

**Brentwood Planning Board
Minutes
December 2, 2021**

Members Present:	Bruce Stevens, Chairman Jon Morgan, BOS rep Kevin Johnston, Vice Chair Kristin Aldred Cheek	Mark Kennedy Doug Finan Paul Kleinman Alternate, Brian West – Not voting Town Planner, Glenn Greenwood
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Location: The Planning Board meeting was held at the Brentwood Recreation Center at 190 Rte. 125, Brentwood, NH in order to accommodate a large number of expected attendees.

Open Public Hearing: Chairman Stevens opened the public hearing at approximately 7:05 pm.

7:00 pm: Continued Site Plan Review Application: Applicant/Owner: The Mastriano Group, LLC. Intent: A proposed parking lot for auto sales. Property is located at 180 Route 125, Brentwood, NH 03833, referenced by tax map 216.028.000 in the commercial/industrial zone.

Motion made by Finan, 2nd by Kennedy, to continue the site plan review hearing for The Mastriano Group, LLC to **December 16th at 7:00 pm at the Town Office.** All were in favor. Motion carried.

Morgan made an announcement regarding the new Economic Development Committee and recommended that residents go to www.bringittobrentwood.com and complete an economic development resident survey mainly on commercial development on Rte. 125 and Pine Rd. and once the survey data is compiled, they will have a presentation in late January or February.

7:00 pm: Continued Design Review: Applicant Joseph Falzone; Owner Gordon Wilson, 41A Mill Rd, Brentwood, NH 03833, Tax map 217.048.000; and Owner Conrad Marcotte Trust, off Mill Rd, Tax map 217.052.000. A proposal for an age restricted development consisting of approx. 80+/- units with underground utilities, access road and on-site well and septic. Properties are located within the residential/agricultural zone.

Present: Applicant Joseph Falzone; Scott Cole, Senior Project Manager with Beals Associates for the applicant; Attorney Mark Johnson with Johnson and Borenstein, LLC; Town’s legal counsel, Walter Mitchell from The Mitchell Group was present.

Abutters present: Ryan McCarthy 62 Fellows Rd; Mark Young 47 Fellows Rd; Carol Belliveau 46 Mill Rd; Ron Clark of Middle Road; Chris Shields of Fellows Road; Heidi Dumont of Middle Rd; Ned Matson 23 Mill Rd; Mark Hanik 36 Fellows Rd; Chris Shields of Fellows Rd; Diane Byron on Marcotte Lane; Mike Martin 3 Marcotte Lane; Ron Clark 506 Middle Rd; Rob Wofchuck of Peabody Drive; Edie Shipley of Pickpocket Rd.; Eric Turer; Neil Carrons. *This design review was well attended but some residents spoke during the meeting without identifying themselves for the record.*

Between comments at the meeting and resident emails (on file), concerns were voiced about maintaining Brentwood’s rural character with a density of 76 houses, the condition of Mill Rd. and increased traffic and heavy pedestrian use on Mill Rd. now, aquifer protection area with concerns about wells and ability to replenish, septic systems, wetlands, wildlife, streetlights and/or lights and noise at the community center, the proposed units and community center right up to setbacks and buffers, maintaining the rural character, requests for an environmental impact study, hydrogeologic study, traffic study and viability of Mill Rd., fiscal impacts, impact on emergency services.

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Cole gave an overview and said that Doucet Survey had completed the survey, so they have the bounds, topo and wetlands information. They made some edits and have tried to address Greenwood's comments from the revised design from their meeting with Greenwood in the office on Wednesday, Dec. 1st. The accurate density calculation on the plan is 76 units; taking the overall parcel minus out the wetlands, steep slopes, x 3 bedrooms and divide by 2 bedrooms = 76. To achieve a more rural and open setting, they've added a short 400' short cul-de-sac on the eastern side to provide more open green area to each unit. The cost is more but it adds a benefit of more green space to the units. The proposal is now about 4400' of road (previously 4,000') with private utilities, wells and 3 septic areas.

