



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

**P.O. BOX 360 – 1 Main Street  
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Telephone (603) 673-8855**

**Planning Board Minutes  
September 15, 2022**

**Present:** Eric Bernstein, Co-chair  
Alan Rosenberg, Co-chair  
Scott Grenier, Member  
Steve Russo, Selectboard Representative  
Chris Duncan, Member (Virtually)  
**Absent:** Brendan Denehy, Selectboard Representative Alternate  
Eric Pauer, Alternate  
**Staff:** Michele Decoteau, Town Planner

**General Business**

A. Rosenberg called the meeting to order at 7:04 PM and read the rules for a hybrid meeting:

Note: Internet connection was lost a few times during the meeting and C. Duncan, who was attending remotely, was unable to participate from time to time.

**A. Rosenberg MOVED to enter nonpublic session at 7:04 PM for reasons outlined in RSA 91-A:3,II (I) consideration of legal advice. S. Grenier SECONDED.**

Discussion: None

E. Bernstein – aye

A. Rosenberg – aye

S. Grenier – aye.

S. Russo – aye. (4 – ayes, 0 – nays, 0 – abstain).

**A. Rosenberg MOVED to leave nonpublic session and return to public session at 7:45 PM.  
S. Grenier SECONDED.**

Discussion: None

E. Bernstein – aye

A. Rosenberg – aye

S. Grenier – aye

S. Russo – aye. (4 – ayes, 0 – nays, 0 – abstain).

**A. Rosenberg MOVED to seal the minutes to retain privilege. S. Russo SECONDED.**

Discussion: None

E. Bernstein – aye

A. Rosenberg – aye

S. Grenier – aye

S. Russo – aye. (4 – ayes, 0 – nays, 0 – abstain).

#### Mail

The Board reviewed mail folder. No comments.

#### Minutes

The Board noted that only the voting members should be counted in the voting on all motions.

**A. Rosenberg MOVED to accept the minutes of September 1, 2022, as amended. S. Grenier SECONDED.**

**Discussion: None**

Vote: All in Favor (5-ayes, 0-nays, 0-abstentions).

#### Application Review

SP#2022-B:H-42

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*Jay Chrystal, Housing for Older Persons Development, 23 Main Street*

E. Bernstein opened the public hearing.

R. Haight and the applicant, J. Chrystal, appeared. M. Decoteau reviewed the information added to the case since the last meeting. The applicant's engineer provided accurate cut and fill numbers which helped to clarify the amount of material expected to be removed. T. Yandow's calculations showed that just over 102,000 cubic yards of material will be removed. In addition, there were last minute items that did not get staff review but were provided: an email from the Nashua River Watershed Association expressing concern about the large amount of material to be removed reducing the filtering capacity of the site and a notice of decision from the ZBA granting a variance to the applicant for 17 dwellings to be served by a shared driveway. This resolved one of the two remaining issues.

R. Haight noted that the ZBA decision to grant the variance rendered the waiver request moot.

E. Bernstein noted that if this project will be removing over 1,000 cubic yards of material, the applicant will need an excavation permit. The Board agreed it would be prudent.

**S. Grenier MOVED to require the applicant to apply for and receive an excavation permit. S. Russo SECONDED.**

Discussion:

B. Parodi (representing the applicant) asked about hearing what Town Counsel said about an excavation permit. He said he didn't think this should be privileged information since the planning board was relying on it. He said the Board was making a misstep and it didn't have the ability to ask the applicant to get this permit. A. Rosenberg said the crux of the issues, as the Board saw it, was that this was a lot of material being removed over and above what is defined as incidental. B. Parodi said that this was unnecessary, and he threatened to sue the Town. The Board said they wanted the protection and oversight that an excavation permit provided. The applicant offered to add any conditions the Board requested to the conditions of approval.

S. Grenier withdrew his motion and S. Russo consented.

The Board and applicant discussed conditions of approval that included:

- 1) Town review and comment on a spill prevention plan that must include local contacts
- 2) Reclamation bond
- 3) Days/hours of operation for the excavation – Monday through Friday 7 AM to 5 PM
- 4) Review school bus schedule
- 5) Method of removal – direction of trucks

- 6) Completion of an AoT permit and a driveway permit
- 7) Nashua River Watershed Association review of the SWPPP and Spill Prevention Plan
- 8) Requirement to get an intent to cut and intent to excavate
- 9) Limit the loads taken off-site per day – 30 trips/day was discussed
- 10) Keep the topsoil on site to be reused in the reclamation

The Board and applicant agree to have a draft ready for the next meeting.

The applicant said that the driveway would be called Monius Way and would work with e911 and M. Decoteau on the numbering.

The Board reviewed remaining tasks including response from the applicant to the Town Engineer's review and remaining traffic concerns.

