

**Brentwood Planning Board
Minutes
August 5th, 2021**

Members	Bruce Stevens, Chairman	Alternate, Brian West
Present:	Kevin Johnston, Vice Chair	
	Paul Kleinman	Town Planner, Glenn Greenwood
	Kristin Aldred Cheek	

7:00 pm Open Public Hearing: Chairman Stevens opened the public hearing at 7:00 pm.

Motion made by Johnston, 2nd by Aldred Cheek, to give alternate West voting rights. All were in favor. Motion Carried.

7:00 pm: Continued Site Plan Application: Applicant/Owner: Brentwood Park LLC. Property is located at 335 Route 125, Brentwood, NH 03833 in the commercial/industrial zone, referenced by tax map 209.014.000. Intent is to review site plan changes of use on the site.

The applicant has requested a continuation to September 2nd, 2021. Motion made by West, 2nd by Stevens, to continue the site plan application hearing for Brentwood Park, LLC to **September 2nd, 2021, at 7:00 pm** at the Town Office. All were in favor. Motion carried.

7:00 pm: Continued Site Plan Review Application: Applicant/Owner: 21 Boylston St., LLC. Property is located at 102 Route 125, Brentwood, NH 03833 in the commercial/industrial zone, referenced by tax map 217.025.000. Intent is to construct an approximately 8,000 sq. ft. building for use as a contractor's garage and storage with associated parking and infrastructure.

Present: Barry Gier of Jones & Beach Engineers; Owner/Applicant 21 Boylston Street, LLC, Sal Ragonese. No abutters were present.

Gier gave an overview of the project, an 8k sq. ft. steel building for contractor garages serviced by on-site water and septic. Stormwater is captured and treated with an infiltration basin at the rear of the site. The plans were updated from the Board's, Town Planner and TEC comments. Gier worked with Chris Raymond of TEC to address the drainage and TEC is okay with the changes that were made (TEC letter on file). Greenwood had a comment regarding exterior storage and a note was added to keep outside storage to a minimum and maintained in a neat and orderly fashion. Gier said they didn't want there to be no outside storage as they may need to drop off a piece of equipment such as a tractor or similar for a day or two. They would want it kept to a minimum so there are no issues.

Greenwood felt that there should be no outside storage, not minimal, due to the constraints of the lot and that some of the units would only have 1 parking space versus 2 spaces. There is so little space for outside storage but in his experience, this developer's sites are immaculate, but he may not always own this site. Aldred Cheek suggested temporary vs. minimum, and Greenwood agreed. Greenwood continued the intent is that there's no outside storage but putting temporary, it's for instances where it can't be helped. Kleinman suggested both temporary and minimum. Board and Gier discussed wording.

The Board would like the beginning portion of note #25 to read: *Outside storage shall be ~~kept to a minimum~~ temporary only, not to exceed 14-days and kept to a minimum. Outside storage shall be maintained in a neat and orderly fashion.* Gier was fine with the note change.

Board discussed the conditions for a 120-day conditional approval.

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1. Satisfy the review comments from: Town Planner (Greenwood), Town Engineer (TEC), Fire Consultant/Engineer (SFC).
2. Change 1st line of note #25 on the plan from minimal outside storage to: *Temporary only, not to exceed 14-days and kept to a minimum.*
3. Notice of Intent (NOI) for coverage under NPDES Construction General Permit, copy of NOI and SWPPP shall be submitted to the Town prior to construction (per TEC).
4. NHDOT driveway permit on new DW configuration (location same).
5. A bond/surety for proposed erosion control, drainage and landscaping. LOC or bank check to TOB. Bond amount to be reviewed by TEC and in place prior to recording the mylar.
6. Provide \$2,000 for escrow to include a pre-con meeting with TEC.
7. Add an impact fee on the plan – 1 lot at \$5,360.00 (.67 x 8k sq. ft.) – *does NOT include a mezzanine.*
8. Final full set of plans (2 paper copies) and on removable electronic media. Bickum handed Gier a copy of the possible list of conditions from the Board's agenda.