Greenwood still has concerns with the 76-unit proposal. The soils and density calculations will be reviewed by RCCD when that formal application comes in. They have tried to address privacy with this revised 76-unit plan but there are still a number of units with no privacy, units surrounded by driveways or surrounded by driveways and other units behind them. Greenwood hasn't looked at the new plan intently but thinks there are still privacy issues and wants to ensure that privacy, as stated in the ordinance, is an important feature here.

Stevens asked the applicant when he thinks a formal application for this project will be received? Falzone is hoping to file for a late January to be on in a February meeting. Stevens continued a new hearing would require new abutter noticing and the experts will also be reviewing the traffic study; septic and wells are reviewed by NHDES and NHDES issues the AOT (alteration of terrain) permit (required when more than 100,000 sq. ft. is disturbed). Stevens asked how close was the river to the nearest unit? Cole replied that the shoreline buffer from the river is 150' and the clubhouse is the closest building to that 150' setback, furthest unit is approximately 300' away. Stevens asked if the non-buildable areas would be conserved with an easement. Cole said there are different options to do that, deed restriction or open space regulation. Stevens also asked if the centerline of the road can be staked for a site walk when that time comes. Cole agreed, that would be helpful.

Kennedy still has an issue with the shared driveways, counting 5 areas that share driveways and one area has 3 units sharing one driveway and would like to see a reduction in the amount of shared driveways and not 3 homes on one driveway. Cole said they can discuss options.

West commented that only the main road would be deeded to the Town, not the driveway. Cole confirmed, yes. West continued that there is no secondary egress so if there was a fire at that first unit, with fire trucks etc. blocking the road, residents couldn't get in or out. Aldred Cheek asked about the preliminary design of the homes. Cole said they would be similar to the 3 Pond homes: 4 or 5 versions. Homes would be built by Falzone from start to finish.

Kleinman was concerned about excessive clearing and would like to see if they could preserve more of the natural character of the land. Cole said they are using the existing wetland crossing in the first section and the second crossing would be low impact. There would be no large impacts to the wetlands, or the river corridor and they will leave as much vegetation as they can in the most sensitive of areas. Falzone added that trees have been harvested on this parcel periodically so there is not a lot of old growth but that they will try to save as many large trees in the upland areas, other than what's needed to clear for the road they will save. They can plant 2 or 3 trees in each unit's area; the first part of the parcel is all field. Stevens said it appears that the steepest slopes are on the East end, greater distance between the river and the homes. Cole said they will stay on top of the flattest areas, less disturbance.

Kennedy suggested that the more they can work with the natural aesthetics of the property, the more they will meet the privacy ordinance. Be strategic and leave as much vegetation as possible, it will help

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with the privacy and rural character. Cole said after the first wetland crossing there is a large knoll where they will do test pits and they will be cutting that knoll down to provide material for the job. The 2nd half of the parcel is flat so they won't have to clear as much and can specify what can be cleared and leave as much existing vegetation as possible.

Stevens said many abutters and residents had written in requesting an environmental impact study. Greenwood said in the previous hearing, he said that our natural protection districts require protection for wetlands, floodplains, shorelands, and groundwater. Those are environmental features subject to compliance within our regulations. The one unregulated piece is the wildlife impact but as discussed at the last hearing, Fish and Game has their requirements and will review the submitted report in conjunction with an AOT permit and laying out the road. How the Board deals with that information is a Board decision. There will be substantial information developed for this site and the Board can then determine if they are satisfied with what's been provided or do they want it to be peer reviewed. Stevens said Fish & Game is an impartial party that will be reviewing. Greenwood continued that a hydrogeologic study is required because the number of units proposed requires it and at the state level a separate review for the groundwater due to community wells will be reviewed by NHDES and they may require well monitoring of adjacent abutting parcels, mandatory dry down tests. Stevens reiterated that septic and wells are all reviewed by NHDES. Greenwood anticipates that the Board will request a 3rd party review of the hydrogeologic study as well.

