWN OF  
BROOKLINE, NEW HAMPSHIRE

PLANNING DEPARTMENT

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PLANNING BOARD MEETING

Minutes

October 20, 2016

**Present:** Eric Bernstein, Co-Chair  
Alan Rosenberg, Co-Chair  
Ron Pelletier, Member  
Richard Randlett, Member  
Brendan Denehy, Selectboard Representative  
Valérie Rearick, Town Planner

**Absent:** Jill Adams, Alternate

Minutes

Brendan moved to approve the minutes of the September 15, 2016 Planning Board Meeting as written. Richard seconded. Voted yes 5-0.

Site Plan Update, Bingham Lumber, Conceptual (buildings, cistern)

In attendance for this meeting Tom Bingham and Paul Rosa.

Valérie said the last site plan was submitted in 2005. An updated site plan was requested. Tom said there have been a few updates since the last plan. After the fire all the buildings were numbered and labeled and they have a commitment with the town to have the cistern installed in 2017. It is listed on the plan now but its size and location are still to be determined. He said they may want to cover more than the new show room with this system so they are still gathering information. Alan asked if the NH Rocks was still open because he noticed the building was removed. Tom said it is open. After the fire they consolidated everything. Valérie said we have a letter from Tom stating the cistern will be installed in 2017. Eric asked if he was working with the Fire Department on the Cistern. Tom said yes. Alan asked if NH Rock still has propane available. Tom said yes and we may move the propane tank at some point. They would like to remodel one of the buildings. This was an open building that they used as dry storage and now would like to close it up. Alan asked if this lot was entirely in the commercial zone. Valérie said the back part is in the residential zone. Alan asked Tom if he would want to make this lot all commercial. Tom said he would like to get some advice on that first but wouldn't be opposed to discuss it in the future. The Board thanked Tom for coming in.

2016-4: H-66, H-145, Ken Hang & Town of Brookline/ BCC lot line adjustment

In attendance for this discussion is Randy Haight (Meridian Land Services, Inc.) and Jessie Mendenhall (abutter).

**Randy** said the intention is to enlarge the Hobart Fessenden area by moving 21 or so acres from lot H-66 to H-145. H-66 will be reduced down to 16.113 acres and H-145 will be increased to 31.5 acres. **Alan** said fees have been paid and abutters notified. **Valérie** said yes.

**Alan made a motion to accept plan 2016-4: H-66, H-145, Ken Hang & Town of Brookline / BCC lot line adjustment. Brendan seconded. Voted yes 5-0.**

**Brendan** said that, as a Conservation Commission member, this is beneficial to the Town because it will add more land to the Hobart Fessenden Woods, it has a few streams that run through it, and it is also near the Stone House.

**Alan made a motion to approve case 2016-4: H-66, H-145, Ken Hang & Town of Brookline / BCC lot line adjustment with the following condition:**

- **The applicant shall submit 8 paper copies of the final plan and one permanent, reproducible Mylar.**

**Brendan seconded. Voted yes 5-0.**

### **2016-3 J-16, Chandler Rev Trust - Eastman Development: 12-lot subdivision**

In attendance for this case Randy Haight (Meridian Land Services Inc.), Philip & Bennet Chandler (applicants), Laura Flanagan.

**Eric** said this case was continued from the last meeting. They had two outstanding requests for waivers and we wanted comments from emergency services. **Alan** said the comments from Police, Fire and EMS were in general all concerned with safety. He believes that given some of the references to road design standards as far as sight distance and speed he believes that everyone agreed that the 400 feet site distance was a blanket number and maybe they should look into updating the regulations. After reading all the comments he believes that granting the waivers requested would be a reasonable thing to do. **Randy** said the sight distance is 380 feet on one and 349 feet on the second one.

**Alan** read the waiver request that states the “according to A Policy on Geometric Design of Highways and Streets 2011, 6<sup>th</sup> edition, the stopping sight distance at 30 miles per hour with a -6% Road Grade is 215’ and the Rural Road Decision Sight Distance for avoidance maneuvering in 220”. **Eric** said so the hardship would be because the road could not be configured in any other way.