Motion made by West, 2nd by Aldred Cheek, to grant a 120-day conditional approval with the conditions noted above on the site plan application for 21 Boylston St. LLC, 8k sq. ft. contractor's garages, at 102 Route 125 tax map 217.025 to December 3rd, 2021. All were in favor. Motion carried.

7:00 pm: Continued Cluster Subdivision Application: Applicant/Owner: Brentwood R.O.H., LLC. Property is located on South Road, Brentwood, NH 03833 in the residential/agricultural zone, referenced by tax map 224.006. Intent is to subdivide 224.006 into 14 cluster subdivision lots with access to South Road.

Present: Wayne Morrill of Jones & Beach Engineers; Applicant/Owner Brentwood R.O.H, LLC, Rob Healey; Attorney Sharon Cuddy Somers from DTC (Donahue, Tucker and Ciandella) representing abutter Richard Murphy. Resident Steven Soterakopoulos.

Abutters Present: Richard Murphy of 358 South Rd.

Morrill summarized that since the last meeting, there was a well-attended site walk. Revised final plans were submitted to the Town, Town Planner and TEC for review. TEC's memorandum received on 8/4/2021 confirmed that all of TEC's comments including the site plan, drainage, traffic, had been addressed (on file). Most of the items on the Town Planner's memorandum were addressed.

Morrill reviewed the remaining Planner comments:

- #6 - Conditional Use Permit is needed.
- #7 - The waiver for the HDPE pipe has been withdrawn due to it being on private land.
- Cistern Design: Everything was submitted to the Fire Department. They have had correspondence with the Fire Chief, Joe Bird. They will add a note to the plan for driveways I and J that the driveways will be 14' wide once they are past the wetland crossing and there will be a T turnaround at the structure for a fire truck. The cistern itself was proposed as fiberglass but in the past, concrete has been the norm, so whichever product the Fire Chief wants, they can put in. A turn-off area was discussed. There is a painted pull off area, the bollards are in front and Fire Dept. parking only signage. This was submitted back to the Fire Chief yesterday afternoon. Morrill also noted that there was a fiberglass cistern installed at the Animal Hospital. Stevens said it seems like fiberglass would be better, self-contained. Morrill said there is a moisture content with the concrete and it's hard to keep the concrete ones full. The location and the driveway note will be on the final plan.
- #9 - NHDES subdivision and an AOT permit, both needed from the state. RCCD has confirmed the soils and it supports the proposed 14-lot subdivision.

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- #11 - Regarding the recordable sheet. Greenwood's revised comment is that sheet C2 probably wouldn't be able to be recorded by the Registry and that he is happy with sheet A1 being recorded. All the notes on C2 are also shown on A1. Greenwood confirmed.
- #13 - 8.27 in the subdivision regulations that driveways can't be placed closer than 10' to the property lines. Morrill adjusted all the driveways to be able to meet this requirement, except lots I and J, and they have submitted a waiver request for those two driveways. The waiver asks to allow the two driveways on I and J that do not meet the 10' from the property line requirement to avoid wetland impacts. There is 3' between the two driveways vs. having a common driveway, which the Board had not been in favor of.
- #20 - Points out an incorrect phase number: Blue should be phase #2, not 3. Phase #1 is to build the road and pond and then phase #2, a section of lots. These lots get developed first and then #3, the other side and follows the AOT guidance to not do it all at once to avoid having a lot of open space and un-stabilized soils. This is also shown on sheet E1, construction schedule.
- #21 – Morrill read: *As shown on the plan but clarified on the site walk, the shed owned by the abutter is located well into the property owned by the applicant and it would be efficient for the shed to be relocated off the applicant's property so the plan recorded at the registry would not have to detail this incursion.* Stevens said the Board would like to make that a condition of approval to have that shed removed. Morrill said the abutter received a letter from the Town's code enforcement officer saying the shed should be removed by the end of August and that's what they are hoping so they can take it off the plan.

