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

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<http://www.brooklinenh.us>

**Planning Board
Minutes
September 16, 2021**

Present: Eric Bernstein, Co-chair (voting after arrival at 7:10pm)
Alan Rosenberg, Co-chair (voting)
Ron Pelletier, Member (voting)
Chris Duncan, Member (voting)
Scott Grenier, Alternate (voting prior to Eric B. arrival)
Dennis Bechis, Alternate
Eric Pauer, Alternate
Brendan Denehy, Selectboard Representative (voting)
Steve Russo, Selectboard Alternate Representative

7:02pm - Alan called the meeting to order and read the rules 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.

Mail

Members reviewed the mail folder.

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SP#2021-F:E-44, Maria Trombas Home Business – “Brookline Bulldogges”

Maria said she and her husband moved to Brookline about four years ago. She said they have a breeding business for English bulldogs. She said they have nine currently and would like to open a breeding business. **Maria** said visits would be by appointment. She said the puppies are with them for eight weeks and then go home with their new owners. **Alan** described the application review and approval process. He said the application is complete and fees have been paid. *Chris moved, seconded by Ron, to accept the application; Voted Yes 5-0.*

Tad advised that the conservation commission recommendation was to “confirm that best available practices for disposal of canine waste are followed for capture and removal given the proximity to wetlands.” **Maria** said they have a dumpster that is used for the disposal of canine waste that they pick up and it is emptied every two weeks. **Eric B.** arrived at the meeting. **Eric P.** said it does not meet minimum size requirements. **Chris** read from the staff report and said that it does meet size requirements. **Eric P.** asked if it is practical to meet the canine waste clean-up concerns. **Alan** asked if the dumpster has a cover. **Maria** said yes and the dogs do not go in the wetlands, so the waste will not be present there.

Keith Schofield, 94 Mason Road, asked if the application is for a certain number of dogs and if they plan to add any structures on the property. **Maria** said they are not planning to add any structures. She said she thinks they will have a maximum of 12 dogs.

Ron asked if the state regulates her operations. **Maria** said yes and once the planning board approves the business, she will go to the state and they have requirements that will also need to be met, which may include a limit on the number of dogs. **Alan** asked if they will be only breeding and they will not be doing “doggie daycare.” **Maria** said they will only do breeding. **Keith** asked if the dogs will be inside at night. **Maria** said the dogs will be inside in their own space at night. **Eric P.** asked if vets or supply vehicles will be making visits to the business. **Maria** said they take the dogs to a vet in Deerfield and her husband buys the dog food, so there will not be visits from vets or such supply vehicles.

Alan asked if she would have a sign. **Maria** said she is thinking about having one. **Alan** said if she decides to have one, she will need to apply for a sign permit with the building inspector. **Chris** suggested that we add a condition that the state kennel license be provided to the town once received. **Alan** asked if the state license permits boarding or only breeding. **Maria** said she is not sure. **Alan** suggested approval exclude boarding activities. **Chris** recommended the conditions of approval include: fees for Staff application review and meeting(s) attendance shall be paid within a month of approval, the applicant shall apply for a sign permit with the building inspector, the applicant shall discuss any changes to her activities with town Staff to ensure compliance with the regulations, a copy of the state kennel license will be provided to the town, and the business will not board additional dogs. *Chris moved to approve application SP#2021-F:E-44 with the preceding conditions. Seconded by Brendan. Voted Yes 5-0 (Scott voting for Eric B. who arrived during the discussion.)*

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SP#2021-5:G-40, Farwell – Two Lot Subdivision

Alan said the case is continued from the August 19th meeting. **Tobin Farwell** said this is the second meeting on the application. He said he added the 2,500 fire protection radius, road name and house numbers to the plan. He said we have also provided a letter to the town engineer regarding the culvert size and we are working with the Director of Public Works regarding off-site improvements. **Alan** read a note from **Mike Wenrich** advising of an off-site improvement agreement in the amount of \$1,550 with the funds to be used for improvements at the Transfer Station. **Tobin** agreed.

