

***Town of Milford***  
**Zoning Board of Adjustment**  
**MAY 5, 2022**  
**Public Hearings**

**Case #2022-06 Brookstone Manor, LLC, VARIANCE**

**Present:** Karin Lagro, Vice Chair  
Michael Thornton, Member  
Andrea Kokko Chappell, Member  
Joan Dargie, Alternate  
Tracy Steel, Member (via Zoom)  
Lincoln Daley, Director of Community Development  
David Freel, BOS Representative

**Not Present:** Jason Plourde, Chair  
Jane Hesketh, Recording Clerk

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**Meeting Agenda**

1. Call to Order
2. Public Hearing(s):
  - a. Case #2022-06 Brookstone Manor, LLC for the property located at Tax Map 19, Lot 25-9 is seeking a Variance from Sections 5.05.1.P and 5.03.4.A of the Milford Zoning Ordinance to allow the existing 92 unit multi-family development on 4.8 acres of the subject parcel in the Commercial Zoning District and allow the donation of the remaining 7.1 acres to the Town of Milford for permanent conservation/recreational use.
3. Meeting Minutes: 4/7/22, 4/21/22
4. Other Business: TBD
5. Next Meeting: a. May 19, 2022 b. June 2, 2022

1 **1. CALL TO ORDER**

2  
3 Vice Chair Karin Lagro (stepping in for Chair Jason Plourde who had a work commitment) opened the meeting by welcoming  
4 everyone and introducing herself. She welcomed those attending in person and electronically since this meeting is being  
5 conducted in a unique manner.

6  
7 She stated you may also attend this meeting in person at the Milford Town Hall, Board of Selectmen’s Meeting Room with  
8 all Covid protocols in place.

9  
10 If you would like to participate in the public meeting, please call this number from home: +1 646-558-8656 and enter the  
11 Meeting ID: 851 6407 7601 and Password: 269952 or log in via [www.zoom.com](http://www.zoom.com) using the Meeting ID and Password  
12 previously stated.

13  
14 A digital copy of the meeting materials can be found on the Town website at: [https://www.milford.nh.gov/zoning-board-  
15 adjustment/agenda/zba-agenda](https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda). We will also be live streaming the meeting on Granite Town Media, Government Channel  
16 21: <http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2>

17  
18 She then went on to inform everyone about the procedures of the Board.

19  
20 Vice Chair Lagro stated all votes taken during the meeting must be done by Roll Call vote. She started the meeting with a  
21 roll call attendance by asking each member to state their name; this is required under the Right-to-Know Law. Roll Call  
22 Attendance (those present at Milford Town Hall): M. Thornton present; K. Lagro present; Andrea Kokko Chappell present;  
23 J. Dargie present; (those present remotely): T. Steel present. K. Lagro stated that with the absence of member J. Plourde,  
24 J. Dargie will be seated as a full board member in order to have a full board present.

25  
26 She explained the process of the case hearings for the applicant and the public. She said a full agenda may not allow all cases  
27 to be heard and that at 10:00 p.m. the meeting will end. She explained how the meeting would proceed for the cases that may  
28 not be heard in that they would be continued or tabled to another agreed upon meeting. She also explained the notification  
29 process for continued cases.

30  
31 K. Lagro then moved ahead to the case to be heard.

32  
33  
34 **2. PUBLIC HEARINGS**

35  
36 **a. Case #2022-06 Brookstone Manor, LLC for the property located at Tax Map 19, Lot 25-9** is seeking a Variance from  
37 Sections 5.05.1.P and 5.03.4.A of the Milford Zoning Ordinance to allow the existing 92 unit multi-family development  
38 on 4.8 acres of the subject parcel in the Commercial Zoning District and allow the donation of the remaining 7.1 acres to  
39 the Town of Milford for permanent conservation/recreational use.

40  
41 Attorney Chris Drescher, with Cronin, Bisson and Zalinsky, Attorneys at Law in Manchester stepped forward to the  
42 microphone. He represents the applicant Brookstone Manor, LLC. Present, virtually, are the Asset Manager, Pam Torsiello  
43 who has the authority to speak as the owner’s representative as well as Attorney Elizabeth McDermott who is the General  
44 Attorney for the applicant.

45  
46 Attorney Drescher stated P. Torsiello wanted to speak to the board before he made a presentation.