**Alan made a motion to grant the waiver request from section 5.10.11 of the Subdivision Regulations, which provides that all street intersections shall have all season sight distance of four hundred in both directions to allow all season sight distance on 380’ when looking northerly at 4.5% from the proposed road intersection with Wildwood Drive, for the reason that this would result in a severe financial hardship because the road could not be configured in any other way. The Board feels that this is a safe design based on data from “a policy on geometric design of highways and street” 2011 Edition. Richard seconded. Voted yes 5-0.**

**Alan made a motion to grant the waiver request from section 5.10.11 of the Subdivision Regulations, which provides that all street intersections shall have all season sight distance of four hundred in both directions to allow all season sight distance on 349' when looking westerly at 5.2% from the proposed road intersection with Eastman Drive and Marjorie Drive, for the reason that this would result in a severe financial hardship because the road could not be configured in any other way. The Board feels that this is a safe design based on data from "a policy on geometric design of highways and street" 2011 Edition. Ron seconded. Voted yes 5-0.**

**Eric** said another outstanding item was the guardrail. **Randy** said at the last meeting they said they would be willing to raise the retaining wall another foot. **Alan** said he believes that will work. **Eric** suggested going through the list that Dennis had at the last meeting. **Valérie** said another thing pending was the deeds and she received an email at 6:23 pm from Town Counsel before the meeting. She will Bill Drescher's email to the Conservation Commission for consideration and comments and she will forward the deeds to the Planning Board for review also. **Valérie** said they are waiting for Randy to update the final plan after last month's meeting for her and Dennis' review and the applicant will need an extension request because it has been 63 days since the application was accepted. **Randy** said you could conditionally approved this application. They will add the road names, a note on the plan about the future street light at the Wildwood Drive intersection, the note stating they waivers have been granted and a note stating that the top of the retaining wall will be raised by a foot. **Randy** said he believes that it could be conditionally approved at this point. **Valérie** said that she would not recommend it. **Bennet** said this is just nuts and bolts stuff. The Board agreed to go through the list that Dennis had submitted at the last meeting. **Valérie** said she received an email from Dennis today and he said he had just received the updated plan earlier this afternoon and would not have time to review so he would attend the November meeting.

The Board reviewed Dennis' letter dated 9/12/2016 that was presented at the last meeting and with the exception of 4 things they had all been addressed. **Randy** said all of these issues have been addressed and will be noted on the plan. They were waiting for the outcome of the waiver requests before adding updates to the notes. The Board said the four things that need to addressed are:

4. A guardrail should be installed along the top of the upper wall (station 50+40 to 53+19). A similar guardrail design was indicated along Wildwood Drive that is 3 feet off the edge of pavement for the sidewalk.

6. All easements as indicated on the road construction plans should be shown on the subdivision plans (lots J-16-9, J-16-4, and J-16-5).

14. All of the cross culverts (station 57+00, 60+50, 64+60 & 67+85.6) have less than 3 feet of cover at the centerline of the proposed Main road. Detail 3 on sheet D-3 as well as past policy for new town roads is that all culverts should have a minimum 3 feet of cover to deter "speed bumps" from forming (as caused by frost).

15. The proposed "pipe screen" for all of the outlet structures is 13" high by 16' wide. It does not appear that this screen will cover the lower orifice on OS-307.

**Eric** read the Conditions of Approval as listed on the Staff report:

- All fees associated with the case review & meeting time (Town Engineer, Town Planner, and Town Counsel) shall be paid prior to the recording of the final plan(s).

- NH DES subdivision approval number shall be added to the final plan.
- All new building lots are subject to an impact fee per the Brookline Zoning Section 2100, in four separate amounts. The impact fees of \$222.14 (for ambulance facility), \$1,304.24 (for Brookline school system), \$1,843.17 (for Hollis/Brookline Coop Middle School) and \$345.83 (New Police Station) are payable to the Town of Brookline at the time the Certificate of Occupancy is issued for each lot.
- A final and satisfactory review from Town Engineer shall be provided prior to the recording of the final plan.
- A letter from the Surveyor shall be received stating that all bounds are in place before a Certificate of Occupancy is issued for each lot.
- The applicant shall submit 8 paper copies of the final plan and a permanent, reproducible Mylar.
- The Financial Guarantees (Performance / Maintenance Guarantee) shall be submitted to the Planning board, for filing with the Selectboard, prior to the issuance of a building permit.
- Any changes to the final plan shall be submitted to the Board for review and approval.
- All conditions of approval shall be printed on the final plan prior to its recording

**Randy** said they would also like to show a phase line on the plan. This will be constructed in two phases. **Brendan** said Phase one would include J-16-7, J-16-8, J-16-9, J-16-10, and J-16-11 and Phase two would consist of J-16-6, J-16-5, J-16-1, J-16-3, and J-16-4. **Randy** said that's correct. **Alan** asked if that will be noted on the plan also. **Randy** said yes it will be. **Eric** said that will also need to be reviewed by Dennis.