Tobin said they also contracted with Nobis for a hydrogeologic study and they provided a seven-page report with conclusions and recommendations. He noted the report says interference between the proposed new wells and existing wells on Russell Hill Road cannot be ruled out and deep drilling (in excess of 1,000 feet) may be needed. **Tobin** noted that the recommendations included: after drilling the first well at the site, water levels should be measured in the well before drilling the second well and that a water level probe should be used and pumps should be set deeper if needed. He also noted the report recommended, if feasible, to locate the wells toward the eastern side of the property, so they are of greater distance from the existing wells on Russell Hill Road. **Tobin** said the third recommendation was to be prepared for deep drilling on both wells to obtain desired yield and avoid or mitigate impacts on existing wells. He said they were happy to follow the report's three recommendations. **Eric P.** asked if wells are a concern in this area. **Alan** said yes and that is a reason the hydrogeologic study was completed. **Alan** suggested adding recommendation #2 to the plan regarding the location of the wells. **Lindsay Machado**, 72 Russell Hill Road, said the hydrogeologic study is marked as a "draft." She said information in the letter regarding existing wells is not accurate. She said five nearby homes have experienced well water problems and all five have had to lower their well pump at least once and at least two have had to lower their pump a second time. **Lindsay** said she recently lowered her pump a second time down to 800 feet at a cost of about \$10,000. She said she and others are concerned that additional well drilling on Russell Hill Road will result in more water problems for them. She said we have well monitors, so we can track the water levels and she is only about 120 feet from losing water again. She said she would like the information in the letter from Nobis to be accurate and see if their conclusions and recommendations change based on accurate information. **Tobin** said 4-5 wells are issues, but the rest in the area are not. **Lindsay** said she cannot shower everyday and needs to schedule doing laundry. **Peter Pitsas**, 5 Springvale Avenue, said when a yield test is done they use a vacuum test and that can provide a higher yield result than the actual yield for the well over the longer term. **Graham Loff**, 90 Russell Hill Road, said that he was one of the earlier homes on the road and has had no issue at this point, but he is worried about the additional burden on the neighborhood's water. He said he shares the concerns **Lindsay** expressed. **Sandra Stronkowski**, 88 Russell Hill Road, said she has concerns about water. She said they have been told they can't have sprinklers or wash their cars. She said if they water their garden for 10 minutes, they lose water pressure. She said we would be adversely impacted by two additional houses and she is asking the town to take into consideration the concerns. **Peter D'Agostino** asked if the board received a "final" draft of the letter. He said he reads three of the four conclusions as Nobis "does not know" or are noted with

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“probably.” He said if the final report has the same wording, the unknowns need to be considered.

Peter D. referred to the one-year moratorium and said we now have updated figures that RMMS has reached full capacity and some students are holding classes in the library. **Alan** said the moratorium came up at the last meeting. He said there are two moratoriums. One is for subdivisions and the other is on building permits. He said one of the two lots is a parent lot and therefore cannot be impacted by the moratorium and therefore is not covered by the limit on a building permit. As a result, only one lot in the application is subject to the moratorium. **Peter D.** asked if the planning board had received updated student headcount information. **Alan** said the planning board has not seen updated information from the schools since the special town meeting in March when we were about 35 children short of capacity and that capacity cannot be reasonably expected to be reached with the approval of a single lot. **Alan** said if the capacity figures have changed, he would like to see updated information from the schools. **Alan** said the subdivision could be approved, but a building permit cannot be provided.

Graham said he just found two discrepancies between the Nobis report and the state DES Well Water Database. He said one figure is off by 1,000 feet. **Alan** asked **Tobin** where Nobis got their figures. **Tobin** said he thinks they got them from a prior study for the area. **Lindsay** said her concern is accurate data. **Eric B.** asked **Lindsay** if, when they lowered her well pump, they reported the information to the state. **Lindsay** said she is not sure, but it is unlikely. **Lindsay** said she has been told she cannot go lower with her well pump and if it loses water again, she will need to drill a new well. She said she is also concerned about the resale of her house. She said she would like to see the well data updated and see if the conclusions and recommendations change. **Tobin** said Nobis focused more on the lineament lines than the existing wells. He said the existing wells are 150 feet apart and have very different characteristics between them. He said we will locate the new wells 600-1,000 feet from the existing wells. He said you can't take away our wells because of problems on your lots. **Alan** said he is concerned we just don't know what is going on underground. **Peter D.** said you could drill the well now, come back with yield results that would provide better protection to existing homeowners – and you could monitor water levels for the existing wells. **Eric B.** said he sees different data on one well that he pulled up, so he would want the most current data and source information identified. **Brendan** said he also wants to know the timeframe of the data. **Alan** said we want to have the data accurate. **Peter P.** asked if Nobis should contact nearby homeowners, which would provide verifiable data about the wells. **Eric B.** said it would be good due diligence, but would be up to the applicant. **Dennis** said even if we get accurate data, he does not think it will change the conclusions and they will be inconclusive. He said he advocates for the wells to be drilled and to have the nearby existing wells monitored to see if there is an adverse impact. He said he thinks Nobis did a good job based on the data that they had available to them. **Jerry Farwell** said Nobis does not know how things will go on the new wells. He said if the neighbors' wells impact the new wells, he does not have any recourse. He said this seems like “snob zoning”. **Lindsay** said when she had to lower her well for a second time, she called three well companies to see whether she should drill a second well. She said all three companies said they have never heard of five wells