Cole reiterated that the traffic study will be performed by Steve Pernaw, traffic engineer at the site. He will evaluate the project and entrance to the site, study the intersections at Mill to Middle Rd. and Middle to South Rd; all 3 major intersections.

Abutter comments: Ron Clark of Middle Road was concerned about streetlights and if the clubhouse at 150' from the river, if that distance could be increased for those that live across the river. Cole added any lighting would be black sky compliant unless the traffic study, mandates special safety lighting but there are no streetlights being proposed. Cole said downcast lights at the clubhouse would be about a 1-foot candle of illumination within a parking space for safety.

Ned Matson 23 Mill Rd. is concerned about the corner at Mill Road, 35-40 houses use that road now and adding 75-80 units also takes away from the rural character. Diane Byron on Marcotte Lane asked if the traffic study would include a viability study of Mill Rd? It's a narrow road that will need upgrading; a large pedestrian use as well. Greenwood confirmed that the parameters can be discussed regarding the traffic study once a formal application is submitted. The Board can ask them to address any issues like heavy pedestrian use of that road. Make it clear to them, they should look at that. And then it would be 3rd party reviewed and it's not unusual to require off-site improvements from the study. Those parameters are established early on after a formal application.

Ryan McCarthy of Fellows Road asked is it at the application phase that the scope of all these studies is established. Is there a work plan? Greenwood said all of those are part of the discussion after a formal application. The Board can have on hand our 3rd party reviewer early on in the process.

Mark Young of Fellows Road asked if the traffic study is done by the applicant. Greenwood replied Steve Pernaw, a professional engineer is doing the study and it will be peer reviewed by TEC. Greenwood said the traffic report takes historic data of accidents, information within the study area, etc. It looks at a number of factors. Someone mentioned construction vehicles and the weight limit of the bridge. Stevens said they'd have to come in from the other end.

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Mark Hanik of Fellows Road wanted to hear from Walter Mitchell regarding rural character; 76 units in his opinion is still not addressing it.

Falzone said the small community water supply is with the state. Lewis Engineering will be drilling a test well in late December. The traffic study, we've been advised of the intersections and that will be submitted. If more study is needed, they will do more. Hydrogeological study says the number of wells to drill and then it goes to the Board's consultant, all those contracts are in the pipeline. Stevens reiterated that the design review will end tonight and then there is a lot to do; traffic study, hydrogeologic study, test pits, data needs to be compiled and a formal application submitted. This will probably be done on different evenings as well with different items discussed. Falzone said that when they apply they will also be doing a Lot Line adjustment plan to give 5,000 or 6,000 sq. ft. in front of Eggers house to them; he can't use it.

Chris Shields of Fellows Road commented that he's only giving the land back because he can't use it; he's not an arborist regarding old vs. new growth, he doesn't live in this state, and we need the Board to keep him from doing this development. So, if he goes by the rules, he gets to do what he wants with that land. The Board needs to say no and throw up some hurdles. Stevens said I'm not sure you can say initiate hurdles to diminish the density of the project, but the Board will review the project and reports. Kleinman said the project has an adverse impact on the community, that would be a basis for our disapproval of it but it can't be in a conclusory fashion. Ultimately the Board needs to review the studies, consultants, review and determine from that material and those facts, whether or not there is an adverse impact or not. Does the application meet the standards and regulations and compliance with the ordinance and state law; it can't merely be said there will be an adverse impact without more facts.

