

**Town of Brookline
Advisory Committee Minutes
Thursday, October 12, 2023**

Present in Person or on Zoom: Michael Berger, Ben Birnbaum, Harry Bohrs, Clifford Brown, John Doggett, Dennis Doughty, Katherine Florio, Harry Friedman, David-Marc Goldstein, Neil Gordon, Susan Granoff, Perry Grossman, Kelly Hardebeck, Alisa Jonas, Carol Levin, Joslin Murphy, Linda Olson Pehlke, David Pollak, Stephen Reeders, Lee Selwyn, Alok Somani, Carolyn R. Thall, Christine Westphal

Absent: Markus L. Penzel, Paul Bernard, Amy Hummel, Pam Lodish, Donelle O’Neal, Carlos Ridruejo,

Also Attending: Director of Regulatory Planning Polly Selkoe, Town Counsel Joe Callanan, Associate Town Counsel Jonathan Simpson, Chief Procurement Officer Dave Geanakakis, Petitioners for WA 6: David Pomeranz, Shira Fischer (TMM/11) and Lisa Shatz (TMM/11). Appearing for the Primary petitioners was Max Pomeranz, who is not currently a resident of Brookline but who, with his wife, would occupy the proposed new house. Petitioners for WA 17 Jesse Hefter (TMM/14); Petitioner for WA 18 Jonathan Margolis (TMM/7); Bonnie Bastien, Steve Bice, Fran Perler, Ian Roffman, Yolanda Rodriguez, Rebecca Stone, Kristine Knauf, Ben Dubin and other members of the public.

The meeting was called to order at 7:00 PM.

Announcements: Pursuant to this Board’s Authority under 940 CMR 29.10 (8), all of the committee members will be participating remotely via telephone or video conferencing due to emergency regulations regarding the Corona virus. The Chairman has reviewed the requirements of the regulations. There is a quorum physically present and all votes taken will be recorded by roll call so all above listed Advisory Committee members will be allowed to vote.

7:00 pm Public Comment

7:15 pm Report by the Land Use Subcommittee followed by discussion, deliberation, and possible vote on Warrant Article 6 Zoning amendment Mason Terrace

Lee Selwyn presented the Subcommittee Report (see linked below for additional information). He outlined the petitioner’s request to construct an additional small single-family home (in the size range of 1,600 to 2,000 square feet) at the rear of the existing 99 Mason Terrace parcel. Current SC-7 zoning does not permit the construction of an additional dwelling of this sort. Accessory Dwelling Units (“ADUs”) are not allowed at two-family dwellings, and are limited to a much smaller size. Petitioners have not sought zoning relief through the usual process of applying to the Zoning Board of Appeals, stating that they have been advised that they would be unlikely to be able to obtain a variance to permit such construction. Changing the zoning to M-1.5 would eliminate the existing barriers to the project the Petitioners have in mind.

The subcommittee recommended no action 3-1-0 due to a host of concerns about the potential consequences of upzoning beyond the simple project the petitioners are considering, the policy precedent that this would establish, inviting other individual property owners to propose upzoning of their lots to allow denser development, potential changes to the streetscape, and undermines the typical approach to zoning, etc.

A few other bits of information about the situation, specifically about the lots – topography is very steep. It is not like the M-1.5 lots on either side, they were appropriately zoned the first time around as SC-7 because they are oddly

shaped. Agree this is a harmful precedent for individual property owners coming to Town Meeting to change their zoning. It doesn't follow the logic of planning and zoning. They have not gone to the ZBA. Sympathetic to the family but not our place to pick and choose who gets to change their zoning.

Petitioner Max Pomerantz shared his presentation, linked below, that addressed many of the subcommittee's concerns. He acknowledged his respect for the subcommittee's efforts to make Brookline a better place. It was suggested at the subcommittee that it was not sufficient for abutters to not just object but to acknowledge what could come of this change, understand and support it. They have secured such letters of support, approximately 11 so far and are linked below. Regarding Spot Zoning –what we are proposing does not meet the legal definition of that concept. Regarding the slope, just because of a slope doesn't mean it can't be built on. Regarding going to the ZBA for a variance, we were told that it was not feasible to get a zoning variance and we were informed that a Warrant Article was the correct way to go.

