



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

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**Planning Board
Minutes
July 15, 2021**

Present: Alan Rosenberg, Co-chair (voting)
Eric Bernstein, Co-chair (voting)
Chris Duncan, Member (voting)
Ron Pelletier, Member (voting)
Brendan Denehy, Selectboard Representative (voting)
Steve Russo, Selectboard Alternate Representative
Scott Grenier, Alternate
Dennis Bechis, Alternate (in attendance Via Zoom)
Eric Pauer, Alternate (in attendance Via Zoom)
Valérie Rearick, Town Planner (in attendance Via Zoom)
Christopher Drescher, Attorney for the Town of Brookline.

Alan called the hybrid Planning Board meeting to order.

The following are the rule for a hybrid meeting:

- Any meeting attendees participating via Zoom are asked to activate the “mute” function until called upon by the chair
- Meeting attendees via Zoom must use the “raise hand” function under the “reactions” tab to participate in the meeting – and will be permitted to comment once and if called upon by the chair.
- Anyone providing comments during the meeting must first identify their name and address
- The “chat” function for Zoom participants will be disabled by the meeting administrator or otherwise not addressed; “chat” items will not be part of the public meeting/record
- Meeting attendees via Zoom will not be listed as attendees in the minutes (except Board members)
- The meeting’s physical location is the official meeting room. Should technical difficulties arise with the remote portion, the meeting will continue at the physical location.

Minutes

***Brendan made a motion to approve the minutes of June 17, 2021 as written. Seconded by Ron.
Voted yes 5-0.***

2021-1:G-40: Clarence Farwell, 2-Lot Subdivision, Off Russel Hill Road

Alan said at the June meeting the Board made a finding to continue this case to the July Meeting because an updated plan was not submitted on time. No plan was submitted on time for this July meeting.

Brendan made a motion to deny Case 2021-1:G-40: Clarence Farwell, 2 Lot Subdivision because no new information has been submitted with in the Planning Board policies deadline. Ron seconded. Voted yes 5-0.

Valérie said they received new plans yesterday in the mail but she believes they should start from the beginning with a new application so they can notify the abutters. The Board agreed.

2021-2:E-3-1: Aero Property, LLC, 2-Lot Subdivision, Lancy Brook Road

In attendance for this hearing Tom Moran, applicant, Randy Haight with Meridian Land Services and Attorney Bob Parodi.

Alan said the application is complete, the fees have been paid, and the abutters have been notified.

Chris Duncan made a motion to accept Case 2021-2:E-3-1 Aero Properties LLC, 2 Lot Subdivision. Eric B seconded. Vote yes 5-0.

Randy said the purpose of this plan is to separate the airport Lot E-3-1 from the rest of the land creating lot E-3-24. Currently there is no intention to build on this new lot, but they did dig test pits as required. The new lot consists of 8 acres of wetland and 6 acres of dry land. There are 4.2 acres a contiguous dry land. Lot E-3-1 the airport lot has frontage on two roads Mason Road and Pigeon Hill Road. The access from Mason Road is for emergency vehicles in case of an accident. Driveway access to the airport is off Pigeon Hill Road nothing has change as far as Lot E-3-1 goes. **Brendan** said when he first reviewed this proposed subdivision it was not clear what they were subdividing. **Randy** said note 3 said the purpose of this plan is to Subdivide Lot E-3-1 into two lots. **Brendan** said correct but it was not specific about the lot number that it was creating, he would request that the note be updated to reflect the new lot number (E-3-24). **Randy** said he will update that note to reflect the new lot.

Valérie said she is concerned with the size of the building envelope. **Randy** said the building envelope is 13,000 sf if they were to add a 3,000 sq.ft home, they would still have 10,000 sf for the well and septic.

Valérie said the building area is not the 80,000 sf of dry contiguous land it is a very small area surrounded by wetlands she is concerned with flooding. Is it safe to add a well and septic to this area? **Randy** said the buildable area is 1.3 acres. This intent of this plan is to separate the airport from the rest of this land there is no intention at the moment to build on it. **Alan** asked if the Conservation Commission had any concerns with this plan. **Randy** said they met on Tuesday night and review this proposal and had no comments regarding this plan. **Chris Duncan** asked when lot E-3-1 was originally created. **Randy** said that lot was created on June 9th, 2000. **Chris Duncan** asked what the reasoning was behind this plan, what changed so that they no longer want the wetlands attached to the airport lot. **Randy** said he can't answer that he was asked to create the lot off lot E-3-1. **Pete D'Agostino**, (9 Louis Drive) said it raises some concerns as it is unusual that someone would spend the money to subdivide and not have a reason to do so (build on it). He is wondering if they are trying to go around the moratorium that was put in place. **Ron** said it is the business of the landowner to subdivide their lot and as long as they follow the Zoning rules it shouldn't matter.

