

**Planning Board Meeting Date:** February 19th, 2025

**Time:** 7:00 PM

**Location:** In-person/Zoom

**Attendees In-person:** Dee Daley (Chair), Josh Muhonen (Vice Chair), Shawn Talbot (Ex Officio) Bruce Ruotsala, Craig Smeeth, Graham Heagy, Aaron Bertram, Robert Fournier,

**Via Zoom:** Nichole Talbot,

**Citizens In-person:** Chuck Ritchie (Fieldstone, representing Brookhaven), Chris (Brookhaven's attorney), Dave Somero, Gordon Wareham, Monica Wareham, Emily Krook, Ben Krook, Mike Maki

**Citizens Via Zoom:** None

### **7:00 PM - Call to Order and Introduction**

- The meeting was called to order by Chair Dee Daley.
- A sample fire pond easement document from the town attorney was mentioned and made available on Dropbox for review.

### **Pledge of Allegiance and Roll Call**

- The meeting was formally opened with the Pledge of Allegiance.

### **Review of Previous Meeting Minutes**

- Minutes from the January 22 meeting were discussed.
- It was noted the February 5 meeting was canceled due to weather and scheduling conflicts.
- Bruce made motion to approve the January 22 minutes with a correction ("vice grips" changed to "vice chair").
- The motion was seconded by Craig and passed, with one abstention.

### **Planning Board Engineer Fee Proposal**

- A proposal from CHA was reviewed for the Planning Board engineering services.
- The board aims to finalize this proposal, along with any revised fees, before the next meeting in March.
- No current applications are pending, so any new fee schedule would apply to future submissions.
- An escrow account dedicated to engineering reviews has been established to handle relevant transactions.

A concern about the proposed seven-day termination notice led to a decision to request a change to 30 days based on the realities of engineer transitions. Bruce makes a motion to accept CHA's proposal with the updated 30-day notice and was seconded by Nichole and unanimously approved.

## **7:10 PM - Selectman/Chair/Admin Announcements:**

### **Meet the Candidates Night and Town Vote**

- Meet the Candidates Night is set for March 4, location to be confirmed (likely the Masonic building).
- Town Vote is scheduled for March 11 from 7 AM to 7 PM, at the Masonic Gymnasium.

### **Dangerous Intersection Discussion**

- A land dedication was proposed by a property owner to address a hazardous intersection at Timber Top and Hubbard Pond Road.
- A similar proposal in 2007 that was not finalized.
- Public hearings, involvement from the Conservation Commission, and broader community input will be important moving forward.

### **Concerns and Federal Funding Freeze**

- Steven attended a Monadnock Region Planners Forum and shared updates on a potential freeze of federal grant funds.
- A lot is not known yet, but there is concern that the potential impact could lead to local taxpayers having to cover shortfalls.
- Efforts are underway to streamline site plan reviews and mitigate budget uncertainties.

### **Public Safety and Police Department Staffing**

- The police department is set to be fully staffed by mid-March.
- This marks the first time in roughly 18 months that the department will have complete coverage.
- Retention challenges persist, but there is optimism about staffing stability.

### **Capital Improvement Plan (CIP) Update**

- Most departments submitted their CIP inputs, except some fire department data.
- Final revisions will be presented to the select board on April 8.
- The Planning Board will have the opportunity to have a more proactive role in making recommendations to the Select Board in prioritizing major budget items as we get further into 2025.

### **Master Plan Survey and Public Forum**

- A community-wide survey will run from late February to mid-April, with instructions mailed to households.
- A public forum is set for March 22 at the high school (rain date March 29), with two sessions and a pizza break.

- Outreach plans include posters at local businesses and encouraging neighbors to participate.
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## 7:22 - PM Brookhaven Farm LLC

- Continued public hearing from January 22nd and February 6th.
- Inclement weather has caused delays.
- The agenda covers a review of phasing/sequencing, legal documents, transition logistics, pending plan questions, and potential conditions.