Subcommittee Chair Pollock share additional thoughts regarding valuation, the challenges of the slope, use of staircase on the property by the public to reach a T stop and maintenance of the same by the property owners. While this would be a reasonable site to upzone and build an apartment there, that isn't what the petitioners want to do. Moving the M-1.5 line is probably the best way to do that and would fulfill a zoning plan. Initial thought was to go to M-0.5 because it would almost match what they are asking for, not effect the FAR.

Jonathan Simpson asked if changed to a T-5 is the thought that they would subdivide the lot and the answer was yes. He further clarified that he views Spot Zoning as a legal risk calculation as to whether someone could bring a legal challenge after Town Meeting to overturn the article. Not a particularly viable way to attack a warrant article. Spot Zoning as a planning concept you should feel free to discuss whether or not this is how you want it to be.

QUESTIONS COMMENTS DISCUSSION

Q: Accessory dwelling unit route and how viable? A: Under current zoning not viable due to limit of 700 square feet. Can't put an ADU on a two family.

Comment: Planning Board will take this up on October 18.

Comment: Concept of the gap-toothed smile in zoning and can be an excuse to put in higher density zoning. Looking at these maps more like a buck toothed smile. By making this a T-5 worried about making it an island but is an archipelago. Good zoning feathering technique or massing feathering technique. Many things from the petitioners including letters but would have like to have seen letters from folks directly across the street. T-5 solves the problems.

Q:How is this benefit not just to one lot and does it matter? A: Counselor Simpson responded that certainly the benefit is different for the other two lots, adding an additional unit could theoretically allow them to tear down and rebuild different structure which could theoretically increase value. The dimensional limitations of the site limit the way the value can most be accessed.

Comment: We have not an adopted Town-wide policy that more housing is preferable. Also T-5 option as an amendment doubles the FAR on this site. We should not be looking at this only in isolation but future proposals to be brought to Town Meeting and what we may be dealing with. The Subcommittee never saw any notification to abutters, what it said, who it was sent to, where they live, etc. No real read on the neighborhood. The inclusion of 111 and 117 – we didn't hear from anyone who owns those two properties and they aren't interested in changing their zoning and

inappropriate to include them and would like to have that removed if this moves forward. Not a good thing for the Town to start doing.

Q: In the write up it says the petitioners were advised by the Planning Department that this would not succeed with the Zoning Board, why? A: They would need a variance because the variance would be almost twice of what is allowed and the Board is loath to give variances. Not suggesting it is not possible but I think they would have difficulty getting relief that way. Not sure I recommend specifically going for a Zoning Change.

Comment: If they had gone to the ZBA there is requirement that the Town provide notice to the neighbors and abutters and by not going that route, the Town hasn't done this – there was no notice. Is this circumventing due process? Also have a problem with them not going to the Zoning Board of Appeals first, follow the correct procedures and then if you don't find relief, you try something else but this is leap frogging the process. A bad precedent to skip the process and go directly to Town Meeting.

For the Planning Board public hearing that all of the abutters were given notice of that hearing but otherwise agree with notice.

Comment: Fan of family housing. Not ideal but proposal by David is workable. Worry about inconsistency in process however.

Comment: Uncomfortable with spot zoning and doing something for the benefit of a single owner.

Jonathan Simpson responded Town Meeting voting in favor to upzone is implicit support of housing policy. Doubtful it will be overturned if we vote in favor of it.

Comment: Comment in the chat from a member of the public that indicated he was not in favor of this and would like to hear from him.

Comment: Bringing something for a single household to Town Meeting is an inappropriate use of Town Meeting as a legislative body and concerned about neighbors and abutters. Would have liked to have seen neighbors here tonight.

Co-Chair Friedman read a comment from the chat from Stephen Bice who lives at the base of Summit Path: "Not everyone in the community supports this idea. No Action is preferable at this time, as the subcommittee concluded, due to density and slope. Stormwater runoff and flooding is a concern for Corey Hill, downhill to Beacon Hill. I am a Corey Hill resident, if that helps. I submitted my comment because we do not like this idea of these 3 properties being rezoned and considered increasing density. Summit Hill road is very busy already."