47  
48 P. Torsiello stated she is looking forward to this project going ahead and feels it will be beneficial to the Town of Milford as  
49 well as the residents of Brookstone Manor.

50  
51 C. Drescher then moved ahead with his presentation. He stated the location of Brookstone Manor at 135 Elm Street abuts 127  
52 Elm Street which is owned by the town. He explained 4 residential buildings make-up Brookstone Manor which was built  
53 in 1980. At that time, this complex was in compliance with all zoning ordinances. It sits on 11.9 acres and is serviced by town  
54 water and sewer.

55  
56 The property abuts to the west Dunkin Donuts, Wendy’s and other commercial property; to the east 127 Elm Street; to the  
57 north the remainder of 127 Elm Street and the Souhegan River. The property in question is the area to the north which consists

1 of 7.1 acres of undeveloped land and wetlands; it is subject to the Shore Land Water Protection Act due to its proximity to  
2 the Souhegan River.

3  
4 He touched on density by stating there are 92 units in the 4 buildings.

5  
6 He explained the applicant has been in contact with the town about donating the 7.1 acres to the north. This, he further  
7 explained, would tie in with the current Keyes Memorial Recreation Area. This would require a lot line adjustment between  
8 the remaining Brookstone Manor lot and the lot at 127 Elm Street.

9  
10 The applicant will provide a Deed restriction which would be given to the town. This deed will include certain restrictions  
11 and the development of a 1 acre Dog Park.

12  
13 He went on to say that eliminating the 7.1 acres from the Brookstone Manor complex would put Brookstone Manor into a  
14 non-compliant situation with the current zoning requirements concerning density within this district. It would reduce the  
15 current 11.9 acres to 4.8 acres. The requested variance would allow for the reduction of acreage for Brookstone Manor, will  
16 provide a benefit to the town residents and public as well as the residents of Brookstone Manor with the addition of the 7.1  
17 acres for town use and conservation (it will remain as open space).

18  
19 C. Drescher then reviewed the Variance Criteria as shown on the application.

20  
21 **Variance Criteria:**

22  
23 **1. This will not be contrary to the public interest.**

24 Granting the variance will not unduly violate the objective of the zoning ordinance. It will not change the character of  
25 the neighborhood. There will be no further expansion of Brookstone Manor, therefore, not increasing density. The  
26 donated 7.1 acres will give the town a conservation area, additional recreation as well as a dog park.

27  
28 **2. The spirit of the Ordinance is observed.**

29 Granting this will not violate the objective of the zoning ordinance. It will still comply with no increase in density because  
30 no change will be made to the units; the units were built at a time when the density requirement was in compliance. The  
31 new acreage will not meet with the technical requirement of the current ordinance but it will comply with the spirit which  
32 is to not increase the density.

33  
34 **3. Substantial Justice is done.**

35 The gains will outweigh the changes. It will not change the character of the neighborhood. The 7.1 acres will provide  
36 additional space for the dog park, conservation and recreation land.

37  
38 **4. The Values of Surrounding Properties will not be diminished.**

39 Again, the developed lot will remain unchanged as it has been for the past 30+ years. With the addition of the 7.1 acres,  
40 the value will actually increase; recreation, dog park, conservation.

41  
42 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

43 **a. Special Conditions:**

44 The property is already developed with the 92 units in the front portion of the lot. The lot has an unusual shape.  
45 Therefore, there is no other viable use for the 7.1 acres to the north other than what is being proposed. This will not  
46 affect the neighborhood since no physical change will be made to Brookstone Manor. The only change will be the  
47 donation of the acreage to the north.

48  
49 **b. Does it frustrate the purpose of the ordinance?**

50 This will not increase the density of the area.

51  
52 **c. The proposed use is a reasonable one:**

53 From the application: "Although the density for the 4.8 acre area would be exceeded, the overall function and use  
54 of the reduced parent lot and donated 7.1 acres will remain the same. The proposal will not alter the essential  
55 character of the neighborhood and is a reasonable use. The parcel and multi-family development will remain  
56 unchanged and continue to function as originally approved in 1984. Further, the 7.1 acres to be removed will  
57 continue to function as dedicated open conservation and recreation areas. If the relief is granted, the donated property  
58 will be incorporated into the Town owned 127 Elm Street property and by extension the municipal park system for

MINUTES OF THE ZBA MEETING MAY 5, 2022

1 the benefit of the general public and tenants of Brookstone Manor. The donated area will continue to maintain its  
2 highest and best use as a conservation and recreation area and to preserve the riparian buffers / water quality of the  
3 Souhegan River”.