Morrill continued when there are more than 10 lots in the aquifer protection zone, a hydrogeologic study is required and Enviro North American Consulting put together the report, done by a licensed geologist, confirming that the site is glacial till over ledge, no deep sands, hardly any water transmissivity so it's not a high aquifer area. Morrill had emailed the report to Bickum and handed her a hard copy of the report for the file. Stevens confirmed that the Board had been emailed the report. Greenwood commented it's the lowest valuable aquifer but it's part of the district.

Morrill received a copy of the letter from DTC (on file). He handed out a page with 10 photos and ROW markers (on file). After the site walk, Morrill had his survey crew stake the entire ROW along the edge and take photos towards Mr. Murphy's house to see what it looks like from the road (ROW). At 0+50, you can't see anything (*dense foliage*). Once it gets to 1+50, you start to see the driveway, but it's still thick with foliage. 2+50 you can see the basketball area, 3+00 is dense and then at 4+00, you can see Mr. Murphy's house in the distance. At this location, there is 12' of height from the edge of ROW to Mr. Murphy's property. All the cars would be 12' below. The aerial Google image shows how dense it is around Mr. Murphy's property.

Morrill continued DTC's letter talks about the design requirements of 300.022.007.004 *with the need to avoid adverse effects of noise and traffic and to ensure that the entire development is designed to lessen impact on surrounding properties.* This project has about 19 acres of open space, 100' buffers with notes on the plan and in the HOA docs that the 100' buffer is not to be cleared and left in its vegetative state with the exception of the road, pond and walking trails. When we first brought this project to the Town Planner, we discussed a 94-unit active adult development. This property supports 94 active adult units and the traffic with a 14-lot cluster is 14 trips on a peak hour while a 94 active adult peak hour is 18. The traffic was reduced, the roadway network was reduced; 22' foot wide road (waiver requested) which will calm that traffic. Noise, 14 residential lots vs. 94, 55+ active adults.

Aldred Cheek asked about deliveries such as Amazon impacting traffic. Morrill said they have to have a centralized mailbox location and those have larger bins for package drop offs so that should lessen any

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delivery traffic into the subdivision. Greenwood clarified that the ITE traffic numbers are solely from the structures themselves.

The Board reviewed the two (2) waiver requests and a Conditional Use Permit (CUP) – (on file):

1. Waiver from Subdivision Regulations Addendum A, Section F - The finished roadway surface shall not be less than twenty-four (24) feet in width and have at least four (4) foot gravel shoulders on each side. Jones & Beach Engineers requests a waiver from this section to be able to have a 22-foot roadway instead of the required 24-feet. Conservation Commission and the Planning Board prefer the reduction in impervious and a narrower road will help calm traffic.

Motion made by Stevens, 2nd by Aldred Cheek, to approve the waiver to allow a 22-foot-wide roadway. All were in favor. Motion carried.

2. Waiver from Driveways shall be placed no closer than 10 feet from a property line for newly created lots. Jones & Beach Engineers requests a waiver from this section to allow driveways for Lots I & J to not meet the required 10 feet from property lines and to avoid any impacts to wetlands.

Motion made by Stevens, 2nd by Kleinman, to approve the waiver allowing lots I and J to have driveways closer than 10' to the property lines. All were in favor. Motion carried.