Comment: I would vote for a version of David's motion if he made some change and that it removed 111 and 117.

Comment: Policy in Brookline is imposed on us by State and Federal government but if Town Meeting is not setting Town Policy who is setting it? Regarding Practice, petitioners bring an article through legal process so to take a different path is expensive and time consuming so if they took a leap and got those 10 signatures, so be it. Yet lack of notice is a fair point.

Comment: Advisory Committee is not the ZBA and this is circumventing the process. Prefer the petitioners go to the ZBA and if they are not sympathetic and then agree with Lee, a single focus on that property alone – T5 or M 0.5 – moving forward with one of those designations at the next Town Meeting.

Comment: Should we wait to see what happens at the Planning Board meeting and if there are neighborhood objections and influence our thinking.

Q: Do the petitioners think that David's Amendment will meet their needs? A: The Petitioner thanked David for his help and assistance but need to go back to my family and others who supported us to see if will meet our needs.

Comment: No way kids can buy into the Town because everything is so expensive. Do we push people out or do we make accommodation for families? Not sure you could build anything in Brookline and have it look very much out of place. Spending a lot of time talking about possibilities that probably aren't going to happen. Support family housing.

Comments: M-5 vs T-5 the M approach more tailored but more incongruous in this neighborhood because it introduces a new formation where as T-5 already exists in the neighborhood. Regarding waiting, when it goes to the Planning Board and we are waiting for neighbors, and we haven't voted, three lots that could pop up with 20 units. If we did vote, they would be responding to something different.

The petitioners were given an opportunity to add anything further. Shira Fischer thanked the subcommittee and the Advisory Committee for looking into this and thoughtful suggestions. Please review all of the letters sent and other information. She highlighted in the slide show who was notified of the plans and received support from all abutters. Everyone across the street was notified as well as Town Meeting Members (13) who live in the neighborhood.

The petitioner said he was not clear that this had to go to the ZBA before coming here. Apologies to Steve Bice.

A **MOTION** was made and seconded for Favorable Action on WA 6 with a recommendation from the subcommittee for no action.

POLLAK AMENDMENT: An **AMENDMENT** was made and seconded by David Pollak as submitted (linked below) and he offered a brief response to Linda and Lee's comments/suggestions for changes

PEHLKE AMENDMENT 1: An **AMENDMENT** was made and seconded to consider David's amendment only so it applies to one property and not three. By a **VOTE** of 9 in favor, 10 opposed and 3 abstentions, the amendment fails.

PEHLKE AMENDMENT 2: An **AMENDMENT** was made and seconded to substitute M 0.5 for T-5 in David's amendment. By a **VOTE** of 8 in favor, 10 opposed and 3 abstentions the amendment fails.

POLLAK AMENDMENT: By a **VOTE** of 14 in favor, 3 opposed and 4 abstentions the amendment passes.

MAIN MOTION: Favorable Action on WA 6 as AMENDED BY POLLAK. By a **VOTE** of 11 in favor, 6 opposed and 4 abstentions, the Advisory Committee recommends favorable action on WA 6 as amended.

7:45 pm Report by the Public Safety Subcommittee followed by discussion, deliberation, and possible vote on Warrant Article 17 Resolution regarding fluorinated hydrocarbons otherwise known as "PFAS" (Jonas for the Moderator's Committee on PFAS)

David-Marc Goldstein presented the Subcommittee Report which is linked below. He provided history of the initiative, the request that the Town avoid the purchase or use of products containing fluorinated hydrocarbons ("forever chemicals") some recent developments from the Moderator's Committee on PFAS and the support of Chief Procurement Officer Dave Geanakakis who is already implementing some of the recommendations. He recommended that the AC read the Moderator Committee's report which is also linked at the end of these minutes.

Alisa Jonas, primary petitioner noted that while the resolution contains quite a few whereas clauses, they are designed to inform and educate the public about the danger of PFAS.