Walter Mitchell said this is in the early stage and the Board doesn't know what the facts are. Once an application comes in, Mr. Greenwood can review and see if the density requirements in the regulations can support 76 units, all based on the soils and the wetlands. The audience and minutes I've read mention the "rural character" but the Board can't say we don't like any interference with the rural character. The Town has adopted certain rules for development and those are the rules the developer has to follow. The Town through the Planning Board can't just say we don't like this in respect to the rural character of this property but if there are certain things that the developer can't or won't do that the Board feels are necessary to satisfy maintaining the rural character for this property, that might be a reason for an adverse decision but it's way too early for this Board to consider things like that. By suggesting the Board do so, just because these gentlemen sitting up here aren't neighbors of yours, tends to if anything taint the process. It won't be helpful to the Town in the long run. The Board knows what its job is and will do the best it can and the developer is aware that it's the Boards focus and the developer will hopefully up his game to satisfy the Board wherever he can.

Hanik said the reason we are having this meeting was to have Mr. Mitchell talk to us about the subjectivity of the word rural. Can you add to that? He understands the tests etc. but a hydro test doesn't change the rural feel. What is the definition of rural, the master plan mentions rural character a number of times but it's not really defined, it's subjective as Kennedy had said. Kennedy said it is subjective and the ordinance needs to back it up so maybe it needs more work within the ordinance.

Mitchell added whether a term is subjective doesn't mean it's thrown out but there are shadings, some are valid considerations for deciding if the application meets the ordinances and some are not valid considerations and those types of discussions have to be held from an attorney to a client, the Planning Board, in private, not in a public setting like this. You have to discuss strengths and weaknesses in legal

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arguments or in an application. Hanik said so shady, did you mean gray areas? Mitchell replied, gray areas or interpretations, a combination of the two.

Kleinman said you have to look at p. 26 of the ordinance, paragraph P, which speaks to rural character, and talks about maximizing the privacy of the housing units, preserving the natural character of the land, considering such factors as orientation, energy usage, views and recreational opportunities. The design shall make provision for pedestrian access throughout the site, things he will scrutinize when an application comes in for this.

Greenwood pointed out that comments from when the Fellows Rd. development, was under consideration, that tiny lots that would destroy the rural character of Brentwood are the same comments we're hearing here. Rural character is hard to define because it's different for everyone. The Board looked at the regulations then and were tasked with making sure they were applied to the best of their ability and will do that here too. Many people still think it's rural here but some who grew up here, now think its suburban. Greenwood sees change in the Town but thinks its still rural, it's really subjective. This Board will seriously consider the information brought before them.

Stevens said the goal is to have a diversity of housing stock. Kennedy said about 43% of NH residents are over 55 and adding this senior housing development to the housing = 14% of Brentwood's housing stock is senior housing units. Greenwood added but there are more senior citizens that don't live in age restricted units. This 14% only reflects the housing stock reserved presently for those 55+ communities.

Morgan said the entire country is experiencing a labor shortage and more than 100, 911 calls that went to the Fire Station went unanswered. This won't improve that. A lot of towns have banned 55+ because of labor shortage issues in this county. Kennedy asked about the correlation. Morgan said we can't find firefighters, police, teachers, healthcare workers and you bring in more senior housing. Kennedy said but what is the number of older communities and amount of calls? Stevens said we can ask the Fire Department how many calls they have from age restricted communities vs. car accidents etc. Let's be guided by the science, let get some facts. Brentwood had an affordable housing ordinance where you could get greater density if you build affordable housing and the Town voted it out at Town meeting 4+ years ago. There is a need for workforce housing, how do we solve that is another discussion. Morgan said NH is the 2nd "oldest" state, most rapidly aging and it's a problem. Greenwood suggested it has more to do with retirement benefits in the tax code, not housing stock.

Rob Wofchuck of Peabody Drive is concerned that designing houses and a clubhouse right on the 150' river setback and wetland buffers, does this allow for back yards? What about sheds, decks, patios, pools etc. encroaching or being within buffers. Falzone replied there are no swimming pools, no sheds unless submitted and out of site from street. None at 3 Ponds. Cole explained that the units have high restrictions on what they can do. There are no property lines per se but limited common areas around each building footprint around 15' wide, front, back and sides owner knows that they can use to put something outside or a patio. It's very restricted to use the available area and they know that going in when they purchase it. They cannot be building or storing things outside of that land area and it's controlled by the HOA.

