

Brentwood Planning Board Meeting Minutes 1.4.24

Present: Kristin Aldred- Chairperson
Bruce Stevens
Mark Kennedy

Doug Finan
Paul Kleinman-SB rep

Stefanie Kizza- Vice Chair
Ned Matson
Brian West
Kate Locke-Parks

Town Planner: Glenn Greenwood

Meeting held at Brentwood Town Office

Aldred opened the public meeting.

The first public hearing is for the Proposed Town Warrant Article, Citizen's Petition, to consider amending section 300.001.002 of Article III of the Brentwood Zoning Ordinance by including the entirety of Tax Map and Lot 208.024.000 in the Residential/Agricultural Zone. A copy of the complete amendment is available for review at the Planning Board Office.

Aldred explained that prior to the change last year the property was split zoned, partially Residential/Agricultural, and partially Commercial/Industrial. Stevens explained that last year the Board supported the zoning change which made the property entirely Commercial/Industrial due to results of citizen surveys in conjunction with the Master Plan. Aldred added that the Board specifically looked at the split zoned properties because the original line had been an arbitrary 500'. Stevens explained that when a commercial use abuts a residential use a 50' buffer between the two, no buffer is required between two residential properties. Greenwood confirmed that any new development proposal requires Site Plan Review, and the Site Plan Review Regulations requires an applicant to come before the Planning Board and one of those aspects of that review is making sure that there is an undue disturbance to abutting properties and when those abutting properties are zoned differently there is a required 50' buffer.

Generally, the 50' buffer is required to be vegetated, on occasion the Board has allowed fencing to be used as part of the buffer, these things are discussed during the Site Plan Review process. Kleinman asked for clarification on the intent of the Citizen's Petition. Kleinman stated that his understanding of the change made last year was that if the property was split zoned the Commercial/Industrial line would move back and make the lot fully Commercial/Industrial. Aldred stated that this property was unique in that it is a land locked parcel, and the property owner also owns the abutting lot to the East on Route 125. Kleinman stated that the intent of the change in 2023 was to make the split zoned lot all Commercial/Industrial and the Citizen's Petition is to change the lot back to all Residential/Agricultural. Greenwood clarified that the Petition would not allow the property to go back to being split zoned, it would change the entirety of the parcel to Residential/Agricultural.

Joshua McDonald, North Road, read the Citizen's Petition and a statement which he had prepared and provided written copies of his statement to the Board. McDonald stated that this zoning change is of particular concern to abutting properties as it will negatively impact the neighborhood with safety concerns, will have a detrimental impact on their property values and infringes on the general welfare of their community. A complete copy of McDonald's statement will be included in the Planning Board's files.

Heather McDonald, North Road, read a statement and expressed concern for her neighborhood and her children's safety. McDonald provided pictures of her backyard which showed the changes to Lot 208.024 that occurred after the zoning change. A copy of her statement and the pictures provided to the Board will be included in the Planning Boards's files.

Kellianne St. Hilaire, North Road, read a statement to the Board and provided copies to the Board. St Hilaire expressed concern for the safety of her family and her neighbors' families. A complete copy of her statement will be included in the Planning Board's files.

The property owners were in attendance, Carl and Chris Rullo, they explained that the property belonged to their father who passed away a week and a half ago, and that this situation now falls to them. Chris Rullo explained that they would like to bring more business to Brentwood, there is currently a Site Plan in

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the making. They stated they were hoping to put small retail shops on that lot, but that they are open to other options. The property owners did not have a clear plan for the property and do not have an application before the Planning Board. Aldred asked what the intent behind cutting all of the trees was. Rullo stated that was done by their father before they were involved with the property. Kleinman asked Greenwood about the tree cutting. Greenwood stated that due to the extent of the cutting on that property a State issued Intent To Cut was required, and the property owner did obtain an Intent To Cut. Kleinman asked what percentage of the property was Commercial/Industrial versus Residential/Agricultural prior to the change last year. Greenwood stated that the intent of the language in the warrant was to describe the action that the Planning Board was taking with a number of split zoned parcels. This parcel was the only parcel in which the property owner approached the Board and stated they would like the entire parcel to be zoned Commercial/Industrial. Greenwood stated that by looking at the picture the lot appears to be 25-30% Commercial/Industrial prior to the change in 2023.

Cristina Johnson, North Road, provided the Board with pictures showing the change in the number of trees. Johnson read a statement to the Board describing her timeline of moving into and renovating their home to trees being cut down in September. Johnson stated that she was under the impression that lot 208.024 would have changed from split zoned to Residential/Agricultural due to wording of the warrant article last year. Johnson expressed concern for the quality of life, safety of her family and value of her property. Johnson was concerned about the well on her property being contaminated by activities on lot 208.024. Johnson expressed concern regarding light and noise pollution.

