



**TOWN OF  
BROOKLINE, NEW HAMPSHIRE  
ZONING BOARD OF ADJUSTMENT**

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

<http://www.brookline.nh.us>

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

**BOARD OF ADJUSTMENT  
MINUTES  
Wednesday, June 10, 2015**

**Present:** George Foley, Member, Chairman  
Webb Scales, Member, Clerk  
Marcia Farwell, Member  
Charlotte Pogue, Alternate, Voting for Peter

**Absent:** Peter Cook, Vice Chairman, Kim Bent, Member

**Jill Adams** a resident of Brookline was in attendance for this hearing. She introduced herself to the Board and stated she was interested in joining the Zoning Board.

**George** asked Charlotte to vote for Peter tonight. **Charlotte** agreed.

**Appoint Officials**

**Webb** made a motion to nominate the same officers for another year. **George Foley** as the Chairman, **Peter Cook** as Vice-Chair, and **Webb Scales** as the Clerk. **Charlotte** seconded. Vote yes 4-0.

**Code of Ethics**

**Marcia** made a motion to accept the code of ethic as recommended by the Selectboard. **Webb** seconded. Vote yes 4-0.

**Minutes**

**Charlotte** made a motion to approve the February 11, 2015 minutes as written. **Webb** seconded. Vote yes 3-0. **Marcia** abstained.

**Rules of Procedure**

**Marcia** made a motion to accept the Zoning Board Rules of Procedure. **Webb** seconded. Vote yes-4-0.

**Case 385**

**George** read the hearing notice "Applicants Joy & Michael Martello of 15 Pepperell Road are requesting a Special Exception from section 2000 of the Brookline Zoning Ordinance to allow an existing Accessory Dwelling Unit in the home. Lot K-2-5 is located at 15 Pepperell Road consisting of 2.130 acres."

ZBA Minutes  
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Fees have been paid and butters notified.

**George** explained to Joy that she had the right to be heard by a 5 member Board and they have only provided 4 members tonight. If you do continue and your request is defeated it cannot be appealed because there were only 4 members in attendance tonight. Do you wish to proceed with the hearing?

**Joy** said she would like to continue.

**Joy** said her septic system has failed and they need to replace it. The Building Inspector said they would need to go to the Zoning Board for a Special Exception because they had an in-law apartment in the basement of the house. **Joy** said the in-law apartment has been there since they bought the house. There was an accident at one point and the house needed to be almost completely rebuilt she said the builder at the time must not have noted that he was rebuilding the in-law in the basement when he submitted the plans to the Building Inspector at that time. So this is why she is here tonight.

**George** read through the point in the Zoning Ordinance Section 2000.

*2002.01* Accessory Dwelling Units shall be secondary and accessory to a principal single family dwelling unit or accessory building.

**Joy** said this is located in the basement of the home.

*2002.02* In granting a special exception, the Board of Adjustment must find that the secondary unit is developed in a manner which does not alter the character or appearance of the principal dwelling unit as a single family residence.

*2002.03* Only one accessory dwelling unit shall be allowed per principal dwelling unit and/or lot.

**Joy** said there is only one in-law apartment in the house.

*2002.06* Any necessary additional entrances or exits shall be located to the side or rear of the building whenever possible.

**Joy** said there is a door to the apartment out back and one entrance through the mud room of the main house.

*2002.07* An Accessory Dwelling Unit shall not be considered to be an additional dwelling unit for the purpose of determining minimum lot size.

*2002.09* Attached or detached accessory dwelling units shall have two (2) means of egress, other than a window, shown on a plan that shall be submitted and approved by the Fire Department and the Building Inspector prior to filing an application for special exception with the Zoning Board of Adjustment.

**George** said they can add a condition of approval that the Fire Department and the Building Inspector sign off on the plan.

*2002.11* The gross living area of an accessory dwelling unit shall not be less than 350 square feet and not greater than 1,000 square feet.