#### Abutter/Resident Comments

T. Quarles (32 Main Street) noted that the Board just determined a detailed list of concerns without asking for public input. He expressed concerns about school busses and dump trucks in a congested area. He said that DOT is routing traffic from 101a to Route 130 and this would result in dangerous traffic with the addition of the dump trucks. He expressed that the developer was motivated by money. He noted that the Nashua River Watershed Association had provided additional review and had concerns about the removal of that much material and that excavation required additional review. He said this will irrevocably change the character of Brookline.

There was a brief discussion about traffic enforcement. Like all other traffic enforcement, this is the purview of the Police Department.

T. Tochko (30 Main Street) said that it is important that all these restrictions have teeth. He noted that this excavation will have 5,000 dump trucks. He expressed concern about the current traffic and speeds.

Traffic and the traffic study were discussed. There was concern about accurate numbers on the traffic count and if the most recent numbers were used. R. Haight said that this development will only have a small amount of traffic. The Board discussed the impact of the excavation on school busses.

D. Bechis (via Zoom) asked about the reason for the nonpublic portion of the meeting. A. Rosenberg said to review legal advice. D. Bechis didn't agree that the site needed to be made flat for elderly people. Many seniors are very active and don't need that accommodation. He echoed the idea that the developer wants to make money. He expressed concern about amount of material being removed and the environmental impact this will have on the wetlands and aquifer. He was concerned about traffic and the impact on the current traffic patterns.

E. Bernstein reviewed the concerns about traffic, environmental impacts and reminded everyone that public input has been heard at hearings and the conceptual hearing.

B. Doherty (11 Ruonala Road) reviewed the history of this application and said everyone should respect how much this applicant has done. He said that the Planning Board asked the applicant to get a variance and he did.

The applicant provided a letter requesting a 35-day extension.

**A. Rosenberg MOVED to grant a 35-day extension. S. Grenier SECONDED.**

Discussion:

The Board determined this would go beyond their next meeting and was acceptable.  
Vote: All in Favor (5 – ayes, 0 – nays, 0 – abstentions).

**A. Rosenberg MOVED to continue case SP#2022-B:H-42 to October 20, 2022, at 7 PM. S. Grenier SECONDED.**

Discussion: None

Vote: All in Favor (4 – ayes, 0 – nays, 0 – abstentions).

The applicant requested a list of remaining items as soon as possible.

SP#2022:J-019 – Superior Steel

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LTD 34 Comm, LLC has applied for site plan approval on J-019 to add an addition to an existing storage building and add additional stormwater management to the paved parking area.

E. Bernstein opened the public hearing. Sam Foisie, Meridian Land Services, appeared for the applicant. M. Decoteau reviewed the comments from the Fire Chief and the need for additional waivers or colored renderings of the building.

S. Foisie said that he is taking over from D. Brodeur. He provided photographs of the current building and said that the addition will look the same. Some windows will change as noted in the drawings. He provided a letter requesting additional waivers.

**A. Rosenberg MOVED to grant a waiver to Section 6.1.01j – High Intensity Soil Mapping since the site is already developed and this would be an unnecessary expense to the owner. S. Grenier SECONDED.**

Discussion: None

Vote: All in Favor (4 – ayes, 0 – nays, 0 – abstentions).

**A. Rosenberg MOVED to grant a waiver to Section 6.1.01n – renderings of buildings including an elevation in color since the applicant provided black & white elevations and color photographs of the current building which will provide the information needed and renderings in color will not provide new information. S. Grenier SECONDED.**

Discussion: None

Vote: All in Favor (4 – ayes, 0 – nays, 0 – abstentions).

**A. Rosenberg MOVED to grant a waiver to Section 6.1.01gg – artist rendering of the site with landscaping and signage plans based on the black & white elevations and color photographs of the current building and an artist rendering of the site won't provide additional information needed and it is an undue financial burden. S. Grenier SECONDED.**

Discussion: None

Vote: All in Favor (5 – ayes, 0 – nays, 0 – abstentions).

The Board confirmed that the fees were paid and the case was properly noticed.

**S. Grenier MOVED to accept application SP#2022:J-019 as complete. A. Rosenberg SECONDED.**

Discussion: None

Vote: All in Favor (5 – ayes, 0 – nays, 0 – abstentions).

There was a short discussion about the footprint of the building and S. Foisie said that the 1680 square foot number was correct.

The Board discussed the fire department review. This would be subject to the commercial fire code.

S. Foisie discussed the flow of stormwater and confirmed that the roof drains would be connected to the dry well as well as sheet flow from the immediate area.

M. Decoteau reminded the applicant that this is in the Aquifer Protection district and that the Conservation Commission noted painting and scraping should be done on impervious surface or in a building. S. Foisie clarified that paved surfaces would be a better location for scraping and painting as there can be some infiltration on the gravel parking lot and clean up, if there is a spill, is more difficult.

The Board reviewed the potential conditions of approval. It was noted that the use of the building is currently storage and if that changed, the owner would need to come back to the Planning Board.