### Structuring Work on the Brookhaven Application

- The chair outlines a structured approach for the Brookhaven topic:
  - Phasing and sequencing updates
  - Review of legal documents
  - Public comments
  - Other logistics/outstanding topics

### Phasing & Sequencing

- **Phasing Plan Overview**
- Chuck Ritchie (Fieldstone) presents a two-phase approach:
  - **Phase 1**
    - Build a 1,900-foot road up to a Hammerhead Turnaround
    - Install paving, drainage systems, and a fire pond (reached via gravel maintenance road)
    - Lots 9 through 15 and lots 29 through 38 will be constructed in phase 1
  - **Phase 2**
    - Complete remaining houses on lots 16 through 28
    - Finish paving and utility installations
    - Drainage for the remaining lots in Phase 2
- **Phased Development Logistics**
  - Phase 1 must be fully completed before Phase 2 begins.
  - No building permits are issued for Phase 2 until Phase 1 infrastructure is finished and successfully inspected.
  - The developer may sell Phase 2 lots for financial reasons, but building permits remain on hold until Phase 1 is fully done.
  - Balances the developer's need for cash flow with the board's requirement that infrastructure meets town standards.
- - Essential infrastructure (like roads and the fire pond) must be finished or properly secured financially to protect the town from incomplete development.

## Bonding & Security

- **Bonding and Security Approach**
  - The initial bond covers revegetation costs if the project is abandoned.
  - Once the first certificate of occupancy (CO) is requested, the bond transitions to cover the remaining construction.
  - Phase 2 follows the same pattern, ensuring environmental restoration and project completion if the developer defaults.
  - Under the developer's proposal, the bond only covers a small revegetation amount (e.g., \$5,000) instead of the full road cost (~\$800,000).
  - If lots are sold before road completion, the town could be left with incomplete roads and insufficient funds.
  - The board questions what would happen if the developer defaulted after lot sales prior to significant security/bonding.
  - Financial Breakdown of Phases Phase 1 costs \$835,000; Phase 2 costs \$280,000.
  - The current proposal only requires the bond for revegetation until the first CO request, prompting questions about who pays for the road if the developer walks away.
  - Past local developments were left unfinished after lot sales.
  - The board sees a potential risk if a bond doesn't secure actual road-building costs (or infrastructure completion prior to building).
  - There were suggestions from the Brookhaven attorney and board members suggesting a security bond before any earthwork or lot sales, ensuring road completion or sufficient funds regardless of ownership changes.
- **Proposed Condition: Bonding Requirement Upon Lot Sale**
  - The board proposes a security/bond mandate triggered by whichever occurs first:
    - The first CO issuance, **or**
    - Any lot sale.
  - This guards against early sales without infrastructure funding.
  - The developer suggests starting infrastructure work before posting a full bond to minimize costs.
  - The board would like to see bonding before significant lot sales, citing past unfinished projects.
  - Another alternative would be to require a bond or escrow tied to road construction costs for each lot sold, but this was not significantly considered.
  - The board remains open to any valid security (bond, escrow, etc.).
  - The developer's team agrees to review and respond.

## Fire Pond & Other Infrastructure Requirements

- **Fire Pond Placement and Construction Timing**
  - The fire pond is slated for early completion in Phase 1 due to its role in drainage and erosion control.
  - No CO will be issued for Phase 1 houses until the fire pond is done, ensuring safety infrastructure first.
  - Past projects built fire ponds last, causing complications.

- The board requires the pond to be completed before anyone moves in, avoiding similar issues.

## **Legal & Covenant Review**

### **Road & Easement Agreements**

- **Legal Review: Fire Pond Easement & Road Agreement**
  - The planning board attorney prepared a fire pond easement draft.
  - The town is not a party to the private road agreement but has a vested interest in the fire pond's long-term functionality.
  - The Brookhaven team will see if updates are needed prior to the next meeting
- **Road Agreement within the Covenant/Declaration**
  - Road maintenance obligations appear in the development's declarations of covenants, conditions, and restrictions (CCRs).
  - Having a single document allows the HOA to place liens for unpaid fees and simplifies enforcement.
  - Consolidating road maintenance and other covenants strengthens legal enforceability and clarity for both owners and the town.
- **Town Requirements for Covenants & Legal Language**
  - The board wants disclaimers on town liability, plus language about school bus pickup/mailbox location.
  - The applicant's attorney will include necessary provisions for clarity and compliance.
- **Select Board Approval for Agreements**
  - Shared driveway agreements need select board approval; private roads may as well.
  - The board plans to verify this detail.
- **Mapping & Survey Requirements for Fire Pond and Common Land**
  - The town attorney suggests a detailed map or survey for easement descriptions in legal documents.
  - The applicant's team notes that detailed meets and bounds already appear on the subdivision plan, which will generally suffice.
- **Acceptance of Mapping and Survey Approach**
  - The board leans toward using existing detailed maps and meets/bounds to avoid a second survey that would just be text/words.