Chief Procurement Officer for the Town of Brookline, Dave Geanakakis noted that PFAS and forever chemicals were first brought up to him during the pandemic and he began to consider what to do about this. Going back to 2001 and 2009 with the purchase of clean or environmentally friendly products from electric vehicles to cleaning products to furniture and nearly all of the products the Town currently uses. The Town staff is behind this and it sets us on a path and helps us ask suppliers, “What is in your product?” Much more awareness around this now and it will continue to happen. Do our best to identify products that have PFAS and as an alternative buy products that are a safer and at a similar price point. Marketplace will determine what is desirable and we will have some great buying power as this initiative continues to grow.

Jesse Hefter, co-Petitioner, shared some legislation in the House and Senate related to PFAS that has 6 main components – development of trust fund for remediation for drinking water supplies; amending groundwater discharge permits; multilingual educational outreach program; manufacturers of products that contain PFAS will be prohibited from selling them in Massachusetts – come up with alternatives after 2025 or so; and, supporting fire fighter equipment.

QUESTIONS COMMENTS DISCUSSION

Comment: I do environmental risk assessments as a chemist and was on the group looking at artificial turf. PFAS is thousands of chemicals, a grim spectrum and I support this. Did we vote already to retrofit the fire fighter equipment to be PFAS free? A: Yes partly. Retro fitting of buildings is not as effective in reducing the presence of PFAS and clothing goes into washing machines so go into the water supply.

Recommendation to clarify or add “certified to be free from PFAS”

Jesse Hefter, also a chemist noted that the Town made a push to go to Green Seal Certification and cleaning products need to be below a certain harmful level to humans and animals. Same for PFAS. Products are being certified as PFAS-free and that is where the industry is going. Green Seal has PFAS certification levels, public and published through the EPA.

A **MOTION** was made and seconded for Favorable Action on WA 17.

An **AMENDMENT** was made by Michael Berger to add “certified to be free”- instead of just “free”. By a **VOTE** of 16 in favor, none opposed and 5 abstentions, the amendment passes.

MOTION AS AMENDED: Favorable Action on WA 17 as AMENDED. By a **VOTE** of 20 in favor, none opposed and 1 abstentions, the MOTION AS AMENDED passes.

David Geanakakis noted that unlike with Green Seal Certification, manufacturers are self-certifying regarding PFAS and we hope that eventually there will be a 3rd party certifying organization.

Comment: Who is going to be doing certification? This is just a request to the Town to look into this so may not be necessary to wordsmith this.

A **MOTION** was made and seconded to TABLE this discussion.

Comment: Prefer not to table because there is a robust resolution and we can reconsider if necessary. Motion to table was withdrawn.

8:15 pm Report by the Ad Hoc Subcommittee on WA 18 followed by discussion, deliberation, and possible vote on Warrant Article 18 Resolution on creating a Moderator's Form of Government Committee (Margolis)

Kelly Hardebeck presented the Subcommittee Report which is linked below. Warrant Article 18 asks the Moderator to appoint a committee to examine the various forms of municipal government in Massachusetts as they relate to Brookline and for the committee to report its findings to Town Meeting and all Town residents by August 31, 2024. Discussions about Brookline's form of government have increased recently. The League of Women Voters (LWV) in partnership with the Brookline Neighborhood Alliance (BNA) recently hosted the first of several conversations designed to create greater awareness around Brookline's current form of government, what other forms of municipal government exist in Massachusetts and how they compare to Brookline's. Separately, a campaign is underway to collect signatures from 15% of Brookline registered voters and have a ballot question on whether to form a Charter Commission and simultaneously elect a Charter Commission. The petitioners believe, despite the conversations happening in Town, the general level of knowledge of the various forms of municipal government is low and would like a Moderator's committee to review, evaluate, and report on the different governmental structures for Brookline.

The Subcommittee hearing was a robust discussion that had many participants and perspectives. Recommended that members of Moderator's Committee be impartial and consider all types of government and also that any report they make be distributed more widely. The WA18 Ad Hoc Subcommittee made minor friendly amendments to the article and voted 6-0-0 to recommend FAVORABLE ACTION on Warrant Article 18 as amended.