Joan Styrna, North Road, read a statement expressing concern for the security, privacy and peaceful living of Brentwood residents. Styrna provided the Board with a written copy of her statement which included pictures, a complete copy of her statement with pictures will be included in the Planning Board files.

Mark Thompson, North Road, read a statement to the Board expressing concern for the welfare, health, security, property, and prosperity of North Road residents. Thompson also expressed concern that abutters were not notified. Thompson provided the Board with a copy of his written statement with pictures attached, a copy of that statement with pictures, will be included in the Planning Board files.

Kleinman asked for clarification on the wording of the warrant article. Aldred stated that what was on the ballot was the short version and that each lot was listed out individually and a map created and that information was available in the Planning Office, at Town Meeting, and on Election Day. Greenwood added that the language was established for the lots where there was no discussion with the property owners about how this change would affect their property. Greenwood and Benedix clarified that in this situation only the property owners were required to be notified by statute. Kleinman asked to see the response letter from Town Counsel that was sent in response to a letter from North Road abutters.

Kennedy recused himself from voting on this matter.

Kennedy clarified that Town Counsel's letter stated that because of the supporting documentation the intent of the vote was clear. Benedix provided a copy of Town Counsel's letter to Kleinman. Kleinman read the letter into record. Greenwood stated that the actual language of the warrant listed out every lot which was going to be rezoned, along with a map that showed each lot.

Greenwood clarified that the Board vote this evening is to either approve or disapprove the Citizen's Petition Amendment and that notation goes on the official ballot. The vote tonight does not change the lot back to split zoned and there is no ability to make changes to the Citizen's Petition.

Stevens made it clear that if this property were to be changed to residential the Board cannot require any sort of buffer for any subdivision that may go in. The abutters stated they understood.

Matson motioned to have Locke-Parks be a voting member for the remainder of this hearing, Finan seconds, all in favor.

Matson motions to approve the Citizen's Petition regarding lot 208.024, Kleinman seconds, Kizza, Kleinman, Matson, Finan and Aldred – aye, Locke-Parks and Stevens – nay. Motion carries.

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The second hearing this evening is a two-lot subdivision application by applicants Wayne & Kari Morrill. The property is located on South Road, referenced by Tax Map and Lot 224.006.001, the intent of this project is to subdivide the property into two parcels. Morrill explained that the lot has 376' of frontage, where 400' would be required for 2 lots. Morrill received a variance from the Zoning Board on February 27th, 2023 to allow for this. One lot will have the required 200' of frontage and will be 3.06 acres, the second lot will have 176.9' of frontage and be 2.04 acres. Wetlands were flagged by Gove Environmental during the Tanya Lane Subdivision, as part of that the functions and values create a 70' buffer on each side of the wetland. Test Pits were done with Mike Comeau. The required 40x80 box required by the Planning Board is present on the plans. Greenwood had 3 comments, Morrill addressed them all.

Finan motioned to bring Kennedy back as a voting member for the remainder of the hearings, Matson seconds, all in favor.

Matson motions to invoke jurisdiction, Stevens seconds, all in favor, motion carries.

There were no other questions from the Board.

Brett Ramsdell, South Road, stated he has lived in Brentwood for about 30 years and back then it was 200' of frontage and 2 acres of property required, and believes if a someone buys property that does not meet those requirements it should be "buyer beware." The Planning Board explained that Morrill had received a variance from the Zoning Board, Ramsdell was not satisfied with that answer and wanted to know why the Planning Board would approve an application that did not meet the zoning requirements. Greenwood explained that the Planning Board would not be able to approve this application without the variance from the Zoning Board and that the Planning Board has no right to second guess a Zoning Board's decision. Kevin Murphy, South Road, asked for clarification on where the house on the second lot would be built, Morrill showed him the 2 buildable areas. Murphy asked about buffers between his property line and the proposed home. Morrill stated there is a 25' setback from Murphy's property line to a structure. Murphy asked if there were further subdivision plans, Morrill stated there is not.

Stevens motions to approve the subdivision, on the condition that Greenwood's comments are addressed, Kennedy seconds, all in favor, motion carries.