Valérie read the Conditions of Approval:

- Fees for Staff review, and meeting attendance shall be paid prior to the recording of the final plan.
- Off-Site Improvement language shall be added to the Notes on the final plan and the agreement shall be recorded prior to the recording of the final plan.
- A note about 4 separate Impact Fees for the created lot shall be added to the Notes on the final plan.
- The applicant shall submit eight (8) hard copies of the final plan(s), a .pdf format, and a permanent, reproducible Mylar.
- The applicant / representative shall provide a labeled and pre-paid mailing tube to send the final Mylar to the Registry of Deeds.
- Any additional conditions as seen necessary by the Board.
- Conditions of approval shall be printed on the final plans.

Valérie said on lot E-3-1 it looks like there is a well and septic on the plan. **Randy** said yes, they must show that they can put a house on every lot when they create a new subdivision so he added the well and septic to show that it could accommodate both. The street number was assigned by emergency management years ago.

Eric P. asked if the Planning Board has adopted any airport regulations Per RSA 424.5. **Valérie** said they have not. **Scott** said our current moratorium speaks to new buildings and site plans. **Alan** said the moratorium gives the Planning Board a little latitude. **Scott** said without a known use for this lot we need to assume that this subdivision will add a residential housing unit to what we already have. **Randy** said they could add a house tomorrow there is nothing limiting them from adding a house to a lot with an airport on it without this

subdivision in place. **Alan** read the offsite improvement agreement. “Aero Properties LLC C/O Thomas Moran will pay the Town of Brookline the sum of \$1,550 for creating lot E-3-24 as his contribution in lieu of offsite improvements to be paid prior to the issuance of a building permit or transfer of the lot, whichever comes first.” **Alan** asked if Tom was okay with that wording. **Tom** agreed. **Bob Parodi** suggested they removed the wording “C/o Tom Moran” and leave it as Aero Properties LLC only as this is the entity that owns the lot.

Brendan made a motion to approve the offsite improvement agreement between the Town of Brookline and Aero Properties as amended. Chris Duncan seconded. Voted yes 5-0.

Randy said he will update the note regarding the off-site improvement amount. **Chris Duncan** asked if they could add a note to the plan requesting that lot E-3-24 be limited to a single-family dwelling. The Board agreed. The Board asked Randy to add a note to the plan that states lot E-3-24 should be limited to a single-family dwelling unit only on this site or a less intensive use. **Randy** agreed he would add a note to the plan.

Alan reviewed the new Conditions of Approval:

- Fees for Staff review, and meeting attendance shall be paid prior to the recording of the final plan.
- Off-Site Improvement language shall be added to the Notes on the final plan and the agreement shall be recorded prior to the recording of the final plan.
- A note about 4 separate Impact Fees for the created lot shall be added to the Notes on the final plan.
- The applicant shall submit eight (8) hard copies of the final plan(s), a .pdf format, and a permanent, reproducible Mylar.
- The applicant / representative shall provide a labeled and pre-paid mailing tube to send the final Mylar to the Registry of Deeds.
- Add the newly created lot number (E-3-24) to note #3 on the plan.
- Add a note stating Lot E-3-24 is limited to a single-family dwelling unit only on this site or a lesser intensive use.
- Conditions of approval shall be printed on the final plans.

Brendan made a motion to approve Case 2021-2:E-3-1 Aero Properties LLC, 2 Lot Subdivision with the conditions read by Alan. Ron seconded. Voted yes 5-0.

2021-3:F-18-8,F-18-9: Pavel/Maguire, Lot Line Adj., Story Brook Lane

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

Alan said the application is complete, the fees have been paid, and the abutters have been notified.

Eric B made a motion to accept Case 2021-3: F-18-8,F-18-9: Pavel/Maguire, Lot Line Adj., Story Brook Lane. Chris Duncan seconded. Voted yes 5-0.

Randy said both lots are already built on and the intent of this plan is to take an equal sized triangle shaped area from both lots and add it to the opposite lot to gain more land area around the homes. This plan does not change the size of the acreage for either lot. **Valérie** said this is a very simple lot line adjustment plan just creating more room around existing buildings. There are no comments from any departments. **Eric P.** asked if there were any improvements on parcel A or B and if they are dry. **Randy** said they are dry and there are no buildings on parcel A or B.