Stevens read the Conditional Use Permit (CUP) criteria:

700.002.009.001 A Conditional Use Permit may be granted by the Planning Board (RSA 674:21 II) for the construction, in areas within the Wetland Conservation District and associated setbacks and buffers, (3/12/2002) of roads and other access ways, and for pipelines, power lines, other transmission lines, and buildings for senior housing, but in no case closer than 25 feet of wetlands with poorly drained soils or vernal pools and 50 feet of wetlands with very poorly drained soils or prime wetlands, provided that all of the following conditions are found to exist: (3/2016)

- A. The proposed construction is essential to the productive use of land not within the Wetlands Conservation District. **Board was all in favor-Aye.***
- B. Design and construction and maintenance methods will be such as to minimize detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.*

Morrill said Phase II gives a 75' vegetative buffer to any wetland on this lower half, the criteria to NHDES for an AOT permit. Placards will be put out, no additional cutting on lots F-H, no cut zone. The HOA docs will allow them to maintain a healthy tree buffer. Greenwood said there's no wetland impact, it's an impact to the wetland buffer in the Town's regulations so the design of the driveways, that activity needs to be away from the wetland so the end result will be bringing the grade as close to what it was before, so it doesn't result in negative impacts to the wetlands. Morrill said the grading and drainage is the plan. **Board was all in favor-Aye.**

- C. No alternative route which does not cross a wetland or has less detrimental impact on the wetland is feasible. Morrill's plans show how stormwater will shed off of those driveways and be directed to a basin to handle that stormwater. **Board was all in favor-Aye.***
- D. Stream and wetland crossings shall be avoided whenever possible. When necessary, no wetland crossing shall exceed a length of 250 lineal feet and crossings shall comply with state*

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recommended design standards to minimize impacts to flow and animal passage (UNH Stream Crossing Guidelines; Env-Wt 900). (3/2016) Not Applicable.

- E. *Wetland boundary markers of a type approved by the Planning Board will be set in order to visually delineate the furthest extent of the wetland. (3/2016). Morrill will install placards in no cut areas and along where the wetland buffer is. Board was all in favor-Aye.*

Motion made by Stevens, 2nd by Aldred Cheek, to grant the conditional use permit. All were in favor. Motion carried.

Morrill said they are willing to add shrubs to lessen Mr. Murphy's impact and proposed ten (10) 3'-5' high arborvitae or similar evergreens; five along the driveway side near 2+50, along the ROW by the basketball area and five more to give to Mr. Murphy to plant at the top of the hill, 4+00, to shield his house. They will plant 5 at 2+50 and purchase another 5 for Mr. Murphy to plant where he wants. Morrill said they had said this to Mr. Murphy on day one and were willing to work something out.

Sharon Cuddy Somers on behalf of abutter Murphy, said she submitted a letter to have something on the record regarding the Board's obligations with regard to the design elements. One of the comments made was regarding Mr. Murphy's shed, which is located on the neighbor's property and Mr. Murphy never intended to have it remain there. There has been some activity by the code enforcement officer and others to make that go away and we have no problem with moving the shed. My client has contacted an electrician and is in the process of trying to get a demo crew out there to move that.

Somers wasn't at the site walk but understands that at the walk, attendees went to the top of Mr. Murphy's property behind his house to take a close look at what he is going to view, looking down, onto the road. Between the road design and the fact that they will have to cut down a lot of trees in the shoulder, these photos do nothing to show Mr. Murphy's view from his backyard looking down on that road. It won't generate a lot of traffic, but he will see headlights and I want to note that. The one criteria, the design of the entire development, including the road, has to lessen the impact to abutting properties. Somers continued that Morrill has said tonight that they would plant some small arborvitaes and allow Mr. Murphy to plant some. That's a good first step. Her client has contacted a landscaper with some preliminary ideas for taller trees in a staggered fashion. That may be too much and they're willing to negotiate. Mr. Murphy is also looking to get an estimate for a fence or a portion of a fence to minimize the view looking down. The Board needs to take into account that design review. This is a cluster subdivision and in making your decision to prevent appealable issues, that needs to be taken into account. This requires a reasonable solution and necessitates the two parties sit down to discuss. She suggests that the two parties meet, hammer out a solution they can agree upon so that hopefully the design criteria can be met because right now, she doesn't think it has been, but it can be with more work, but not yet.

