



**PLANNING BOARD**

Linda K. Hamlin, Chairman  
Steven A. Heikin, Clerk  
Robert Cook  
Blair Hines  
Sergio Modigliani  
Matthew Oudens  
Mark J. Zarrillo

# Town of Brookline Massachusetts

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**BROOKLINE PLANNING BOARD HEARING MINUTES  
ON WARRANT ARTICLES  
Room 111, Brookline Town Hall  
October 6, 2016 – 7:30 p.m.**

**Board Present:** Linda Hamlin, Steven Heikin, Robert Cook, Blair Hines,  
Sergio Modigliani, Matthew Oudens, and Mark Zarrillo

**Staff Present:** Polly Selkoe, Andy Martineau, Karen Martin

Chair Linda Hamlin called the meeting to order at 7:30 pm.

**ZONING AMENDMENT WARRANT ARTICLES**

**Warrant Article 21: Manned Aircraft Landing Areas**

Polly Selkoe introduced the proposal. The Town was first made aware of the need for this article after a recent court case, Massachusetts Appeals Court, Hanlon v. Town of Sheffield decision (May 2016), which found that the state Aeronautics Division of the Department of Transportation has the right to approve all uses related to manned aircraft uses by the Brookline Zoning By-Law. Town Counsel recommended that the use be added to the Zoning Table of Uses, and that it be prohibited in residential districts and allowed by Special Permit in non-residential districts. It would be added as use #51A to the table.

Ms. Hamlin asked for a definition of manned aircraft.

Mr. Zarrillo stated that this doesn't address the landing of aircraft on buildings. He said that there are FAA standards for helicopters. He believes this proposal needs to be more specific to address aircraft that would land on buildings and not only on land.

Mr. Heiken asked if this proposal covered helipads. Ms. Selkoe replied that it would.

Ms. Selkoe suggested language could be added to say "including structures".

Mr. Heiken asked if Coolidge Corner was considered a non-residential district and pointed out that there are residential structures in non-residential areas. He stated that the intent was confusing in that landings will be potentially allowed in the denser parts of North Brookline but not in the less dense South Brookline.

Ms. Selkoe pointed out that the town of Rockport prohibited all aircraft uses in all parts of their town and had their bylaw overturned by the state Aeronautics Division.

Ms. Hamlin asked what other permissions are needed to approve an aircraft landing area besides the Special Permit? Is there state or federal review before or after the Special Permit process?

Mr. Zarrillo stated that if landing on structures is not specified, there will be room for a Board of Appeals decision to be overturned if it approves or denies a landing area on a building.

Mr. Modigliani made a suggestion that we run this question by Town Counsel and seek her advice on adding the additional language. If she agrees that it should be added, the article language will be revised. The Board agreed. Ms. Selkoe will follow up with Town Counsel.

**Linda Hamlin made a motion to recommend FAVORABLE ACTION on Warrant Article 21.  
Robert Cook seconded the motion.**

**The Planning Board voted 7-0 to recommend FAVORABLE ACTION on Warrant Article 21.**

**Warrant Article 7: Emerald Island Special District**

**Warrant Article 8: Emerald Island Special District (18 foot sidewalks)**

The Board decided to hear presentations for both Articles 7 & 8 together and discuss the two articles jointly.

Andy Martineau from the Planning Department staff gave a presentation on Article 7 that went over the work of the River Road Study Committee (RRSC), their outcomes and the specifics of the proposed Emerald Island Special District (EISD) zoning.

Ms. Hamlin asked if below grade parking was an option on the site. [No, because of subsurface water and possible contaminated soil.]

Mr. Heiken pointed out that Design Guidelines for the EISD were already approved by the Board.

The Board heard a presentation from Hugh Mattison, petitioner for Article 8 which is the same as Article 7 except for a requirement for an 18 foot sidewalk (including a 10 foot planting strip) on Washington Street.

Mr. Zarrillo commented that it was an interesting discussion. He pointed out that right-of-way includes the carway, sidewalk and tree plantings. Mr. Zarrillo stated that the RRSC's work adequately covered the development of the site but did not include street sections. He stated that setback is typically measured from the property line, not the curb line as shown in the proposal. The real issue does not relate to the hotel but to the right-of-way on Washington Street. Complete Streets happen in the right-of-way, not on someone else's property. He believes the proposal is muddled by asking for setbacks from the curb and not the property line. He also pointed out that Mr. Mattison's proposal does not say where the sidewalk should be either.

Mr. Martineau stated that 7.25 feet has been determined as the width of the sidewalk on Washington Street per the Gateway East project and that the minimum sidewalk widths will not change.

A project engineer from Stantec, representing Claremont, stated that the idea for the space was to create public realm requirements. The property line changes all around the site due to town easements and as a result the setbacks would differ all the way along the site's perimeter.