Valérie read the conditions of approval:

- All fees associated with the case review and meeting attendance shall be paid prior to the recording of the final plan.
- The applicant shall submit 4 (instead of 8) paper copies of the final plan and a permanent, reproducible Mylar and a PDF copy.
- The applicant / representative shall provide a labeled and pre-paid mailing tube to send the final Mylar to the Registry of Deeds.
- All conditions of approval shall be noted on the final plan.

Chris Duncan made a motion to approve Case 2021-3: F-18-8,F-18-9: Pavel/Maguire, Lot Line Adjustment, Story Brook Lane with the conditions of approval read by Valérie. Eric B. seconded. Voted yes 5-0.

2021-4:E-16: Fait Property Management, 2-Lot Subdivision, Quimby Road

In attendance for this hearing Keith Fait, applicant, Randy Haight with Meridian Land Services, Town Attorney Christopher Drescher and Attorney Bob Parodi.

Alan said the application is complete, the fees have been paid, and the abutters have been notified.

Eric B. made a motion to accept Case 2021-4:E-16: Fait Property Management, 2-Lot Subdivision, Quimby Road. Chris Duncan. Seconded. Voted yes 5-0.

Randy said this is a piece of land on 14 Quimby Road. Lot E-16 has a little less than 3.2 acres. There was a house on it that had burned down. It has a new septic system and well. Fait property management bought it and are in the process of building a house to the left side of this lot. In reviewing the deed and the layout of the land this lot is unique because it is split zoned. The applicant asked if this lot could be subdivided. **Randy** said he reviewed the zoning and was able to subdivide this lot into two lots, one residential lot and one commercial lot. They had submitted it to the Planning Board and Valérie had some concerns that it was not black and white subdividable, and they went to the Zoning Board of Adjustment (last night). The Board made a finding that we could subdivide, and no variance was needed. They overturned the administrative decision and they granted the Special Exception under Zoning Ordinance section 2600 (b) to allow a commercial use in a residential area. The Special Exception was granted with the condition that this plan is approved at this Planning Board meeting. **Randy** said the applicant proposed a three-bay garage with three small rental offices on the second floor. He showed the Board a drawing of what is being proposed. The house was built to the left of this property and the commercial building will be located toward the back of the lot more toward the Skilling's (Lot C-42) lot behind it. the Zoning Board also asked that all the commercial zoned area be located entirely on one lot, so the same situation doesn't come up again. The zoning doesn't state how much of the zone must be in the lot to meet the lot size. He will need to give lot E-16-1 a little bit more frontage to accommodate for the entire commercial zone area. He will show that revision on the final plan.

Valérie said the applicant went to the Zoning Board last night and she will let Attorney Drescher speak to that because she still stands with what she put in the staff report. She is concerned about split zoning and spot zoning. She believes that if lot E-16 is subdivided, they are creating a non-conforming Residential /Agricultural lot, because the majority of proposed lot E-16-1 is in the Residential /Agricultural district. The special town meeting in March 2021 voted in a moratorium to put a hold on issuing building permits for new lots for at least a year. She would ask that the Planning Board consider putting a condition if approval on this approval based upon a town meeting approval that this becomes a commercial zoned lot through a town meeting vote. Then they will not have the issue where the Board created a nonconforming lot. If the Board approves this subdivision tonight, they will be creating a commercial lot and that is what she is concerned with.

Chris Drescher said at the Zoning Board meeting there was a bit of a debate regarding how to handle the split zone. The solution they all did agreed on was that the Special Exception that was granted to the proposed lot E-16-1 last night would allow for the commercial use of this lot with the condition that this be approved at the Planning Board meeting tonight. With no direction in the ordinance on how to deal with split zoning, this was the only way they saw eye to eye on to get a special exception on the proposed Lot E-16-1 subject to the Planning Board decision. This would extend the commercial use onto the proposed lot E-16-1 and it would then be a compliant lot under commercial zoning. Lot E-16 would be compliant under Residential Zoning. Valérie is suggesting that you wait and put a petition warrant article in March 2022 town meeting and try to have this lot changed to a commercially zoned lot. That would work also but his hesitancy is he doesn't want to delay the applicant, but they do have a moratorium in place even though it is discretionary. **Bob Parodi** said they fought this battle last night and they do not want to wait for town meeting to rezone this lot. In the Zoning Ordinance there is no requirement that the one acre of dry land be located entirely within the Industrial / Commercial zone. That was Valérie's original position and they challenged that at the Zoning Board meeting last night and the Zoning Board agreed with us, they are the arbitrators of this decision and they also agreed that they would not need a variance. So to clean this up, they got a special exception which is allowed under the ordinance. You are denying my client what he is entitled to as of last night's vote. The town can have this lot changed to commercial at town meeting but what really needs to be looked at is an ordinance that deals with split zoned lots. **Chris Drescher** said if this plan went through and you all blessed

this tonight and you move forward with the special exception, you could also try to have it rezoned in March town meeting also. Right now, the applicant can go forward with the commercial use on this lot because he was granted the special exception even if it isn't voted in at town meeting to change this lot to commercial zoned.