**Alan made a motion to approve case # 2016-3 J-16, Chandler Rev Trust, Eastman Development: 12-lot subdivision, with the conditions of approval as sped read by Eric. Richard seconded. Voted yes 5-0.**

### Capital Improvements Committee

The Board reviewed the CIP with Alan and rated the importance of the projects. Projects are rated Urgent, Necessary, Desirable, Deferrable, Research, or Inconsistent. **Alan** said going forward the threshold for a project is going to be \$10,000 not \$5,000 from here on out. **Alan** said he will add the Planning Board's input. **Alan made a motion to adopt the CIP for the period of 2017-2022 as discussed, and to be updated with questions and comments. Ron seconded. Voted yes 5-0.**

### Zoning Ordinance Updates

**Eric** asked if these updates have been compiled over the year. **Valérie** said yes they have been. She receives comments from other Boards and at the end of the year reviews what should be clarified in the Zoning Ordinance.

### ADU update Section 2000

**Eric** said with the State ADU section being approved a few weeks ago our Zoning Ordinance will need to be updated at the next Town meeting. **Webb** read the suggested changes to the Zoning Ordinance:

- Subsection 2002.00 now clearly lists requirements and limitations which apply to ADUs. These are intended to be objective standards which the building inspector et al. can apply and which do not need to be addressed by the ZBA during the hearing for a Special Exception (the items which do need ZBA attention are moved to a new subsection). The introductory text in this subsection has been adjusted to reflect this.
- Existing 2002.01: Moved the requirement for "secondary and accessory" to the *Special Exceptions* subsection. Added text relevant to the new Statute which requires an interior door between the ADU and the containing/attached structure. Although this is called out in the Statute, it is constructive to echo it in the Ordinance, and it also allows us to further clarify the attachment requirements to include not only an "interior door" but also an "interior wall" (this was recommended by NHMA). I also took the liberty of moving the text of the existing 2002.05 to this clause (it seemed to fit, and reduced the overall number of clauses).
- Existing clause 2002.02 (*character and appearance*): this clause has been moved to the new *Special Exceptions* subsection.
- Existing 2002.03: Unchanged (except for its number).
- Existing 2002.04: The wording of this section was changed from "must occupy" to the magic "shall be the primary residence" wording, which implies things like it being the address of record for driver's license, car registration, voter registration, etc., and, I think it gives us a better position in dealing with the case of the "owner" being a land trust (i.e., if the trust's address of record is one of the dwelling units, then there is no problem).
- Existing 2002.05: This text was moved into 2002.01, and the useless phrase "whenever possible" was removed.
- Existing 2002.06: This clause was removed, as the new Statute dictates this.
- Existing 2002.07: Added a limitation on the number of bedrooms, which the new Statute permits (we cannot limit it to only one bedroom, but we may limit it to two, so we do).
- Existing 2002.08: We changed the limit on the size of the principal dwelling unit from an absolute number to one relative to the size of the ADU, to prevent the ADU from being larger than the principal. Also, I added some clarifying text regarding what is causing the reduction in living area.
- Existing 2002.09: Changed "work" to "construction" (which seems more concrete and specific). Also, I took the liberty of moving the text of the existing 2002.13 to this clause (it seemed to fit, and reduced the overall number of clauses).
- Existing 2002.10: No substantive change.
- Existing 2002.11: We removed the off-street parking requirement (we deemed it subjective, hard to enforce, and of little benefit, as any problem which it would address could be remedied through other means).
- Existing 2002.12: No substantive change.

- Existing 2002.13: This text was merged with the text from the existing 2002.09, which also addresses building permits.
- Renumbered the clauses of Subsection 2002 sequentially.
- Removed the existing Subsection 2005 (*Existing Illegal Accessory Dwelling Units*), which we felt is no longer applicable to anything.
- Created a new Subsection 2005 (*Special Exceptions*), which clearly delineates the criteria which the applicant must demonstrate to the ZBA (and now there are only two!).
- I also made the following editorial changes:
  - Instances of "single family" should be hyphenated (we are inconsistent about this in the Ordinances, so I'm trying to move Section 2000 in the right direction).
  - Change "must" to "shall" (I'm not sure what the use of "must" implies, but I know what "shall" means in this context, and we generally use "shall", so I made this Section use it consistently).
  - Spell out, and do not capitalize, "accessory dwelling unit" (we had examples of all three -- lower case, capitalized, and the acronym -- so I made it consistent in this section).
  - Add "Zoning" before "Board of Adjustment" -- our Ordinances are split 50-50 on whether to include that word, but the RSA's include it, so I think we should.

**Webb** said the other open issues are:

1. Can we/should we remove the subsection addressing *Existing Illegal Accessory Dwelling Units*? This is a question for the Town Counsel. Neither Eric nor I could see how it could continue to be operable, now that it is long after six months past the adoption of the relevant Ordinance, and we both felt it was appropriate to remove dead laws from our books (but it might be serving some legal purpose of which we laymen are unaware).
2. We need a solid explanation of how "gross living area" is to be calculated. We have a definition for *floor area*, which is reasonably specific -- perhaps we should use that term instead in subsection 2002.

