

Planning Board Meeting Minutes
Town of Brookfield, NH
267 Wentworth Road
Brookfield, NH 03872

Thursday, November 17, 2016

- I. **Vice-chairman David Champy II called the meeting to order at 6:31 PM.**
- II. **Roll Call: Members, Alternates, Appointment of Alternates per RSA 673:11,673:12**
 - A. Members present: Vice-chairman David Champy II, Rob Collins, and Ed Comeau.
 - B. Alternates present: Dianne Smith.
 - C. Members and Alternates absent: Selectman Rich Zacher, Jim Freeman, and Geary Ciccarone.
 - D. Members Tardy: Chairman Rick Surette.
- III. **Appointment of Alternates per RSA 673:11, 673:12.**
 - A. Vice-chairman David Champy II appointed Dianne Smith as an alternate for one of the absent members of the Planning Board.
- IV. **Public Comments.**

(None).
- V. **Announcements/Correspondence/Mail.**
 - A. An email from Kristen Whitworth requesting input regarding the erection of a privacy fence was referred to the Planning Board. An email response from the Chairman was also noted.
 - B. An email from Rachael Mack, GIS Planner from SRPC, requesting a meeting to receive input about thematic maps. There was some discussion about inviting Rachael Mack to the next Planning Board meeting.
 - C. A copy of *Convene* will be available in the common office area.
 - D. A plat of property owned by Mark and Susan Stengel (Map 10 Lot 46) from Bryan Berling of LandTec was noted. Acting Chairman David Champy II requested that the administrative assistant file the documents.
- VI. **Review and Possible Approval of the October 20, 2016 Meeting Minutes.**

A hard copy of the October 20, 2016 Planning Board minutes was distributed to Planning Board members.

 1. After members reviewed the minutes the following was requested;
 - a. On pages 3,4 and 5, VIII- delete C2 and C3.
 - b. At the end of C1 of page 3, VIII- add “(see attached)”.
 2. **Motion: Rob Collins made a motion to accept the October 20, 2016 minutes as amended.** Second: Ed Comeau. The motion passed unanimously.

VII. New Business-
(None).

VIII. Old Business-

- A. Proposed Changes to Article IV, A 1a and b of the Zoning Ordinance.
1. A copy of a document entitled, “Nonconforming Use Working Document 10/20/16” was distributed to Planning Board members (attached).
 2. Chairman Rick Surette entered the premises at 7:00 PM and presided as Chairman for the remainder of the Planning Board meeting.
 3. Rob Collins began discussion by stating that Rich Zacher requested the following change be made to the working document:
In the last sentence of the document, after “septic system”, change “and” to “or”.
 4. After some discussion the following motion was made;
Motion: Rob Collins made a motion to amend the Nonconforming Use Working Document by changing “septic system and well” to “septic system or well”. Second: David Champy II. The motion passed unanimously.
 5. Chairman Rick Surette requested the administrative assistant to amend the Nonconforming Use Working Document and to email copies to members of the Planning Board and the town attorney.
 6. **Motion: Rob Collins made a motion to accept the Nonconforming Use Working Document as a proposal for a warrant article.** Second: David Champy II. The motion passed unanimously.
- B. Distribution of Amended Rules of Procedure.
1. A copy of approved changes to the Rules of Procedure as documented in the October minutes was distributed to Planning Board members.
 2. After Planning Board members compared the hard copy of the amended Rules of Procedure to the changes listed in the October minutes, the following motion was made;
Motion: Ed Comeau made a motion to accept the Rules of Procedure as amended. Second: David Champy II. The motion passed unanimously.
 3. Chairman Rick Surette requested that the administrative assistant provide for the Town Clerk to certify the amended Rules of Procedure.
 4. Chairman Rick Surette requested that the administrative assistant make provision for the amended Rules of Procedure to be displayed on the town website.
- C. ADU Discussion.
1. A document with proposed changes to the Zoning Ordinance with regard to ADUs was distributed to Planning Board members (attached).
 2. A review of the some of the changes were discussed.
 3. Rob Collins suggested the following changes;
 - a. Remove the preamble at the beginning of II,A,1,d of the Zoning Ordinance.
 - b. Replace II,A,1,d with “d. ADUs are permitted subject to the following conditions:
 - i. Not more than one ADU is allowed per lot.