4  
5 Attorney Drescher then ended his presentation.

6  
7 Vice Chair Lagro asked if the board had any questions.

8  
9 M. Thornton to L. Daley: Will this affect revenue to the town with a tax adjustment?

10 L. Daley: The Planning Board will review for an adjustment. He noted the tax adjustment will not be substantial since it is  
11 unused land.

12  
13 M. Thornton to L. Daley: Will there be a barrier/trench around the dog park to prevent spillage into the Souhegan which leads  
14 to the Merrimack River? L. Daley responded by stating that the site design will be done with the input of a knowledgeable  
15 group and will be looking at conservation.

16  
17 There was discussion regarding density in terms of the 4.8 acres from a zoning ordinance standpoint.

18  
19 K. Lagro asked if there were any further questions from the board. There were no more questions.

20 She asked Attorney Drescher if he wished to add anything; he stated this is a positive change for everyone.

21  
22 Vice Chair Lagro opened the meeting to the public.

23  
24 David Freel, Board of Selectman stepped forward. He stated that there was a topic that was brought up by M. Thornton about  
25 the tax reduction.

26  
27 K. Lagro pointed out that the financial aspect of a project before the Zoning Board is not part of the consideration in making  
28 a decision.

29  
30 D. Freel asked if another option has been considered such as a donation of only 1-2 acres for the dog park which would be  
31 less of a reduction in revenue to the town.

32  
33 K. Lagro, from her own personal experience, added that she had been overcharged for a few years for a small portion of  
34 unused land. The rebate was only about \$40 because it is unused land. She emphasized that unused land is taxed at a lower  
35 rate.

36  
37 She then added that the unused portion of 7.1 acres will not result in a substantial tax revenue reduction. In addition, she  
38 pointed out the benefits; the unused portion abuts Keyes Memorial Park which will provide additional recreational space and  
39 not just the addition of a dog park.

40  
41 J. Dargie then pointed out that it will remove the possibility of any future development on this space. D. Freel asked how this  
42 land could even be developed. J. Dargie stated that is unknown at this time but anything is possible.

43  
44 L. Daley summarized by saying the 7.1 acre donation is part of a larger opportunity and not just a dog park. It is being viewed  
45 as an extension of Keyes Memorial Park with the possibility for other improvements in the future which will benefit the town.

46  
47 Further discussion continued about the 7.1 acres and the benefits it will provide presently and in the future..

48  
49 K. Lagro asked if there were other comments from the public.

50  
51 Celeste Barr, 12 Sunset Circle, Milford was virtually present. She is also the Milford representative to The Souhegan River  
52 Local Advisory Committee. She stated the advisory committee has some concerns that were brought up at the last meeting.

53  
54 C. Barr: zoning ordinances should also be there for the land, water and open spaces. She brought up concerns regarding  
55 density in terms of open spaces. She asked about storm water management for the acreage near the Souhegan River.  
56

MINUTES OF THE ZBA MEETING MAY 5, 2022

1 C. Barr asked what the wording will be in the deed for the 7.1 acres that will provide restrictions on future building of the  
2 open spaces since the area in question is within the Shore Line Protection Zone. She expressed concerns about breaking off  
3 a piece of land that was originally designed to remain as open unused space.  
4

5 L. Daley stated there will be restrictions on the deed specifically allow for a dog park and recreational purposes; possibly a  
6 bridge, a dedicated trail. Regarding other accessory structures, he stated that there has not been any discussion about this. He  
7 then brought up a power point drawing of the plan for the property. He emphasized the plans will be brought to the Planning  
8 Board and Conservation Committee especially to show where and why a connecting bridge will be placed (foot bridge). He  
9 also emphasized the barrier that will be constructed around the dog park area.  
10

11 There was further discussion about the walking trails and to make them ADA compliance. L. Daley stated the plans are still  
12 being developed.  
13