Mr. Murphy said when Kennedy Circle went in, there was an abutter who had 80 to 100, 10-foot trees that were supposed to go in; there was a specific number and height. Stevens didn't think it was that many trees but that there had been a reasonable number of trees mentioned at a 5' or so height, a height that is easy to transplant and has a higher survival rate. Murphy said to check the minutes. Stevens said Morrill has said 5-foot-high arborvitaes with a reasonable number and that he isn't required to have to give you any. Murphy said it was light and didn't think it was reasonable. Stevens replied there are property rights both ways and this property was subdivided some time ago with the understanding that it would be a subdivision. They bought it in good faith to put in a subdivision and have done a great job of trying to mitigate with a cluster development and a 100' buffer, you've gained

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much over what a conventional subdivision or senior development would have been. Mr. Murphy said but there's still a road. Stevens said there would be a road no matter what.

Morrill said in the first meeting, they spoke with Mr. Murphy and at the next meeting, he brought legal counsel with him, and they didn't have their lawyer. On Friday of last week, they sent Mr. Murphy an email about getting together but he was out of town. This road is staked and is 12' lower. Mr. Murphy may look down and see headlights, but they aren't going into his house, but by his house.

Somers responded to Aldred Cheek saying she doesn't know how far apart they are. There was initial discussion, as Mr. Morrill said, before she got involved. Mr. Murphy had a landscaper come out with some ideas, but it was just this past weekend. They need to talk with each other, and she hopes they can do so after this meeting, without her involvement. Somers said it's the Board's obligation to make a decision making sure that the design criteria has been met and that can't be accomplished until the parties are able to determine how far apart, they are and come up with a solution that the design would lessen the impact to Mr. Murphy's property.

Stevens commented that the Board's responsibility is to minimize the impact and feels the design has done that. The design is reasonable, and they have gone above and beyond to offer plantings. There will be some traffic, just like there's traffic on South Rd, but the Town is not going to go in and demand that a fence be put up...Somers said they aren't asking for a fence. Stevens replied you mentioned a fence. Somers said she mentioned it as Mr. Murphy is looking into it and as a discussion point. Stevens took offense to Somers comment that the Board has not considered design criteria and taken into account the effects on abutting properties; we have. Our ordinance does that, and the applicants made every attempt to mitigate it with height of the road, no direct lights into his home, and offering plantings but it's never going to be a completely forested parcel. They have gone above and beyond and have met the criteria of the ordinance. Somers wanted more time to have the parties negotiate and Kleinman disagreed.

Morrill said the applicant is willing to double the plantings offer; twenty (20) 5' high arborvitaes or similar evergreens. They will plant ten (10) by the driveway at 2+00 and 2+50 so it blocks that basketball hoop, and they will buy 10 more to give to Mr. Murphy to plant wherever he wants on his property to help shield the road; 5' high, salt tolerant, native evergreens. They can add this as a note to the plan and that is their final offer. Stevens said that is more than fair. Somers and Murphy stepped out to confer.

Morrill was concerned this sets a precedence for other developments, but Stevens said it's a taking of rights. Morrill agreed. Greenwood said the standard is within the cluster development ordinance and the Board has gone on record saying that traffic impacts have been minimized by having the road be a thinner paved surface which is scientifically shown to reduce speeds; the headlights are at a much lower topographically (12') than the house and it's not a direct impact to warrant a design change.

After conferring with her client, Somers said that Mr. Murphy would like the monetary value of the twenty shrubs instead and will use that for screening of his choice and location. Morrill agreed but said it's a civil matter, not a condition of approval and that can be written up as an agreement separately and they will sign it tonight but it's not part of the approval. Stevens said we don't want a precedence set here and that's important because we believe you are superseding the requirements of our ordinance. Morrill added they will work out the pricing with Murphy and Somers and once his shed goes away, they can provide Murphy with a check.