- ii. The ADU shall be contained or attached to the SFD (single family dwelling).
 - iii. Owner occupancy is required.
 - iv. There shall be an interior door between the SFD and the ADU within or attached to it.
 - v. Any town regulation applicable to a SFD will apply to the combination of the SFD and an ADU.
 - vi. The floor area of the ADU shall not exceed one-thousand (1,000) square feet.
 - vii. The floor area of the ADU shall not be less than 350 square feet.
 - viii. Separate ownership of the ADU and SFD is prohibited.
 - ix. If the owner fails to comply with the requirements of this section, the use of the ADU shall be terminated within 3 (three) months of the date of notice from the Board of Selectmen or its designee. The owner shall be subject to penalty under RSA 676:17 for each day the ADU fails to comply with the requirements of this ordinance.
4. There was some discussion about making allowances for detached ADUs. Chairman Rick Surette suggested that another warrant article proposing detached ADUs could be in order to provide the voter with an additional option.
 5. There was additional discussion of how to determine compliance of owner occupancy, including trusts and whether owner occupancy should be required.
 6. Definitions;
 - a. Move definition “N” to “S” and begin the definition as “Single Family Dwelling (SFD)”
 - b. Delete “O” in the definitions and redefine ADU alphabetically in the definitions as “Accessory Dwelling Unit (ADU): a residential living unit associated with a Single Family Dwelling (SFD)”.
 7. Rob Collins volunteered to email a proposal for a warrant article regarding detached ADUs.
 8. Chairman Rick Surette commended Vice-chairman David Champy II and Dianne Smith for their effort in proposing changes to the Zoning Ordinance in regard to ADUs.

IX. Public Comments.

(None).

X. Member Comments

- A. Vice-chairman David Champy II reminded Planning Board members to attend a public meeting regarding ADUs (at the Sunny Villa Restaurant, 1020 Route 16 in Ossipee) on Tuesday, November 29, 5:30 to 7:30 p.m.
- B. Chairman Rick Surette thanked Vice-chairman David Champy II for presiding over the Planning Board at the beginning of the meeting.

XI. Adjournment

At 8:49 PM the Planning Board meeting was adjourned.

Respectfully submitted by
George Nick, Administrative Assistant.

_____ Date 11/22/16

Brookfield Zoning ARTICLE IV - NONCONFORMING USE

Proposed Changes

A. Non-conforming lots.

Nothing in this ordinance shall prevent the continued use of lawfully developed nonconforming lots. More specific provisions regarding changes to existing structures on nonconforming lots, or the initial development of nonconforming lots, are found below.

1. The zoning ordinance shall apply to any changes, alterations, additions and new accessory buildings that may be added to these existing structures. The Zoning Board of Adjustment is authorized to grant Special Exceptions to allow certain changes, alterations, additions and new accessory buildings not in conformance with the zoning ordinance provided the following criteria are met and the construction complies with the spirit of the zoning ordinance:

- a. Frontage setback of the existing structure, if less than 50 feet, will be the limit of any additional structures, alterations, or structures of any kind.

- b. Setbacks shall be as restrictive as possible. However, in no event may additional structures or additions to existing structures jeopardize the ingress and egress of the lot or the septic system and well of any abutting lot.

10/20/2016

DRAFT Changes

Brookfield Zoning Ordinance Article II, A, 1, d (March 8, 2016) Accessory Dwelling Units & Article X, N & O to comply with SB146, effective June 1, 2017.

	Existing ZO	Suggested ZO (New text in red)	Comments (Note: references to RSA 674:71-73 are effective 06-01-17)
II,A,1,d	To address homeowner needs while maintaining single family residential aesthetics and quality, compatible with homes in the neighborhood, not more than one accessory dwelling unit (ADU) may be contained within a single family residence (SFR) only if the following conditions are met:	To address homeowner needs while maintaining single family residential aesthetics and quality, compatible with homes in the neighborhood, not more than one accessory dwelling unit (ADU) may be contained within a single-family residence (SFR) single family dwelling (SFD) only if the following conditions are met:	<ul style="list-style-type: none"> • As RSA 671:71-73 uses “single family dwelling” (SFD) rather than “single family residence” (SFR), isn’t advisable for Brookfield ZO to use same term? • Who determines “aesthetics & quality”? RSA 674:72, VII allows town to “establish standards for ADUs for the purpose of maintaining the aesthetic continuity with the principal dwelling unit as a SFD” – Should ZO prescribe the standards? • RSA 674:72, IV requires town’s regulations applicable to SFD to apply to the combined SFD & ADU. Consequently, the phrase “compatible with homes in the neighborhood” seems inappropriate, as that standard is not required in ZO for construction of new SFD in Brookfield. • Note: RSA 674:72, I allows town to permit ADU as “matter of right”, or “conditional use permit” under RSA 674:21 (impact fees), or “special exception” in districts allowing SFD. The default is “matter of right”. Which is best for Brookfield? • RSA 674:72, I notes town “is not required to allow more than one ADU for any SFD” Would Brookfield want to allow more than one? • RSA 674:73 allows town to permit detached ADUs. See end of table.