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interacting with each other like is occurring amongst them. She said it is a unique situation and her concern is having enough water to function normally. She said approving this application would not be a good decision for the town. **Alan** said the application was accepted on August 19th and 60 days from that date will be three days before the next board meeting. **Alan** said, as a result, we need to make a decision tonight, unless the applicant waives the 60-day timing requirement. **Eric B.** said the well data needs to be updated, so it is unlikely to be approved tonight. **Brendan** said he agreed with **Eric**. **Chris** said he has three main issues: One, the well data is inaccurate. Two, water is an issue in the area and continues to be an issue and we have a committee looking at the issue and it would be inappropriate for us to not take these factors into consideration. Three, we have a moratorium in place that would require us to except this application from the moratorium and it would not be prudent for us to find such an exception in this case due to the water concerns. **Ron** asked how to we get to a solution. **Scott** said he has concerns and would not support the application due to the current school capacity issue and moratorium. **Eric P.** said he does not find an extraordinary basis for granting an exception on this case and would vote against it if the 60-day timing was not waived. **Alan** said he agrees with the issue about data accuracy. He said he is looking at the SAU website and does not see updated data on capacity. He is concerned the one additional lot, based on the most recent school capacity figures provided to the planning board, does not rise to the level of violating the spirit of the moratorium. **Chris** said the moratorium is not specific about what the board should consider for an exception, but the town recognized we needed time to do research and make further decisions. **Eric B.** said his preference is to continue this to the next meeting. **Chris** said if the data is corrected and the report recommendations do not change, would it change the likelihood of application approval. **Eric B.** said it may. **Eric B.** said if new data has more negative findings, it could make denial a higher probability. **Ron** said we need to hold Nobis's feet to the fire for accurate data. **Tobin** offered a 30-day extension for Nobis to update the data. **Marcia Farwell** asked how many people have well monitors. **Lindsay** said two people. **Alan** said we can't ensure that the monitoring of existing wells will show the direct impact of a new well as it could be other factors impacting a well's water level. **Lindsay** said it takes five years for snowmelt and runoff to recharge the aquifer. She said about 20 homes have been built in the area recently. She asked that we give the aquifer time to recover and not add two more homes now. **Alan** said the applicant would need to request a waiver of the applicable RSA to extend the deadline 30 days and have the matter taken up again at the next meeting. **Tobin** said no building permit will be issued until after the moratorium. **Scott** said that would address his concern about the school impact. **Alan** asked for a sense of the board regarding the anecdotal evidence provided by abutters. He asked if more accurate Nobis data regarding depth, yield, etc. would fundamentally alter your decision on approving the subdivision. If "yes", it makes sense to approve the waiver, other wise it does not make sense. **Chris** said he does not see where new data, which is likely to be less favorable on wells, will help with approval.

Marcia said if they withdraw the application, they could build a house on Lot G-40 and could subdivide G-40 into a second lot at some point in the future. She said she does not want to adversely impact the abutters. **Tobin** said he would like to withdraw the application, but they

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will put a house and well on the property at some point. **Brendan moved, seconded by Chris, to accept the withdrawal of application SP#2021-5:G-40; voted Yes 5-0.**

Business Meeting

Peter D. said this is the first draft review of the workforce housing and well water ordinances. He said the committee would like to get comments from the planning board, so they can come back with final drafts and recommendations by the September 30th deadline.

Draft Workforce Housing Ordinance

Peter D. highlighted changes from the existing workforce housing ordinance. He said the draft involves a significant re-write and would bring our ordinance into better alignment with the RSAs. He said it will make it easier for a developer to do workforce housing if we do not meet our fair share. It will also make the ordinance better aligned with other ordinances we have.

Peter D. went through the ordinance and its proposed changes. He said if we are not meeting our fair share, we would allow for a blend of market rate and workforce housing, which is more viable for a developer. He said this would be unusual compared to other towns, but he thinks it is a good idea. He said several definitions were added for a variety of reasons. **Peter D.** said several procedural requirements have been added, including an annual “needs assessment” for meeting our fair share of workforce housing. He said the conservation commission will provide input on the Environmental portion in October during the public hearing process. **Alan** asked if a peer review study should be added to the Traffic Study provision. **Peter D.** said it could be.