14 Zachary Williamson, 20 Riverview St, Milford stepped forward to the microphone at Milford Town Hall. He is President of  
15 the Milford Dog Park Association. He cited a letter he sent. He stated his association is in full support of this plan. He  
16 emphasized it has been 6 years in the making to establish a dog park in Milford.  
17

18 L. Daley interjected that the dog park is something to discuss at a later time, but it is worth noting that the dog park will be  
19 built on donations.  
20

21 K. Lagro read into the record the letter from the Milford Dog Park Association to point out their support and that financing  
22 will be done through donations. The letter went over the benefits to the town as well as other points in regards to insurance  
23 and expenses to the town. She did note that liability and trash will be managed by the town and this should be minimal. The  
24 letter went on to say funds will continue to be raised to continue to maintain the park.  
25

26 Claire Brewer, Brookview Drive, Milford was virtually present. She asked about parking for the dog park.  
27

28 L. Daley brought up the map of the plan. Parking will be around and behind the 127 Elm Street building with a connecting  
29 walking bridge from the parking lot to the dog park.  
30

31 Celeste Barr asked if there is a precedent for this type of division with a parcel containing open spaces and will the deed cover  
32 the open space area. L. Daley stated the Town owned 127 Elm Street property and the 7.1 acres will be consolidated into one  
33 property with the deed restriction being placed on the donated 7.1 acres. She brought up the 100 year flood plain. She stated  
34 127 Elm St deed will possibly not address further development of the open spaces. L. Daley went over the restrictions. She  
35 is concerned if the deed is merged it will not allow for restrictions on the open space. L. Daley stated the open space  
36 considerations will be addressed in the deed and welcomed Celeste Barr and the Souhegan River Local Advisory Committee  
37 to provide input. Celeste Barr then asked if there can be a separate deed or restrictions for the open spaces. L. Daley stated it  
38 can be.  
39

40 Selectman Freel then asked if Brookstone Manor could construct a dog park on that space. L. Daley stated that is an option  
41 that was explored but one of the reasons the town is doing it vs. Brookstone Manor was the consideration for insurance. The  
42 other point brought up is that if it was done this way, the dog park would not be available to the public.  
43

44 D. Freel then expressed his concern about a precedent being set. He feels that allowing a variance on this ordinance, simply  
45 because the split of the property is being donated, would then allow others to split property under the same guise which would  
46 leave the remaining space not in compliance with current ordinances.  
47

48 Attorney Drescher stepped forward to address D. Freel's concerns. He said he hears this point many times, but each case and  
49 each piece of property is different. This is why there are variance criteria.  
50

51 D. Freel said he disagrees, as a resident, and feels the board needs to consider this.  
52

53 L. Daley stated this change is not just for Brookstone Manor but is seen as benefit to many others. The town is not being held  
54 to a special consideration or condition in that Brookstone Manor could do this on their own.  
55

56 K. Lagro followed up by saying when the board deliberates one of the items that is definitely considered is what makes a  
57 particular property unique so it will not set a precedent. That is an essential piece of the deliberations; what makes this  
58 particular parcel different.

1  
2 L. Daley added that in regards to the dog park, there will be more of an opportunity to discuss the plan, design and use as it  
3 goes through the Planning Board process. The focus, therefore, needs to be on the variance request.  
4

5 K. Lagro stated the ZBA is actually considering the front portion of the property and the density for the area.  
6

7 Vice Chair Lagro asked if there were any further questions. Hearing none she closed the public portion of the meeting.  
8

9 She then moved on to the deliberations.  
10

11 **Deliberations:**

12  
13 **1. This will not be contrary to the public interest.**

14 J. Dargie: there will be a gain to the public by providing this additional open space to the town; it will not be a simple  
15 process with the development of the donated land, but there will be more gains to the public. In addition there will be no  
16 change to the density.