	Existing ZO	Suggested ZO (New text in red)	Comments (Note: references to RSA 674:71-73 are effective 06-01-17)
II,A,1,d,i	An ADU is not permitted in any (SFR) in which the owner of record does not maintain his principal residence.	Owner occupancy is required within the SFD or the ADU. An ADU is not permitted in any (SFR) in which the owner of record does not maintain his principal residence. There shall be an interior door between the SFD and the ADU within or attached to it.	<ul style="list-style-type: none"> • RSA 674:72, VI allows town to require owner occupancy <u>and</u> for town to require demonstration/enforcement of such, <u>and</u> establish regulations for enforcement. Will ZO prescribe how to demonstrate? Enforcement seems satisfied with ZO II,A,1,d,xii, below? • RSA 674:72, III requires the interior door between units, but that town may not require that it be locked.
II,A,1,d,ii	The ADU is clearly incidental and subordinate in extent, use, and purpose to the SFR. There shall be no alterations, enlargements, or extensions of the existing structure which alter its character or appearance as a single family residence. An ADU shall meet all zoning requirements including setbacks.	Any town regulation applicable to a SFD will apply to the combination of the SFD and an ADU. The ADU is clearly incidental and subordinate in extent, use, and purpose to the SFR. There shall be no alterations, enlargements, or extensions of the existing structure which alter its character or appearance as a single family residence. An ADU shall meet all zoning requirements including setbacks.	<ul style="list-style-type: none"> • RSA 674:72, IV requires town’s regulations applicable to SFD to apply to the combined SFD & ADU.
II,A,1,d,iii	The floor area of the ADU shall not exceed one-thousand (1,000) square feet or forty percent (40%) of the total combined habitable area of the SFR and the ADU, whichever is smaller.	The floor area of the ADU shall not be less than 750 square feet and shall not exceed one-thousand (1,000) square feet or forty percent (40%) of the total combined habitable area of the SFR SFD and the ADU, whichever is smaller.	<ul style="list-style-type: none"> • RSA 674:72, VII – Town may establish max/min ADU size, as long as not less than 750 sqft. • As written, someone with a 1500 sqft home could add a 1000 sqft ADU. Is that intended?

	Existing ZO	Suggested ZO (New text in red)	Comments (Note: references to RSA 674:71-73 are effective 06-01-17)
II,A,1,d,iv	The ADU shall be not less than 350 square feet of heated habitable area. There shall be no more than one occupant per 250 square feet of habitable area.	The ADU shall be not less than 350 square feet of heated habitable area. There shall be no more than one occupant per 250 square feet of habitable area. Occupancy of the combined SFD and ADU shall not exceed the maximum occupancy per bedroom policy of the US Department of Housing and Urban Development.	<ul style="list-style-type: none"> • RSA 674:72, IV. The occupancy to be considered is for the “combined SFD & ADU”. • HUD occupancy standards are typically 2 per bedroom
II,A,1,d,v	The driveway shall be designed so as to appear as a driveway of a SFR, and no new curb cut from the street shall be permitted. Adequate off-street parking shall be provided to serve the combined needs of the SFR and its ADU.	Adequate off-street parking shall be provided to serve the combined needs of the SFR SFD and its ADU. The driveway shall be designed so as to appear as a driveway of a SFR SFD, and a . No new curb cut from the street shall be permitted.	<ul style="list-style-type: none"> • RSA 674:72, IV allows town to require adequate parking to accommodate an ADU
II,A,1,d,vi	The SFR and its ADU shall comply with the requirements of RSA 48 A:14 and all other applicable building and fire codes, including, without limitation, the Life Safety Code. Both the SFR and the ADU shall be fitted with a fire and smoke alarm system such that any alarm sounds throughout both the SFR and the ADU.	The SFR SFD and its ADU shall comply with the requirements of RSA 48 A:14 and all other applicable building and fire codes, including, without limitation, the Life Safety Code. Both the SFR SFD and the ADU shall be fitted with a fire and smoke alarm system such that any alarm sounds throughout both the SFR SFD and the ADU.	<ul style="list-style-type: none"> • RSA 674:72, IV requires town’s regulations applicable to SFD to apply to the combined SFD & ADU. Since these requirements are not in the existing ZO for SFD, why are they here for ADUs? • Is last sentence restating the building code? If so, is it needed?
II,A,1,d,vii	A building permit is required before beginning the conversion of any existing SFR to contain an ADU.	A building permit is required before beginning the conversion of any existing SFR SFD to contain an ADU and before beginning renovation or modification of an existing ADU.	<ul style="list-style-type: none"> • RSA 674:72, IV requires town’s regulations applicable to SFD to apply to the combined SFR & ADU. Since these requirements are not in the existing ZO for SFD, why are they here for ADUs? • Is there a desire to include a new ZO requiring a building permit for all construction?