Petitioner Gordon noted that some proponents of change have raised money and already believe that Brookline has outgrown Town government structure. He and Mr. Margolis stated they bring WA18 not to preserve the status quo but preserve a public process they feel has served the Town well. We need to have a conversation and not a campaign.

Petitioner Margolis noted that Kelly and Neil have said it all but made a point about the deadline being August 31, 2024, or such other date as the Moderator may select.

QUESTIONS COMMENTS DISCUSSION

A question was raised about transparency.

Petitioner Gordon replied they have not drafted a charge for this Moderator's Committee but it will be subject to the Open Meeting Law. The purpose is not to report back to anyone individually or Town Meeting as a whole but rather to fully inform the public. Everything would be robustly available to the public. Petitioner Margolis said that hopefully the public will attend these minutes, maybe BIG will want to broadcast the meetings, but hope is that as many people as possible will learn what is going on.

Comment: The Town is large and people gather information in different ways and the more groups that are looking at this and the more variety of information is out there, the stronger the debate will be. We just have to continue to talk about the questions and eventually we will get there.

Q: Is there any opposition to this article? A: One person did initially but by the end of the hearing she was not opposed and know of no opposition to it.

Comment: The private group organizing the ballot question there is a fear that they would only present one point of view. League of Women's Voters and other groups would educate on a variety of views. Believe this can work in tandem.

Comment: This will be an opportunity to educate the public how this form of government works, pros and cons, done in an objective way so there would be a balance of perspectives on local government on the Moderator's Committee.

Comment: Difficult to believe that this Moderator's Committee is going to be objective and how will they be objective. Why are we not talking to CTO&S about this, wouldn't they be an appropriate group about laying out some of the parameters of different types of governments. As the campaign goes on people will become more educated so I don't see the need for this.

Comment: Harry Bohrs, member of CTO&S, offered that the group hasn't taken a formal vote but they are favorably disposed especially with the amendments. Waiting to see if AC made any changes. For himself, CTO&S only has a handful of members and I think you'd need a larger committee to do this work. Members of CTO&S have a depth of experience in government but pretty homogeneous group. CTO&S takes up other issues and articles and this issue will need a singular focus. Distinction between form of government and municipal machinations and its structure. CTO&S have begun discussions around this issue with Town Administrator.

A **MOTION** was made and seconded for Favorable Action on WA 18 as amended by the subcommittee. By a **VOTE** of 21 in favor, none opposed and 1 abstention the Advisory Committee recommends favorable action on WA 18 as amended by the subcommittee.

Recommendation

NOW, THEREFORE, be it resolved that Town Meeting,

- a. Requests that the Moderator appoint a committee to examine the various forms of municipal government in Massachusetts as they relate to Brookline;
- b. that the committee **objectively** evaluate the positive and negative aspects of such forms, including fiscal impacts;
- c. that the committee be empowered to recommend among various proposals or alternative forms for Brookline government, if it chooses to do so; and
- d. that the committee be directed to report its findings, and any recommendations, **after holding public meetings**, to Town Meeting **and make it available to all residents of the Town** no later than August 31, 2024, or such other date as the Moderator may select.

8:45 pm Other Business

Upon a **MOTION** made and seconded to adjourn, and voted unanimously, the meeting was adjourned at 10:15 p.m.

Meeting recording link:

<https://brooklinema.zoomgov.com/rec/share/HjKvk6HJKhuGZGTwanK9DXrb3bf0iX2AQZsro6EMezcTI4DlieDM-jEzd4SQFu8m.VzMCpwDeOVI5oqYz>

Documents Presented <https://www.brooklinema.gov/DocumentCenter/Index/4664>

WA 17

- H2197 MA Legislation on PFAS

- Warrant Article 8 30 2023 w Subcommittee Edit
- 2023 10 5 Public Safety Subcommittee Report on WA 17
- Fall 2023 WA 17 PFAS Resolution Jonas
- PFAS_Committee_Report_Final [1] 20230516
- ARTICLE 17 - PFAS