17 T. Steele: agrees; the location is excellent for the future use

18 A. Kokko Chappell: the property is considered backland use but 7 acres are taxed at the regular rate; she questioned the  
19 wording of the application in regards to the use; she asked if the variance is granted will the wording for the use need to  
20 be for explicit and should there be considerations attached to the variance.  
21

22 Further discussion continued about considerations that should or should not be added to the variance.

23 L. Daley: he stated the detailed uses are outside of the ZBA and will be a discussion with the Planning Board.

24 Again, more discussion continued about this.

25 A. Kokko Chappell: she agrees this will not be contrary to the public interest

26 M. Thornton: not contrary to the public interest

27 K. Lagro: agrees  
28

29 **2. The spirit of the Ordinance is observed.**

30 M. Thornton: the use will not change and the public will benefit

31 T. Steele: agrees

32 J. Dargie: density stays the same which is the purpose of the ordinance

33 A. Kokko Chappell: no change

34 K. Lagro: density ordinance is designed to keep the area the same; no change will be made  
35

36 **3. Substantial Justice is done.**

37 T. Steele: it will allow this land to be used; provide a dog park and recreation

38 M. Thornton: it does substantial justice because both parties will benefit

39 J. Dargie: agrees; the additional property provides a benefit to the public

40 A. Kokko Chappell: agrees

41 K. Lagro: if this is denied it will not benefit the town or public  
42

43 **4. The Values of Surrounding Properties will not be diminished.**

44 A. Kokko Chappell: there will be no change to the existing property so it will not diminish values

45 J. Dargie: agrees

46 M. Thornton: agrees; public use of the donated land will increase value

47 T. Steele: agrees; no residential buildings in the area

48 K. Lagro: reviewed the surrounding properties to determine if all were multi-family and commercial; no values will be  
49 diminished  
50

51 **5. Literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

52 J. Dargie: the unique condition is that it is cut off for use by Brookstone and is attached to the town property

53 M. Thornton: it is now unusable to the current owner; hardship is based on the land itself

54 T. Steele: the topography of the area makes it a hardship for the owner

55 A. Kokko Chappell: the property currently is not usable; abuts the town property and these conditions lend itself to a  
56 hardship

57 K. Lagro: the property itself is already developed and no change will be made to that; also the back part is not usable to  
58 the owner

M. Thornton brought up his concerns, again, about the dog park. L. Daley stated the design will be ongoing and will be subjected to the necessary requirements.

K. Lagro asked if there were any more questions or comments.

**Voting:**

**1. This will not be contrary to the public interest.**

T. Steele yes; A. Kokko Chappell yes; M. Thornton yes; J. Dargie yes; Chair votes yes.

**2. The spirit of the Ordinance is observed.**

M. Thornton yes; J. Dargie yes; T. Steele yes; A. Kokko Chappell yes; Chair votes yes.

**3. Substantial Justice is done.**

J. Dargie yes; A. Kokko Chappell yes; T. Steele yes; M. Thornton yes; Chair votes yes.

**4. The Values of Surrounding Properties will not be diminished.**

J. Dargie yes; M. Thornton yes; T. Steele yes; A. Kokko Chappell yes; Chair votes yes.

**5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

A. Kokko Chappell yes; T. Steele yes; M. Thornton yes; J. Dargie yes; Chair votes yes.

Vice Chair Lagro asked if there is a motion to approve **Case #2022-06 Brookstone Manor, LLC for the property located Tax Map 19, Lot 25-9** is seeking a Variance from Sections 5.05.1.P and 5.03.4.A of the Milford Zoning Ordinance to allow the existing 92 unit multi-family development on 4.8 acres of the subject parcel in the Commercial Zoning District and allow the donation of the remaining 7.1 acres to the Town of Milford for permanent conservation/recreational use.

J. Dargie made a motion to approve **Case #2022-06** and M. Thornton seconded.

K. Lagro: A motion has been made to approve **Case #2022-06**. Those in favor: M. Thornton yes; T. Steel yes;

A. Kokko Chappell yes; J. Dargie yes; Chair votes yes

Vice Chair Lagro stated the criteria for the Variance request had been satisfied and the application approved. There is a 30 day appeal period that can be filed with the Zoning Board.

**3. MEETING MINUTES**

4/7/2022 Meeting Minutes

No further changes recommended. J. Dargie made a motion to approve minutes from April 7, 2022 and M. Thornton seconded. All were in agreement.

**4. OTHER BUSINESS**

No further business.

**Motion to Adjourn**

Vice Chair Lagro asked if there was anything else. J. Dargie made a motion to adjourn and M. Thornton seconded. All Board Members were in agreement. Meeting adjourned.

**Motion to Approve:** \_\_\_\_\_

**Seconded:** \_\_\_\_\_

**Signed** \_\_\_\_\_

**Date:** \_\_\_\_\_