**S. Grenier MOVED to approve application SP#2022:J-019 with the following conditions:**

- 1. Confirm the size of the addition.**
- 2. Eight (8) copies of the final approved site plan shall be provided. Copies shall have the original required engineering stamps.**
- 3. Hours of operation shall not exceed those noted on the Plan. Any change shall be reviewed by the Planning Board.**
- 4. All fees for site plan review and meeting attendance by the Town Engineer and Town Planner shall be paid prior to the issuance of a building permit.**
- 5. Fire department approval of building plans and inspections as required by the Fire Chief.**
- 6. Note added on the Plan: Any painting or scraping of materials shall be performed either in a structure or on paved surface and cleaned promptly.**
- 7. Note added on the Plan: Any petroleum products or de-icing chemicals will be stored either in a structure or on paved surface.**

**S. Russo SECONDED.**

Discussion: None

Vote: All in Favor (5 – ayes, 0 – nays, 0 – abstentions).

### **Compliance Review:**

Site Plan # 2016-D: J-50 – Compliance Hearing: Robert Waite, Averill House Vineyard

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E. Bernstein opened the hearing. R. Waite and E. Waite represented the Vineyard.

M. Decoteau reviewed the new information. There were two letters from neighbors and an additional response from R. Waite. M. Decoteau discussed the Tourist Sign with Sherry King at DOT. If a business elects to request a tourist sign, that the business pays for, they are required to be open a certain number of days per week and hours per day. For agriculture and food, the requirement is five hours per day for five days per week.

The Board reviewed the previous site plan approvals and asked for clarification on hours of operation. E. Bernstein said that in February, hours of operation were discussed. R. Waite said that he understood that was for their regular business hours. R. Waite said they had private events that were after 7 PM and these events were previously planned. He had understood that he could have events that went until 8:30 PM.

E. Bernstein asked if the events happening after 7 PM were just those that were planned before the February compliance hearing. R. Waite said some were but if an event is successful, they plan to repeat

it every year. E. Waite said that workshops they preplan a year in advance, and they have quite a few that go until 8 PM. They cut back the hours and that affected their business. She noted that moving the comedians to an earlier time has brought a new demographic to the vineyard. She said they have been working with the hours.

A. Rosenberg asked for the percentage of wine that is produced from the grapes grown on site and how much wine is produced. R. Waite said they produce about 10% of the grapes used in their wine. He said that 100% of wine sold on site is produced on site and 5-7% of the goods sold are from outside the local area.

The Board asked for clarification of what was a private event. R. Waite said events at times when the store is closed but the public could sign up for the events. He noted that they have changed the times of the comedians. Usually, events that are past 7 PM are indoors unless the weather is nice. The Board asked for clarification on number of attendees. R. Waite said that they try to limit events to 40-60 people but sometimes they do get as many as 100 people.

#### Neighbor comments

A. Tate (6 Muscatanipus Road) said that she expressed her concerns in her letter and want to emphasize that the noise with the outside speakers is beyond reasonable residential noise.

T. Perry (4 Muscatanipus Road) said that she addressed her concerns in the email she sent and that the hours of operation are a lot of her concern.

There was a short discussion about hours. B. Doherty (11 Ruonala Road) said that the Planning Board could not regulate an Agribusiness. R. Waite said that restricting hours might mean they cannot expand to another location. RSAs give them the flexibility override the town.

R. Waite said that the Planning Board didn't have jurisdiction and cited RSA 674:32-d that says that agritourism is permitted on agricultural land. He said he has a product with a short shelf life and needs to be able sell that product as needed at whatever time. R. Waite said he planned to have a New Year's Eve dinner that would clearly happen on site until after midnight.

The Board noted that there is an approved site plan that was not appealed. They have the right to regulated public safety and noise. The Board discussed what the options were for the Board if the Vineyard was not going to adhere to the site plan or the Home Business Ordinance. The Board discussed RSA 674:32-c II where if an agricultural use is prohibited by a literal interpretation of local regulations or restrictions. In that case, the Zoning Board of Adjustment can grant a waiver.

**S. Grenier MOVED to find that Averill House Vineyard was not in compliance with the hours of operation and Home Business Ordinance. The Vineyard should either come into compliance or seek a waiver according to the provisions of RSA 674:32-c II from the Zoning Board of Adjustment. The Planning Board will hold a compliance hearing in six (6) months contingent on a ZBA decision. A. Rosenberg SECONDED.**

Discussion: None

Vote: All in Favor (5 – ayes, 0 – nays, 0 – abstentions).

Note: No longer connected to the internet.

#### **General Business - continued**

NRPC Commissioner, Tamara Sorrell, briefly shared some of the duties of an NRPC commissioner and that the time commitment was limited. She offered to send regular updates to the Planning Board and asked that the Board seek an additional volunteer. Brookline can have two Commissioners, but she is the only one.

**S. Grenier MOVED to adjourn at 11:40 PM. A. Rosenberg SECONDED.**

**Discussion: None**

Vote: All in Favor (4-ayes, 0-nays, 0-abstentions).

Respectfully submitted by Michele Decoteau, Town Planner & Board Secretary

Approved on: 2022.10.06