WA 18

- WA 18 Public Comment Silver et al
- 09 28 23 Ad Hoc Subcommittee Report on WA 18
- Article 18 Petitioner Questionnaire
- ARTICLE 18 - reso form of govt

WA 6 MASON TERRACE

- ARTICLE 06 - Zoning Mason Terrace
- 10-12-23 WA 6 AC Land Use Subcommittee Report
- Public Comment on WA 6 David Lescohier
- John Hilliard_ Letter of Support and Acknowledgement for WA 6
- Jonathan Golden WA6 Support Letter
- Jonathan Klein Letter of Support Warrant Article 6
- Nathalya Mamane_ Letter of Support For Warrant Article 6
- Nir Hacoheh Re_ Zoning Amendment For Mason Terrace
- Shanna T. Giora-Gorfajn- Letter of Support and Acknowledgement for WA 6
- William Gardner letter of support
- Zsuzsanna Kaldy Letter of Support for WA6
- Fu Weitang_ Rezoning petition at 99,101, 107 Mason Terrace Brookline
- Brookline for Everyone (B4E) Letter to Advisory Committee re WA 6 (Oct. 12, 2023).docx
- Zoning Amendment Mason Terrace Petitioner Presentation
- WA 6 Proposed AC Amendment by David Pollak 10.12.23
- Email from Rachid Belhocine Town Assessor re Land Valuation M-1.5 zone

VOTES

	Vote 1	Vote 2	Vote 3	Vote 4	Vote 5	Vote 6	Vote 7	Vote 8	Vote 9	Vote 10
# Votes Yes	0	0	9	8	14	11	0	16	20	21
# Votes No	0	0	10	10	3	6	0	0	0	0
# Votes Abstain	0	0	3	3	4	4	0	5	1	1
Vote Description:	MOTION: FAVORABLE ACTION ON WA 6	POLLAK AMENDMENT: SUBSTITUTE T-5 for M-1.5	PEHLKE AMENDMENT 1: Reduce scope of applicability to 99 Mason Terrace	PEHLKE AMENDMENT 2: Substitute M- 0.5 zoning	POLLAK AMENDMENT: SUBSTITUTE T-5 for M-1.5	WA6 AS AMENDED	MAIN MOTION: FAVORABLE ACTION ON WA 17	BERGER AMENDMENT: insert “certified to be free” instead of “free”	MOTION AS AMENDED	MAIN MOTION: FAVORABLE ACTION ON WA18 AS AMENDED BY SUBCOMMITTEE
Michael Berger			Y	Y	N	N		Y	Y	Y
Paul Bernard										
Ben Birnbaum			N	N	N	N		Y	Y	Y
Harry Bohrs			N	N	Y	Y		Y	Y	Y
Cliff Brown			N	N	Y	Y		Y	Y	Y
John Doggett			Y	Y	A	N		Y	Y	Y
Katherine Florio			Y	N	Y	Y		Y	Y	Y
Harry Friedman			Y	Y	Y	A		A	Y	Y
David-Marc Goldstein			N	A	Y	A		Y	Y	Y
Neil Gordon			Y	N	Y	Y		Y	Y	Y
Susan Granoff			A	A	A	A		Y	Y	Y
Perry Grossman			N	N	Y	Y		Y	Y	Y
Kelly Hardebeck			N	N	Y	Y		Y	Y	Y
Amy Hummel										
Alisa Jonas			A	Y	Y	A		A	Y	Y
Carol Levin			A	A	A	N		Y	Y	Y
Pam Lodish										
Joslin Murphy			Y	Y	Y	Y		Y	Y	Y
Donelle O’Neal, Sr.										
Linda Olson Pehlke			Y	Y	Y	N		Y	Y	A

Markus Penzel										
David Pollak			N	N	Y	Y		A	Y	Y
Stephen Reeders			Y	Y	A	N				Y
Carlos Ridruejo										
Lee Selwyn			Y	Y	Y	Y		Y	Y	Y
Alok Somani			N	N	N	Y		Y	Y	Y
Carolyn Thall								A	A	Y
Christine Westphal			N	N	Y	Y		A	Y	Y
Dennis Doughty			N							