**Joy** said it is about 916 square feet. **George** said if you go by the assessor's card it calculates out to about 960 square feet so they are still under the 1,000 square feet.

*2002.12* The above grade gross living area of the principal dwelling shall not be reduced to less than 1200 square feet.

**2002.14** A building permit for an accessory dwelling unit must be approved and issued prior to the construction. An attached accessory dwelling unit shall have an interconnected fire alarm system.

**Joy** said the fire alarms are already interconnected.

**2002.15** The Emergency Management Director shall determine the house number for the accessory dwelling unit at the time of building permit application.

**George** stated the Emergency Management Director Lee Duval will give you this information.

**2002.17** The driveway shall be designed to appear as a driveway of a single family residence, and no new curb cut from the street shall be constructed. Adequate off-street parking shall be provided to support the vehicles of the primary and accessory units.

**Joy** said this hasn't changed and there is plenty of parking for the apartment.

**2002.18** The existing, replacement or proposed septic system must be certified by a licensed septic designer or engineer as adequate to support the accessory dwelling unit in accordance with New Hampshire RSA 485-A:38 and the Town of Brookline septic regulations.

**Joy** said they have applied for a 4 bedroom replacement system. The existing system has failed. **Webb** said the septic covers the ADU.

**Marcia** made a motion to grant the special exception from section 200 of the Brookline Zoning Ordinance to allow accessory dwelling unit with the condition that the plan submitted tonight will be approved by the Fire Department and the Building Inspector per section 2002.09 of the Brookline Zoning Ordinance. **Webb** seconded. Vote yes 4-0.

#### **Resignation**

**George** said the Board received a resignation letter from Kim Bent. **Marcia** made a motion to accept Kim's resignation letter with regret. **Webb** seconded. Vote yes 4-0.

#### **Appointments to the Zoning Board**

**Marcia** said she had spoken to Kevin Visnaskas on Monday and he said he would be interested in joining the Zoning Board. **Marcia** made a motion to recommend to the Selectboard that **Kevin Visnaskas** be appointed to the Zoning Board of Adjustment a full member with a term expiring in March 2018 and also recommend **Jill Adams** be appointed as an alternate of the Zoning Board of Adjustment with a term expiring in March of 2018. **Webb** seconded. Vote 4-0.

#### **Code of Ethics**

**Marcia** made a motion to accept the code of ethic as recommended by the Selectboard. **Webb** seconded. Vote yes 4-0.

#### **Minutes**

**Charlotte** made a motion to approve the February 11, 2015 minutes as written. **Webb** seconded. Vote yes 3-0. **Marcia** abstained.

**Adjourn**

**Marcia made a motion to adjourn at 8:20pm. Charlotte seconded. Vote yes 4-0.**

**George Foley, Member, Chairman**

*George W. Foley III*

**Webb Scales, Member, Clerk**

*W. W. Scales*

**Marcia Farwell, Member**

*Marcia Farwell*

**Charlotte Pogue, Alternate**

**Minutes submitted by Kristen Austin**



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**ZONING BOARD OF ADJUSTMENT**  
**TOWN OF BROOKLINE**

**RULES OF PROCEDURE**

**AUTHORITY**

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated, 1983, Chapter 676:1, and the zoning ordinance and map of the Town of Brookline.

**OFFICERS**

1. A **Chairman** shall be elected annually by a majority vote of the board at the first meeting following April 1<sup>st</sup>. The chairman shall preside over all meetings and hearings, appoint such committees as directed by the board and shall affix his/her signature in the name of the board.
2. A **Vice-Chairman** shall be elected annually by a majority vote of the board at the first meeting following April 1<sup>st</sup>. The Vice-Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters which come before the board during the absence of the Chairman.
3. A **Clerk** shall be elected annually by a majority vote of the board at the first meeting following April 1<sup>st</sup>. The Clerk shall maintain a record of all meetings, transactions and decisions of the board, and perform such other duties as the board may direct by resolution.
4. All officers shall serve for one year and shall be eligible for re-election.
5. Up to **five alternate members** shall be appointed, as provided for by the local legislative body, to serve whenever a regular member of the Board is unable to fulfill his responsibilities.