He does recommend that the town looks into an ordinance that deals with split zoning. **Ron** said if the town doesn't vote to have this lot changed to a commercial zoned lot what happens. **Chris Dresher** said the special exception comes into play and this lot is allowed the commercial use. **Ron** said at the ZBA meeting they discussed the special exception going away for some reason. **Chris Dresher** said if a certain amount of time goes by it could be removed but it's an unlikely occurrence. **Keith Fait** said just to clear it up he is planning on building as soon as he can if it gets approved. There will be no lag over the next couple of years. **Randy** said before he can build on this lot, he would need to come back to the Planning Board with a site plan. **Ron** said with the moratorium he can still build on a commercial lot correct. **Alan** that is correct. **Pete D'Agostino** (9 Louis Drive) said the Building Permit Moratorium doesn't cover commercial applications and there would be no impact on schools. **Annett Quimby** (12 Quimby Road) just wanted to clarify that this house didn't burn it was removed about 8 to 10 years ago. **Alan** said before it was removed it was functioning as a residential lot.

Len Budd (15 Cleveland Hill Road) said if you drive down that road it all looks residential, and this looks like spot zoning to him. You have a garage that will be going right by all these residential houses. Only a portion of this lot is in the commercial zone. **Ron** asked if there were any other lots that are zoned commercial in the area. **Randy** said all the lots across the street are zoned Commercial/Industrial and Lot C-42 behind this lot is also Commercial/ Industrial Zoned.

Randy said this plan was discussed at the Conservation Commission meeting on Tuesday (7/13/2021) night and the only comment they had was due to the delineated wetlands on proposed lot E-16-1 that they keep the leach field within the 4k box on the proposed plan. The Fire Department's only comment was they needed to add the distance from the fire pond to the new lot on this plan. This lot in its entirety, before its subdivided, is within the 2,500 feet required by the fire department. They did have a recommendation for an offsite improvement from Brookline Public Works but then later noted that this is a State maintained road and Off-Site Improvement is not needed. **Petra Longman** (speaking for her father Loring Quimby abutter at 12 Quimby Road) said it is written in the deed for 14 Quimby Road that there is an access easement to the railroad bed through this lot, but it is not depicted on this plan and she would like to know how they handle an old right of way. **Randy** said this area was originally owned by William Hall at the time Route 13 was not there and this allowed him to cross the property to access the railroad, but it doesn't give a specific location it just gave William Hall the right to access through this lot but not a location just that William had the right to cross. It was a blanket statement with not specific location. **Alan** said so it was specific to one person. **Randy** said one entity that is correct. He believes this is moot at this point it doesn't give the public access just that one entity.

Attorney Chris Dresher read the decision noticed that the ZBA granted last night.

"Case No: 435 B

The Zoning Board of Adjustment granted the request for a Special Exception for applicant Fait Property Management LLC under Brookline Zoning Ordinance section 2600 b to permit a commercial use of the proposed lot E-16-1 on submitted plan named "Subdivision Plan Tax Map E Lot 16 Land of Fait Property Management LLC" subject to the named plan being approved by the Planning Board with the following condition of approval:

The Commercial Industrial Zone will be contained entirely on the proposed lot E-16-1 as represented in the Zoning Board Meeting.

This was voted in the affirmative by all five members of the Zoning Board of Adjustment."

Alan said, just to clarify, if Lot E-16-1 comes into existence it can only be used for commercial use.

Attorney Chris Dresher said that is correct. **Brendan** said the ZBA has requested that all the commercial property need to be added to the proposed Lot E-16-1. So, this map needs to be rewritten. Are we able to approve this tonight while knowing this plan needs to be redrawn? **Randy** said yes, they had discussed that last night. This can be added to the conditions of approval if you would like. **Bob Parodi** said under 2600 (b) what was approved last night only allows for commercial use and doesn't allow industrial.

Alan said although they have not heard from the Fire Department regarding this plan. The house is already under construction on lot E-16 and lot E-16-1 will have a site review by all departments and the Fire Department will be able to weigh in before this can be built upon.