The next public hearing is for an Amendment to a Previously Approved Site Plan for Tax Map and Lots 224.100.000 and 224.101.000, 62 & 66 Route 125, owned by Granese-Brentwood, LLC. Steve Haight of Civilworks is representing the property owner and their tenant this evening. Haight explained that the properties were approved in 2020 as contractor laydown yards for material and equipment storage. The property owner utilizes some areas and also leases out a portion to a landscape company. The current site plan lists the hours as 7am-3pm with occasional use outside of those hours for emergencies. Haight explains they would like to amend those hours to allow for use from 7am-7pm. Aldred asked Haight to explain in layman's terms the activities currently taking place on site. Haight states that Wilder takes in loam from other projects and processes it on site, he also has stone on site that he sells to contractors. Haight explains that the stones are sorted on site but states there is no rock crushing happening on site. Kennedy motions to invoke jurisdiction, Kizza seconds. Kleinman states that he is hesitant to invoke jurisdiction on something that has been out of compliance for a long time. Kleinman states he would like the site to come into compliance before he considers invoking jurisdiction. Haight asked Greenwood if the activities occurring on site were allowed uses, Greenwood explained that they are allowed uses *with* a site plan. Greenwood explained that Wilder came before the Planning Board at a regularly scheduled public meeting and stated that he would be utilizing the site for material storage, the Planning Board accepted that information and determined Wilder could use the site as he described. As the activity occurred on site it went from material storage to material processing which resulted in noise complaints. Wilder told the Board he was going to apply for an amended site plan which did not happen and then he told the Board he was leaving the site by the end of November resulting in no pursuit of the noncompliant actions on site. At the beginning of December, the Board was again informed that there

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would be an application for an amended site plan. Haight stated that he was not made aware of any noncompliance until the application was submitted to the Planning Board.

The Board discussed whether or not they should invoke jurisdiction. Kleinman felt the Board should not invoke jurisdiction until the site is in compliance, Kennedy stated the Board must invoke jurisdiction to allow for discussion. Kizza stated that there were abutters present looking to have their voices heard. Kizza asked for clarification, if jurisdiction is invoked the Town parties responsible for enforcement can still actively pursue enforcement until a new site plan is in place, this would satisfy the residents and the Planning Board, the Board and Greenwood agreed.

There is a motion on the table by Kennedy and seconded by Kizza to invoke jurisdiction – Aldred, Finan, Matson, Kennedy, Stevens, Aldred vote - aye, Kleinman - nay, motion carries.

Aldred asked for public comment.

Debbie LaRoche, Crawley Falls Rd, stated she hears noise from this site 7 days a week, all day long.

LaRoche also states there are exorbitant amounts of dust and silt from this site. LaRoche states there is constant traffic going in and out of this site. LaRoche provided the Board with information on Silica Dust from the State of New Hampshire, this can be found in the Planning Board files. She states she made her original complaint in November.

Lynn Austin, Crawley Falls Rd, states this has been going on for approximately 10 months and that it is constant, 7 days per week from 7am-7pm.

Frank Bertolino, Diane McCaine Dr, he described how difficult it is to live with the constant noise pollution and vibrations from this site.

Chris Beebe, South Road, expressed his dissatisfaction with the noncompliance occurring on the subject site.

John Sinclair, Diane McCaine Dr, states there are 2 lots between his and the subject site, and the noise is constant, and the rear of his home vibrates during the day.

Karen Regan, Diane McCaine Dr, states the noise and smell coming from the subject site is “just incredible.” Regan also states she has seen black smoke coming from the rear of the property, from the ground. Regan states it is affecting her quality of life.

Kennedy asked for clarification on the Site Plan Application, the application is to extend the operating hours from 7am-3pm to 7am-7pm and to include the activities taking place on the site that are currently not on the approved Site Plan. **Kennedy makes a motion, after hearing from abutters he would recommend the Selectboard issue a Cease and Desist.**

Kizza suggests a site walk, Finan agrees and would like to have a list of machinery on site. The Board discussed having a sound engineer do a study, and dust mitigation. Haight was receptive to this. The Board asked if there was any rock crushing or sifting occurring on site. Granese states there is no material processing occurring on the northern lot occupied by his company, the material processing is occurring on the lot occupied by Wilder, lot 224.100. Greenwood clarified that the Cease and Desist will not affect the sites being utilized as laydown yards as approved on the current Site Plan, anything beyond the use of a laydown yard will stop.

Finan motions to deny the application due to misrepresentation of what was to occur on site, noncompliance with the existing Site Plan and excessive noise, Matson seconds, all in favor, motion carries.

Kennedy motions to recommend a Cease and Desist per any activities not approved on the initial Site Plan (D-32498).

The Board discussed whether or not the materials on site should be removed. The Board agreed with Greenwood in his opinion that materials should be removed from the site.

Stevens seconds Kennedy’s motion to recommend a Cease and Desist per any activities not approved on the initial site plan, all in favor, motion carries.