Mr. Zarrillo stated that the applicants for the site would come to the Planning Board for special permits for setback relief just like everyone else.

The representative from Claremont spoke about the various easements on the site and stated that the zoning does not specify the time at which the site measurements are taken.

Ms. Hamlin added that the cycle track gives protection from the street.

Mr. Martineau pointed out that the sidewalk widths vs. setbacks are not the same approach. Using sidewalk widths is a more form-based approach.

Mr. Heiken reminded the Board that sidewalks are just a small part of this overall proposal.

Mr. Modigliani asked if River Road will remain a two-way street and what the current lane widths are on Washington Street. Mr. Martineau replied that one-way was considered by the Committee but was ultimately kept two-ways for the businesses.

Mr. Modigliani asked what the rebuttal against Article 8 is. He asked members of the study committee to help answer his question.

Ben Franco, Chair of the River Road Study Committee, stated that Mr. Mattison's proposal would narrow the sidewalk and allow sidewalk overhang. With a constrained amount of space, he stated that the cycle track would be lost if you were to add sidewalk width.

Wendy Machmuller, Committee member and TMM 5, talked about her familiarity with the site and her support for Article 7.

Allan Christ, Committee member and TMM 4, spoke about the pinch point and felt that this narrowest part is only 50 feet on the total 1600 feet of streetscape on the site. He also pointed out constraints made by fitting the parking onto 2 floors.

Ruthann Sneider, TMM 6. As a former teacher who walks in this area frequently, she urged the Board to consider the entire pedestrian population and public safety at the site. She would like to see wider sidewalks from the hotel and a renegotiation with Claremont because the current proposal is too dangerous.

Paul Saner, TMM 13, stated that he is legally blind and uses a guide dog. He is therefore very aware of issues related to pedestrian accessibility and sidewalk widths. He believes that an 8 foot sidewalk is sufficient for him. He believes Claremont negotiated in good faith and that if Article 8 passed, he thinks Claremont would turn to a 40B which is less desirable for the Town, including having a negative fiscal impact.

M. Merilice, TMM 6, feels comfortable with this developer because independent financial analyses were done. She is satisfied that an outside party did their own work regarding the feasibility of the project and came to the same conclusion. Even though she would be a proponent of the wider sidewalks, she does not want to jeopardize the proposal.

Ms. Hamlin stated that this proposal will come before the Planning Board as a Special Permit to review technicalities, so the Board can entertain more information at that time.

Mr. Modigliani stated that the two proposals are a trade-off that Town Meeting must decide. He would like to see the benefits for the Town articulated more clearly in the presentation that will be made at Town Meeting.

**Linda Hamlin made a motion to recommend FAVORABLE ACTION on Warrant Article 7.**

**Mr. Modigliani seconded the motion.**

**The Planning Board voted 7-0 to recommend FAVORABLE ACTION on Warrant Article 7.**

**Linda Hamlin made a motion to recommend NO ACTION on Warrant Article 8.  
Mr. Cook seconded the motion.**

**The Planning Board voted 7-0 to recommend NO ACTION on Warrant Article 8.**

### **Warrant Article 14: Signs, Illumination, & Regulated Façade Alterations**

Mr. Martineau presented the background on this article which stemmed from a U.S. Supreme Court decision in Reed v. Town of Gilbert, AZ regarding content-neutrality in signage. This article seeks to improve the content-neutrality of Brookline's Sign By-Laws. The new language was drafted in collaboration with Town Counsel. Mr. Martineau stated that new revisions had just been made today and were handed out to the Planning Board.

Ms. Hamlin asked for clarification on page 12, section B on illumination. She asked if Christmas lights are prohibited. She also raised a question about signs that are internally illuminated versus externally illuminated. A small revision was suggested to the language of the article as follows:

#### **7.06 - Illumination**

- a. All new internally illuminated signs in L, G, I and O Districts may be illuminated via low intensity LED light bulbs from 5 am until 11 pm; or ½ hour past the close of business, whichever is later. In the case of a business that operates 24 hours per day; internally illuminated signs shall be dimmed between the hours of 11 pm and 5 am. Signs shall be installed with an automatic timer to comply with this Section.*

Mr. Modigliani recognized John Doggett and thanked him for his efforts and for pointing out the need for these By-Law updates.

Mr. Doggett stated that he was the first person to raise the issue of temporary signage regulations as potentially unconstitutional.

Mr. Modigliani asked what would happen if he put a Trump sign up for 30 years. The Board discussed temporary vs. permanent signage.

The Board thanked Andy for his work on this article.

**Linda Hamlin made a motion to recommend FAVORABLE ACTION on Warrant Article 14 as amended.**

**Mr. Modigliani seconded the motion.**

**The Planning Board voted 7-0 to recommend FAVORABLE ACTION on Warrant Article 14.**

The meeting was adjourned at 9:40.