Peter D. said that NRPC suggested we add a maintenance bond for two years, but we do not specify the bond size. **Eric B.** asked how and who would determine the size of the bond. **Peter D.** said he would ask for guidance from NRPC as they had suggested the provision. **Peter D.** noted that earlier tonight the committee changed the Assurance of Continued Affordability time horizon from “30 years” to “perpetuity.” **Eric B.** and **Alan** raised concern about having a specific limit on the number of proposed workforce housing units. If we “need” 10 and a developer wants to do 15, we may want to be able to approve it if the higher number of units are needed to make the project work.

Peter D. said he will present specific recommendations at the end of the month and some could extend to other ordinances.

Alan said in the Appeals section, we should delete “Superior Court” and simply rely on the RSA reference in the event options beyond the Superior Court become available. **Peter D.** agreed.

Alan and **Eric B.** said the draft looks great and they greatly appreciate the efforts of the committee members.

Brendan said he is concerned that Section 625 removes the planning board’s ability to consider an application and potentially approve it if it makes sense to the town. He said he is also concerned that under Section 627 items #4 and #5 prohibit the use of “taxpayer funds”, which could tie a developer’s hands. He said that could prevent the Director of Public Works, for

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example, from working with the developer on addressing a matter that is in both the town's and developer's interests. **Ron** said we could specify those items are at the developer's expense.

Draft Well Water Ordinance

Peter D. said the draft ordinance is the result of information from NH DES, the NH Well Water Board, the NH Well Water Association, the town's Well Water Committee, and NRPC. He said it focuses on two primary items: the quantity and quality of water. He said they have copied and pasted the NH DES recommendations for water testing of private wells.

Peter D. said on the quantity issue, we largely adopted the recommendations of our Well Water Committee. He said if there were conflicts between their recommendations and state documents, we used the state's documents. **Michele** said NH DES advised us that 24 NH towns have well water ordinances in place. **Peter D.** said that Pelham's ordinance served as the foundation for our draft ordinance. He said many of the definitions are from the NH Well Water Board. He said that Massachusetts requires builders drill the well and conduct a pump test *before* getting a building permit and more NH towns are doing so and, therefore, we are looking to do the same. He said we have referenced the RSAs where available.

Peter D. said there is some question on where the waiver authority will reside, but he thinks enforcement authority will rest with the building inspector. **Eric B.** asked if this is a town or zoning ordinance. **Peter D.** said most towns have done it as a town ordinance approved by the Selectboard, but the water testing needs to be approved at town meeting per RSA.

Alan said if it is a town ordinance, could the Selectboard delegate waiver authority to the planning board. **Alan** said he thought it was likely. **Peter D.** said the Selectboard could appoint the building inspector for enforcement and the planning board for waivers.

Alan asked about the 5-year time period under the Waivers section. He said a large subdivision will take more than five years to complete, so would the developer be required to do another study after five years. **Peter D.** said the committee will look at the language.

Alan said under the Testing Requirements, can we specify "current NH DES guidance" so our ordinance automatically updates with changes in NH DES testing requirements.

Peter P. suggested we specify the particular PFAS items we want tested as there are thousands of them that NH DES is looking at.

Dennis said he would like a better definition of "hydrogeologic study" that includes well monitoring of abutting wells after a new well is drilled. **Peter D.** said we define the study per NHEnv-Dw 400, and there are practical limitations on doing well monitoring if someone doesn't want us to do it on their well.

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Eric B. asked if the other NH towns with well water ordinances include monitoring abutters wells. **Michele** said we have not reviewed all 24 ordinances, but rather have focused on the ones that NH DES said were the best.

Peter D. said the committee may recommend the town investigate doing a town wide hydrogeologic study using ARPA funds.

Next Meeting

It was agreed that the planning board would hold its next meeting on Thursday, October 7th at 7pm to review the final drafts of the three ordinances from the School & Town Services Study Committee as well as their recommendations. The committee will forward the drafts and recommendations to the planning board by September 30th.

Adjourn

Meeting adjourned at 11:02pm.

Eric Bernstein, Co-chair _____

Alan Rosenberg, Co-chair _____

Ron Pelletier, Member _____

Chris Duncan, Member _____

Brendan Denehy, Selectboard Representative _____

Minutes submitted by Tad Putney.