Site Plan Review Application & Conditional Use Permit Application: Applicant/Owner: R.E. Prescott.

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Site is located at 79-113 NH Route 27, Brentwood, NH 03833, referenced by Tax Map and Lot 203.033.000. The site plan design proposes a 150' x 750' building is proposed to be constructed which is to be a manufacturing and warehouse building for RE Prescott. Associated driveways/parking, utilities and drainage are also proposed. Area of disturbance is expected to be +/- 423,000 SF with 32,290 SF of wetland impact. A Conditional Use Permit for impact to the wetlands and wetlands buffer is requested.

Bruce Scammon of Emanuel Engineering is representing the applicant this evening. This project was in front of the Zoning Board of Adjustment last month for several variances, all were approved. Scammon explained how they are working to reduce wetland impacts. The project started with over an acre and a half and is now down to 30,000 sq ft. Scammon went over the storm water treatment and maintenance plan. Scammon went over the changes to the plan since the Board saw it last. Prescott explained to the Board what is manufactured on site and described typical daily traffic flows. The Board went over the waiver request for parking. They are currently proposing 255 spaces, approximately 95 less than Town regulations require. Scammon states they are currently working on required State permits. Greenwood asked if the Board had made a decision regarding deeming this project one of regional impact. The Board discussed reasons for and against deeming this a project of regional impact. **Stevens motioned to deem that this is not a project of regional impact, Kizza seconds, all in favor, motion carries.** Scammon and the Board discussed the size of the building, Scammon explained the vegetated buffer that is planned between the building and Route 27. There is no landscape plan due to being told that industrial uses do not require them. The applicant is agreeable to a landscaped buffer with input from the Board.

There were no public comments regarding this application.

The applicant is requesting a waiver from section 9.11.4 – Wholesale and Distribution, Warehousing and Storage, and other Enclosed Storage Uses, Manufacturing, Light Industrial and Industrial Uses – one (1) parking space per 750 sq ft of gross floor area or one (1) parking space per employee on the maximum shift, whichever is greater. **Stevens motions to grant this waiver, Kizza seconds, all in favor, motion carries.**

Scammon reviewed Greenwood's comments. Greenwood stated that the Board does not need to require a traffic study, the State will require one due to the site's location on Route 27.

Stevens motions to continue the hearing until January 18th, Kizza seconds, all in favor, motion carries.

Site Plan Review Application: Applicant/Owner: Greg Lambert & Sons Realty, LLC. Site is located on NH Route 125, Brentwood, NH 03833, referenced by Tax Map and Lot 209.068.000. The site plan design proposes the construction of a new driveway connection to NH State Route 125 for an 8,000 square foot contractor building and a 12,000 square foot Brentwood Surplus Sales building. A Conditional Use Permit is requested for retaining walls, dumpsters, utilities, parking, and drive aisles within the wetland buffer.

Nicole Duquette, of GPI, is representing the applicant this evening, Heather Monitcup, GPI's traffic engineer is also present. A similar application for this site was approved in 2020. Duquette provided the Board with copies of the wetlands function and values assessment. Duquette explained that this project was in front of the Zoning Board of Adjustment last month for three variances, all of which were granted. The applicant has a DES permit for the wetland's crossings at the front of the site, they are working on a permit for the wetlands crossing to the rear which will be temporary to access the public water supply system that they are installing. With public water supply systems, it is not encouraged to have pavement, buildings, drainage and/or utilities within the well radius. An easement will be required for the well radius that appears on an abutter's property, Duquette stated the applicant is aware of this. The applicant has submitted an application for Alteration of Terrian, they are proposing both pretreatment and treatment for this site.

Duquette explained that they are seeking a waiver for parking, 27 spaces are required, they are proposing 24 spaces. There is no outdoor storage proposed, Greenwood stated the Board may ask for a note on the Site Plan be made concerning outside storage, Duquette will speak with the applicant regarding this. There is no signage proposed at this time.

Monitcup discussed the traffic study that was done and the results. She states they have submitted a driveway permit with DOT and are awaiting feedback.

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Matson makes a motion to invoke jurisdiction, Finan seconds, all in favor, motion carries.

Stevens motions to continue the hearing to January 18th, Finan seconds, all in favor, motion carries.

The final public hearing of the evening is to consider changes to the parking standards in the Site Plan Review regulations. A copy of the complete amendment is available for review at the Planning Board office. There was no Board discussion. **Finan motions to adopt the amended parking regulations, Kizza seconds, all in favor, motion carries.**

Finan motions to adjourn, Kizza seconds, all in favor, meeting adjourned.