**Brendan** said these two items will be submitted to Town Counsel for legal review. Valerie said that she would contact Legal Inquiries (LGC) and ask the Assessors about the "gross living area".

### **Planning Board Meeting Policies**

**Valérie** said the Planning Board policies will need to be updated. A few things that have happened recently that have warranted an update to the policies. For example a waiver request needs to be done before the plans are accepted (per RSA. **Alan** agreed the justification should be listed on the request and not for the Planning Board to come up with. **Valérie** said it is also the Boards right to ask them to come back if they don't have the request written correctly. **Valérie** said they also need a certain amount of time to review plans and they should not be delivered the

day of the meeting. Valérie handed out a suggested new Planning Board policy sheet that can be posted after final review next month.

Planning Board Meeting Policy as revised:

- The Board meets on the third Thursday of the month. Meetings start at 7:00 p.m. and the Planning Board reserves the right to continue its hearings until a later date should the proceedings go beyond 10:00 p.m., with the first two hours reserved for applications' review and the last hour for planning board business. Agendas are posted 8 to 10 days prior to the scheduled meetings.
  - Applications must be submitted **at least 30 days** before the meeting at which you wish to appear. Applications will be reviewed within 10 days and the applicant will be notified if additional information is required. If so, the requested information shall be provided or a written request to the Board for a waiver of any requirement at **least 15 days** before the scheduled meeting date must be made; otherwise the application **will not** be placed on that agenda.
  - Applicants who have submitted all required information or requests for waivers in lieu thereof will be scheduled for the requested meeting date in order of submission. If insufficient time is available at the requested meeting, applicants will be scheduled for the next available meeting.
  - Any revised plans and/or additional information related to an accepted application submitted **less than 15 days** prior to a scheduled meeting will **NOT** be discussed. Any late submission will be reviewed and discussed at the next available meeting following the scheduled meeting. **No** revised documents will be accepted during a meeting. **No exceptions.**
  - If all the required information has been submitted and the board has granted any requested waivers, an application will be accepted at the first scheduled meeting. The acceptance hearing is primarily procedural, and, as such, substantive discussions are kept to a minimum. An application will then be scheduled for an approval hearing at the next available meeting, at which time the application will be reviewed in depth and testimony from the public will be heard. Applications will not be accepted and approved at the same meeting, except for minor subdivisions at the discretion of the Planning Board.
  - All applications are subject to review by the Fire, Police and Emergency Management Departments, the Building Inspector and the Conservation Commission, if applicable and/or required by the Board.
  - Any documents related to a conceptual discussion with the Board must be submitted at least 10 days before a scheduled meeting. Otherwise, the discussion will not be placed on that agenda. **No exceptions.**
  - It is highly recommended that the applicant meets with the Town Planner who is available to answer questions or provide guidance before application submittal.
- The Board agreed to review this document for the next meeting and consider adopting.

**Economic Development Committee**

**Valerie** said the Bridal show went well earlier this month. The business expo is coming up next at the New Hampshire dome. The Chili Cook off will be held in February the same day as the Fishing Derby on February 19<sup>th</sup> 2017. **Ron** said he will hold that date open for the Economic Development Committee Cook-Off.

**Selectboard**

**Brendan** said the turning lane for the new Dunkin Donuts building located at the intersection of Route 130 and route 13 will not be started until the spring.

**ZBA Case 399**

**Webb** said there is a ZBA Case requesting a Special Exception under section 1106 of the Brookline Zoning Ordinance. The applicant is looking to put a garage 5 feet into the wetlands buffer. This is located at Lake Potanipo. **Alan** said that is governed by the Shoreland Protection. **Webb** said yes and the applicant is looking to seek approval from DES via a wetlands permit for that. **Webb** said per our Zoning requirements he must get the Conservation Commissions input but it also invites the Planning Board to comment. **Valerie** said she will email the ZBA application to the Board and if they decide to hold a meeting to discuss this. The Board agreed to hold a meeting on November 3<sup>rd</sup> at 6:30 pm if they find it necessary to comment.

**Richard made a motion to adjourn at 10:15pm. Brendan seconded. Voted yes 5-0.**

**Eric Bernstein, Co-Chair** \_\_\_\_\_

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

**Brendan Denehy, Selectboard Representative** \_\_\_\_\_

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

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

**The next Regular Planning Board meeting will be on November 17<sup>th</sup>, 2016.  
Minutes submitted by Kristen Austin.**