### **Covenants & Bylaws Updates**

- **Review of Updated Covenants and Bylaws**
  - The board has new covenant/bylaw drafts
  - There is discussion of allowing permission to ensure compliance with town ordinances.
  - The town does not conduct blanket warrantless inspections, only genuine zoning or safety breaches merit investigation.
  - The board aims to respect privacy while upholding public welfare.

- Mr. Crook worries about “town” being too broad a term, allowing too many individuals on private land.
- The board confirms access is limited to authorized officials for legitimate reasons (e.g., stormwater issues, safety concerns).
- Historical mistrust of inspections underscores the need for clear, respectful procedures.
- Property owners are still considering this and will discuss it with the attorney
- **Enforcement Responsibilities: Town vs. HOA**
  - **Zoning violations:** enforced by the town (e.g., illegal dredging).
  - **Community rules:** enforced by the HOA (e.g., use of open or common areas not consistent with HOA guiding documents).
  - This separation clarifies each entity’s jurisdiction and not that the HOA docs are stating the Town is responsible for settling HOA disputes.
  - An HOA can enforce rules against individual owners but not easily against itself.
  - Discussion of granting the town easement access for zoning investigations without needing a warrant.
  - Balances effective enforcement with homeowners’ property rights.
  - Town investigators can address zoning breaches in open space.
  - The HOA handles non-zoning issues (e.g., unauthorized common property use).
- **Open Space vs. Conservation Land**
  - Brookhaven’s open space designation allows passive recreation but no structures.
  - Conservation land would bring stricter oversight from the Attorney General’s Division of Charitable Trusts, which the applicant chooses not to pursue.
- **Approval of Open Space & Enforcement Provisions**
- **Controversy Over Amendment Rights in the Declaration**
  - Article 14C basically gives the developer unilateral amendment power of the covenants if they own at least one lot.
  - The town’s attorney views this as excessive and recommends striking the last sentence in the paragraph.
  - The developer notes the potential need for flexibility for unforeseen site or regulatory changes.
  - There are recognitions homeowners will want to have a voice and will eventually have financial responsibility for the subdivision.
  - A middle ground should be possible that limits unilateral amendments to essential regulatory or construction items.
  - The developer’s attorney will modify Article 14C so that unilateral amendments only apply to compliance or practical build needs.
- **Minimum Square Footage & Housing Trends**
  - There is no fixed minimum currently in the document.
  - The developer notes shifting preferences toward smaller, more affordable homes.
  - The board has no preference, leaving it to market and developer considerations.
  - Either the entry should be completed or removed
- **Restrictions on Animals & Household Pets**
  - Generic language currently bans farm animals and caps pets at three, barring resale.

- The board inquired about more guidance to accommodate temporary litters or typical household scenarios.
- **Finalizing Covenants & Legal Revisions**
  - The developer will incorporate feedback on pets, investigative rights, and limited unilateral amendment authority.
  - Updated covenants will be submitted at the next meeting.

## Public Comments & Feedback

- **Noise Concerns & “Noxious Noise” Clause**
  - Mr. Maki worries about the potential for loud recreational vehicles and activities.
  - The developer prefers a general noise prohibition referencing existing ordinances, rather than banning specific activities.
  - Local ordinances cap noise at around 35 decibels at the property line.
  - Dee encourages board members and the public to educate themselves local noise rules.
- **Visual Barriers & Privacy**
  - Mr. Maki requests a buffer between his property and the new subdivision.
  - The developer and Mr. Maki agree to preserve existing tree lines on common land to maintain natural screening.
  - A 75-foot buffer zone is designated common land along the northern border.
  - While open-space covenants may allow for some logging, the applicant agreed to prohibit logging within the full 75-foot zone.
  - This addresses privacy and environmental considerations, satisfying Mr. Maki.
- **Ensuring Document Consistency & Public Comment Wrap-Up**
  - The subdivision regulations require all final legal documents (declarations, bylaws) to be recorded before issuing any certificates of occupancy.
  - Timing for filing easements and other documents will be discussed at the next meeting