**MEETINGS**

1. **Regular meetings** shall be held as required at the Daniels Academy Building on the 2<sup>nd</sup> Wednesday of each month. Other meetings may be held on call of the chairman provided public notice and

ZBA Rules of Procedure  
Updated 06/10/2015

notice to each member is given at least 24 hours, excluding Sundays and legal holidays prior to such meetings.

2. Board members will notify the secretary as soon as possible whether or not they will be able to attend a meeting.
3. **Quorum.** A quorum for all meetings of the board shall be three members, including alternates sitting in place of members.  
RSA 674:33 III, provides that "... the concurring vote of 3 members of the board shall be necessary to reverse any action of the administrative official or to decide in favor of the applicant on any matter on which it is required to pass...." For this reason, the board will make every effort to ensure that a full five member board is present for the consideration of any appeal.

If any regular board member is absent from any meeting or hearing, disqualifies himself from sitting on a particular case, the chairman shall designate one of the alternate members to sit in place of the absent or disqualified member, and such shall be in all respects a full member of the board while so sitting.

4. **Disqualification.** If any member finds it necessary to disqualify himself from sitting in a particular case, as provided in RSA 673:1, he shall notify the chairman as soon as possible so that an alternate may be requested to sit in his place. When there is uncertainty as to whether a member should be qualified to act on a particular application, that member or another member of the board may request the board to vote on the questions of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.

The disqualification shall be announced by either the chairman or the member disqualifying himself before the beginning of the public hearing on the case. The disqualified member shall absent himself from the board table during the public hearing and during all deliberation of the case.

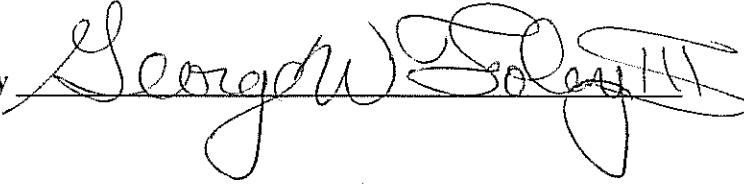
5. **Order of Business.** The order of business for regular meetings shall be as follows:
  - A. Roll call by the clerk
  - B. Minutes of previous meeting
  - C. Unfinished business
  - D. Public hearing
  - E. New Business
  - F. Communications and miscellaneous
  - G. Adjournment

(Note: Although this is the usual order of business, the board may wish to hold the hearings immediately after the roll call in order to accommodate the public).

**Motion for Rehearing.** Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefore; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefore is stated in the motion. This 30 day time period shall be counted in calendar days beginning with the date following the date upon which the board voted to approve or disapprove the application in accordance with RSA 21:35; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the person applying for the rehearing shall have the right

to amend the motion for rehearing, including the grounds therefore, within 30 days after the date on which the written decision was actually filed. If the decision complained against is that Made by a town meeting, the application for rehearing shall be made to the board of selectmen, and, upon receipt of such application, the board of selectmen shall hold a rehearing within 30 days after receipt of the petition. Following the rehearing, if in the judgment of the selectmen the protest warrants action, the selectmen shall call a special town meeting.

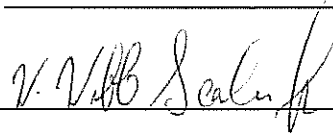
George Foley



Peter Cook

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Webb Scales,



Marcia Farwell,



Charlotte Pogue









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SELECTBOARD**

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## **Recommended Code of Ethics**

Non Binding Resolution passed at the March 2005 Town Meeting:

### **1. Purpose**

The proper operation of democratic government requires that public servants be independent, impartial, and responsible to the people; that government decisions and policy be made through the proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government members to perform their duties without conflicts between their private interests and those of the citizens they serve.