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Possible conditions of approval for **120-days to December 3, 2021**

- Satisfy all comments from Greenwood, TEC and Fire Department.
- Certificate of Monumentation.
- Receipt of all state permits (AOT & NHDES subdivision).
- HOA docs with legal counsel's requested changes re: bylaw etc.
- Easements: Greenwood said the subdivision language is on the plan and says that the plans that show easements will be reflected in deeds. *Draft deed language to be reviewed by legal counsel.*
- Fire cistern easement: Morrill said the fire cistern is in the middle of the cul-de-sac, eventually to be granted to the Town so does the Board want an easement in the interim while it's still a private road? Greenwood said yes. *Cistern easement to be reviewed by legal counsel.* Morrill at the time of conveyance of the road, the language would say the Town owns the road and the cistern.
- Bond/Surety: Construction, erosion and drainage, landscape and 10% contingency. LOC or bank check to TOB. Bond amount to be reviewed by TEC and in place prior to recording the mylar.
- Provide \$2,500 for escrow to include pre-con meeting with TEC.
- Final full set of plans (2 paper copies) and on removable electronic media.

Motion made by West, 2nd by Johnston, to grant a 120-day conditional approval with the conditions noted above for Brentwood R.O.H., LLC, a 14-lot cluster subdivision application on South Road, tax map 224.006 to **December 3, 2021**. All were in favor. Motion granted.

Board Business

- The Board signed the manifest.
- **CA extension for 3 Ponds, Phase II;** Tax map 207.022, 146 North Rd. 51 new units. CA Extension expires on 8/14/2021. Applicant Joe Falzone requests a 6-month CA extension to **Monday, February 14, 2022**, to acquire state permits.

Motion made by Aldred Cheek, 2nd by Kleinman, to grant a 6-month conditional approval extension on the 3 Ponds, Phase II project for Joe Falzone to February 14, 2022. All were in favor. Motion carried.

- **Email from Carl Rullo Sr.** 414 Rte. 125 tax map 208.030; asking to do an amendment to Site Plan application for the existing site plan D-35181 to bring site into compliance due to recent site activity.

Greenwood said this is across from Highland Hardwoods and they have a site plan that for the most part, they are in compliance with. But there is a section where they have removed a portion of the tree line, which shows on the plan. They would like to do an amended site plan, to allow them to clear that tree line, which has been primarily cleared already, to be within 25' of the stone wall without doing a new plan. The Board may wish to do a site walk once the application is accepted. Stevens mentioned that due to site work, there could be elevation changes and runoff and TEC should review that during this process. The fire consultant application fee can be waived. Greenwood added they intend on using the property that abuts in the back but that would require a new site plan review. They are working with Peter Landry. The Board was okay with an amendment to site plan application with a waiver request to not require an engineered plan. Once the application is accepted, a site walk can be requested.

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- The Board signed the mylar for Brentwood R.O.H. 2-lot subdivision creating a 5-acre lot, South Road. Tax map 224.006.001, lot A; for recording.

Approval of Minutes: July 15th, 2021, minutes and Site Walk July 26th, 2021, minutes for tax map 224.006; Brentwood R.O.H. 14-lot Cluster Subdivision on South Rd.

Motion made by Kleinman, 2nd by Aldred Cheek, to approve the minutes from July 15th, 2021, as presented. All were in favor. Motion carried. Per Greenwood, Kleinman and Cheek read the minutes, so it was okay for them to vote.

Motion made by Johnston, 2nd by Kleinman, to approve the minutes from the site walk for Brentwood R.O.H.-14 lot cluster subdivision on South Road from July 26th, 2021, as presented. All were in favor. Motion carried.

Motion made by Kleinman, 2nd by Johnston, to adjourn at approximately 8:50 p.m. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum,
Administrative Assistant,
Brentwood Planning Board