	Existing ZO	Suggested ZO (New text in red)	Comments (Note: references to RSA 674:71-73 are effective 06-01-17)
II,A,1,d,viii	A building permit is required before beginning the renovation or modification of an existing ADU	A building permit is required before beginning the renovation or modification of an existing ADU	<ul style="list-style-type: none"> Incorporated into amended “vii”, above
II,A,1,d,ix	A Certificate of Occupancy must be obtained before an ADU may be occupied.	A Certificate of Occupancy must be obtained before an ADU may be occupied.	<ul style="list-style-type: none"> RSA 674:72, IV requires town’s regulations applicable to SFD to apply to the combined SFD & ADU. Since this requirement is not in the existing ZO for SFD, why is it here for ADUs? Is it necessary to call this out?
II,A,1,d,x	The septic system must be a State approved sewage disposal system which meets the State’s requirements for the intended usage or the Town’s minimum standards for use or occupancy, whichever is more stringent. RSA 485 A:38 and RSA 48-A:11.	Adequate provisions for water and sewage disposal are required for the ADU in accordance with RSA 485-A:38; separate systems shall not be required for the SFD and the ADU. The septic system must be a State approved sewage disposal system which meets the State’s requirements for the intended usage or the Town’s minimum standards for use or occupancy, whichever is more stringent. RSA 485 A:38 and RSA 48 A:11.	<ul style="list-style-type: none"> RSA 674:72, V language; it also notes that separate systems may not be required for the ADU.
II,A,1,d,xi	No ADU lawfully established pursuant to this ordinance shall be deemed to create or allow any subdivision of the property into separate fee estates by deed, use, or otherwise.		

	Existing ZO	Suggested ZO (New text in red)	Comments (Note: references to RSA 674:71-73 are effective 06-01-17)
II,A,1,d,xii	If the owner fails to comply with the requirements of this section, the use of the ADU shall be terminated within 3 (three) months of the date of notice from the Board of Selectmen or its designee. The owner shall be subject to penalty under RSA 676:17 for each day the ADU fails to comply with the requirements of this ordinance.		<ul style="list-style-type: none"> Modify ZO II,A,1,d,I (above) to establish how owner documents his/her residency?
II, A,1,d,xiii		<p>ADUs separate from the SFD may be permitted on a buildable lot, under the following circumstances:</p> <ul style="list-style-type: none"> It is the only ADU associated with the SFD Water supply and sewage disposal need not be separate, but must be in accord with RSA 485-A:38 (<i>Approval to Increase Load on a Sewage Disposal System</i>) Separate parking for ADU No separate access to roadway 	<ul style="list-style-type: none"> Text for discussion purposes
X, N	Dwelling, Single Family (Dwelling): a structure providing complete, independent living facilities for one family, including permanent provision for living, sleeping, eating, cooking and sanitation.	Dwelling, Single Family (Dwelling SFD): a structure providing complete, independent living facilities for one family, including permanent provision for living, sleeping, eating, cooking and sanitation.	<ul style="list-style-type: none"> Clarifies definition to be consistent with new ADU ZO language

	Existing ZO	Suggested ZO (New text in red)	Comments (Note: references to RSA 674:71-73 are effective 06-01-17)
X, O	Dwelling Unit, Accessory (ADU): an independent living area, contained within either a single family residence or its accessory building which is clearly incidental and subordinate in extent, use and purpose to the principal dwelling, and where either structure is the primary residence of and is occupied by, the owner.	Accessory Dwelling Unit (ADU): a residential living unit within or attached to a single family dwelling that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Dwelling Unit, Accessory (ADU): an independent living area, contained within either a single family residence or its accessory building which is clearly incidental and subordinate in extent, use and purpose to the principal dwelling, and where either structure is the primary residence of and is occupied by, the owner.	<ul style="list-style-type: none"> • Text excerpted from RSA 674:71 definition of ADU. • Detached ADUs are not included in this ADU definition.
Appendix C,6,b	Accessory dwelling units are not permitted in multi-family or single-family workforce housing.	Accessory dwelling units are not permitted in multi-family or single-family workforce housing.	It is not clear if an ADU within/attached to a workforce housing SFD can be prohibited.