The purpose of this code is to establish guidelines for the ethical standards of conduct for public servants. As such, the Town of Brookline

- Expects our public servants to act in the best interest of the town.
- Expects public servants to disclose, whenever possible, any personal, financial or other interests in matters affecting the town that come before them for action.
- Expects public servants to remove themselves from decision making if they have a conflict of interest.
- Expects public servants to be independent, impartial, and responsible to their fellow townspeople in their actions.
- Expects that the public servant's decisions and policies be made through the proper channels of government.

### **2. Definitions**

**Conflict of Interest** – A situation or circumstance where a public servant's personal, pecuniary or financial interests have the potential to interfere with the proper exercise of a public duty.

**Pecuniary Interest** – Any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public at large, such as tax reduction or increased prosperity of the town.

**Personal Interest** – Interest in a matter, aside from official interest as a function of a public servant's position, which is more direct than that of the public at large and would influence the action of the public official.

Public Servant – All officers and employees of the Town, whether elected, appointed, paid, volunteer, or anyone acting in a position other than as a member of the general public. A person is considered a public servant upon their election, appointment, or designation as such, although they may not yet officially occupy that position.

Recuse – To remove or excuse oneself from participating in a specific action or discussion due to a conflict of interest. Recusal means to remove oneself completely from all further participation as a public servant in the matter in question. Public servants who have been recused shall immediately leave the room or shall seat themselves with the other members of the public at large who are present. When recused, public servants shall not participate in further discussions unless they clearly state for the record that they are doing so only as a general member of the public. A recused public official is effectively a member of the general public and shall not deliberate nor vote on the matter in question.

### **3. Code of Ethics**

Public servants shall avoid conflicts of interest.

Public servants shall recuse themselves and shall not take part in the decision-making process of any matter before the town in which they have a personal or pecuniary interest. Members of the Planning Board and Zoning Board of Adjustment are further bound by the provisions of RSA 673:14.

Public servants shall not directly or indirectly solicit gifts or accept or receive any gift (whether in money, services, loans, travel, entertainment, hospitality, premises or in some other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.

Public servants must not disclose or improperly use confidential information obtained in the course of their duties.

No public servant shall use town letterhead or stationary for any purpose other than official town business. Members of boards, committees, and commissions may only use town letterhead for purposes approved by their respective board, committee or commission.

No member of a board, committee, or commission shall speak on behalf of their respective board, committee or commission unless authorized to do so by their respective board, committee, or commission. This is not to suggest that individual members cannot speak publicly, but rather to emphasize that they should clearly state they are speaking only on their individual behalf and not represent himself or herself as speaking for the board, committee, or commission.

Adopted by Board of Selectmen – June 13, 2011

Adopted by Board of Selectmen – April 2, 2012

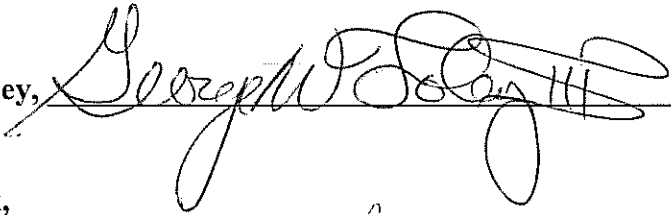
Adopted by Selectboard – April 1, 2013

Adopted by Selectboard – March 17, 2014

Adopted by Selectboard – March 30, 2015

Zoning Board of Adjustment Meeting June 10, 2015

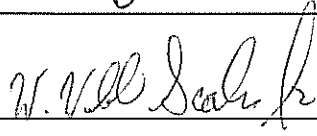
George Foley,

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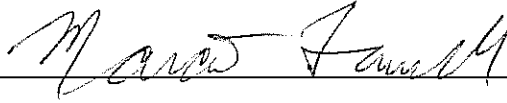
Peter Cook,

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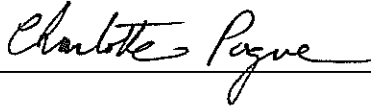
Webb Scales,

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Charlotte Pogue,

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