## Plan Details & Consideration for Revision

- **Removal of Unnecessary Notes**
  - References to retaining walls and blasting should be removed if they do not apply to this project.
  - Guardrails near lots 29 and 30 are unnecessary given the manageable slope and should be removed if they do not apply to the project.
  - All utilities go underground, utility pole references on Sheet 22 will be removed except for the ones on Appleton Rd.
- **Driveway Location Specifications & Amendment Process**
  - Driveways and house sites are approximate but should remain close to the plan for drainage integrity.
  - Minor shifts can proceed without a full amendment; significant changes require board review.
- **Erosion Control & Drainage**

- Proposed plans propose a deferred erosion control plan, with lot-by-lot review/approval by the planning board engineer
- Past subdivisions had issues when individual lot changes disrupted land use office function with lack of plan availability to builders and complaints to the land use office
- The strategy as was previously attempted did not work and the board prefers a comprehensive erosion control strategy.
- The applicant notes the general slopes and stormwater control are on the plans, they suggest the Board consider allowing the lot-by-lot approach with earlier plan availability by integrating erosion control details into septic design plans (filed before building permits).
- **Coordination with Planning Board Engineer**
  - The planning board will check with engineer (Rob Faulkner, CHA) to see if it is feasible for him to set up a proposal to review each lot's erosion plan alongside septic designs.
  - This may also allow for changes in driveway positions since it would be a viable way to ensure alterations do not undermine the master drainage plan.
- **School Bus Stop & Mailbox Locations**
  - A bus stop needs to be shown on the plan, it was discussed to tentatively be located near the old farmhouse (scheduled for demolition), but the developer will check safety and spacing.
  - Mailbox configuration depends on the postmaster's approval, possibly requiring a centralized "mailbox hotel" instead of individual post boxes
- **Snow Storage & Emergency Access Note**
  - Snow storage may need to be indicated near the fire pond, space logistics should be addressed in final plans.
  - A plan note about an emergency access drive is obsolete and should be removed if not applicable.
- **Well Locations & Fire Pond**
  - Older drawings incorrectly show wells on Lot 21 and near the fire pond.
  - The applicant has noted the plans have been updated to remove the extraneous wells.
- **Detention Ponds & Wetlands**
  - The board had asked the applicant to consider wetland protections against fill or encroachment on areas such as those behind lots 10–20 (prior discussion had included markers, fencing or deeded easements).
  - The applicant's attorney favors deeded easements noted on plans and in property deeds.
  - Drainage easements will be permanent and clearly documented.
  - The term "proposed" will be removed to confirm these are official, enforceable easements.
- **Inspection Schedule & Checklist**
  - The board plans a standardized inspection schedule (e.g., road agent checks, building inspector reviews).
  - A checklist tracks conditions (removing outdated notes, labeling easements, etc.) so the developer resolves issues before the next meeting.



- The applicant should review what is in the current plans regarding inspections
- **Approval Process for Minor Changes & Coordination**
  - Minor driveway or location shifts that don't affect drainage can proceed informally.
  - Major changes must be flagged early for planning board engineer review, avoiding last-minute conflicts.

## Excavation Permit & Material Logistics

- **Excavation Permit & Acreage Classification**
  - The applicant plans to continue excavation as building starts, it is unclear how to designate the changes.
  - Some acreage shifts could alter the permit, and the Planning Board will seek guidance from the State.
  - Dee reminds the developer that excavation requests are due by April 1st, urging an update on which sections are opening or closing.
- **Stockpiled Material for Phase 1**
  - Excavation in Phase 1 is largely complete and the materials remaining are being stored for use onsite. This may simplify Phase 1 construction but could complicate record-keeping.
  - The board and developer will sort out how this impacts excavation permits and yardage calculations.

## Next Steps & Adjournment

- **Consideration of Conditional Approval**
  - The board notes there are a high number of that still need resolving.
  - Fieldstone hopes to finalize as many items as possible before the upcoming meeting.
- **Finalizing Plan Revisions & Preparing for the Next Meeting**
  - The board requests a "clean" plan set reflecting all agreed changes.
  - The applicant made significant headway on covenant documents.
- **Scheduling the Next Meeting**
  - The board plans to continue discussions on **March 5th at 7:20 PM**
  - The applicant agrees they can present updated documents by that date.
- **Motion to Continue & Adjournment**
  - A motion is made by Josh to continue the Brookhaven Farm LLC discussion on March 5th. Seconded by Craig, vote passes unanimously.

Respectfully Submitted,  
Steven Satterfield