Brendan made a motion to approve Case 2021-4:E-16: Fair Property Management, 2-Lot Subdivision, Quimby Road with the following conditions of approval:

- *Fees for Staff review, and meeting attendance shall be paid prior to the recording of the final plan.*
- *Add a note that Off-Site Improvement is not required for this lot because Quimby Road is a State-maintained road.*
- *The applicant shall submit eight (8) hard copies of the final plan(s), a .pdf format, and a permanent, reproducible Mylar.*
- *The applicant / representative shall provide a labeled and pre-paid mailing tube to send the final Mylar to the Registry of Deeds.*
- *Special Exception granted with this approval at the Zoning Board Meeting (case #435B)*
- *Conditions of approval shall be printed on the final plans.*

Chris Duncan seconded. Voted yes 5-0.

The Board agreed that they will need to look into a slip zoning ordinance. **Chris Drescher** said there are towns around that have a great ordinance. He is willing to assist as a Brookline resident.

Ron asked if it would make sense to drop industrial. **Chris** said Brookline is growing and he wouldn't get rid of it, but you may need to clarify it.

School & Town Services Study Committee: Update

Pete D'Agostino (9 Louis Drive) said the committee has so far compiled data from all town services Fire Department, Police Department, Ambulance Service all the way back to 1993 looking for trends in population growth compared to response calls so they can determine what the impact in growth in population results in a growth in service needs. They have also reviewed the first Well Water Committee report and incorporated that with everything they have collected. They wanted to find out how accurate the NESDEC (New England School Development Counsel) is Ken Haag has done the research for this and they have found it is 95% accurate.

1-3 years there are 99% or more accurate .

4 years 95 -96 % accurate

5 between 89-91 % accurate

They reviewed the school data based on the past 10 ten years are very accurate. They also looked at the growth ordinance. Michelle Decoteau went back and reviewed the past 2 or 3 years of Planning Board minutes. They wanted to know what the town was facing at the time when they felt the need for a growth management ordinance and what they were facing when they choose to get rid of the growth ordinance.

They came up with some action items:

1. Submit recommendation to the Planning Board ARPA (American Rescue Plan Act) funds for a water study in town.
2. Recommendation for changes to the Zoning Ordinances
3. Changes to the subdivision regulations
4. Master Plan update.

The Board suggested that they work on changes to the Ordinance first that is the time sensitive issue filing deadlines because this would go to town meeting and public hearings that will be needed. Subdivision regulations can be changed after town attorney review and the Board votes on those.

Well-Water Committee: Update

John Woelflein (7 Withee Drive) said he has lived in town for 8 years and this is his first time working with a town committee. They held their first meeting last night. The committee said there were some proposed changes to the Zoning Ordinance last year in October and they are wondering what the status if this change is. **Alan** said last year they had gotten hung up on where those suggested changes should have gone either a

Zoning Ordinance or a Town Ordinance but in October it was a little too late to change the ordinance at that point. Currently, they have time to look into them again.

Pete D'Agostino said he will connect with the Well Water Committee and would like to discuss the ordinance changes. He and Michele both have experience writing ordinances and would help in this process.

Brendan said regarding the ARPA funds the town has been told that they have x amount of dollars and then they tell you what you can spend it on, water is one of them.

2021 Capital Improvement Committee: Update

Alan said they have mailed out the packets they are due July 30, 2021. They are planning a public hearing.

Valérie said she has received the Police Department submission and the Selectboard discussed it last Monday so that should be coming in soon. **Brendan** said he has been nudging the Library about submitting one.

August 19th Public Hearing for Subdivision Regulations Revisions

Alan said they are going to hold a public hearing on August 19th they are looking to make some changes to the Driveway Regulations in the Subdivision Regulations.

Valérie said the Selectboard has discussed a Town Driveway Ordinance with Brookline Public Works. The Selectboard would need to adopt a town driveway ordinance then the Planning Board can remove the driveway regulations from the Subdivision Regulations, then in March of 2022 the Planning Board can submit a warrant to town meeting asking to remove the driveway regulations references from the Zoning Ordinance.

Adjourn

Brendan made a motion to adjourn at 9:50 pm. Ron seconded. Vote yes 5-0.

Alan Rosenberg, Co-chair _____

Eric Bernstein, Co-chair _____

Ron Pelletier, Member _____

Chris Duncan, Member _____

Brendan Denehy, Selectboard Representative _____

Minutes submitted by Kristen Austin

Next Scheduled Planning Board Meeting is August 19, 2021