A resident brought up the privacy ordinance for someone she knows that lives in 3 Ponds and regrets it; she doesn't want to have the Board approve something like 3 Ponds again; how is privacy enforced and adhered to?

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Greenwood said there is no privacy ordinance in the Town of Brentwood but within the age restricted ordinance there is a requirement that the units when created have privacy and that privacy is maximized. Greenwood thinks many units still need work on this plan to adhere to that.

Heidi Dumont of Middle Rd. was concerned as she is closest to the proposed clubhouse and the closeness to the river; concerned about loud mechanicals and the proximity of the clubhouse to their backyard. Is there a way to move the clubhouse? Edie Shipley of Pickpocket Rd. asked about who enforces the deed restrictions? Stevens said its up to the officers of the HOA to enforce. Civil action. Mitchell added the question as to is there a broader ability to enforce beyond the HOA if the HOA decides to do anything. Unit X puts up a shed in the buffer and the HOA doesn't do anything, who can? That depends on the documents. If it's a concern for the Board, then incorporate it into the documents. Falzone said they incorporate enforcement for the Town in all the documents. At 3 Ponds, the Town can come in if the HOA doesn't do anything and the Town can put a lien if they have to go in that wasn't enforced by the HOA.

Mike Martin 3 Marcotte Lane asked about the time of year for water studies. Greenwood said if some issue is raised with the hydro-study that seasonality of the testing is an impact, that would be part of the study and they'd adjust for those instances. A resident requested the Board drive down to 41A on Mill Road and see it, drive by it. Kennedy said at some point the Board will also do a site walk.

Harik said Fellows is a cluster development, this would be a 3rd "cluster" within a ½ a mile. Greenwood said cluster as defined in the zoning ordinance, is the ability to do a subdivision of single-family homes, that can't exceed the number of homes that would be developed just using the standard regulations but allows the units to be placed closer together than a standard subdivision. The cluster concept gives the developer, once the number of units is determined by regular subdivision, to group those closer together on smaller areas. Fellows has lots smaller than 2 acres in size, that's the cluster idea. When you see cluster here, it's because it's a density calculation which allows more units than under single family and placed in a way that minimizes road expense, so you see units that look like they are clustered. Stevens added and cluster development allows large swathes of undeveloped land to stay in place, they conserve land.

A resident asked about walking on Mill Rd. and if the developer would consider putting a path on the open space accessible to the public; used by neighborhood. Greenwood said it would be up to the developer as it's private property. Neil Carrons commented that over 150 people per day in the summer walk Mill Road but with 3-5 years with construction equipment up and down the road every day. Ryan McCarthy said Mill Rd. as a recreational road will be taken away from them and him due to 3-5 years of construction. Stevens said hours of operation for construction can be discussed. A resident commented why is Brentwood a magnet for geriatric housing, is it easier to develop property if it's senior housing? Falzone said he is doing this in two other towns, its' driven by the availability of land and the zoning that's in place in the towns.

Aldred-Cheek said if a change in the zoning is warranted, there is a process for that, but this is how it is currently. Stevens suggested a citizen's petition with 25 signatures. Greenwood added but if you want to do it, the deadline is Wed. of next week (*Dec. 8th*).

Stevens closed the design review public hearing.

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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. *Jurisdiction was invoked on May 6, 2021.*

Dave Roberts of Brentwood Park, LLC had to leave at approximately 7:40 pm and handed Bickum a request to continue his hearing to December 16th, 2021.

Bickum read the request to continue submitted by Dave Roberts (on file): Dated 12/2/2021: *To the Planning Board: I want to acknowledge my recent receipt of Kip's action plan and willingness to work with him closely to satisfy the remedies. Since I just got it 2 days ago, and since I haven't received a copy of the final SFC report, it's impossible for me to give specific timelines for compliance tonight. I have acted on a number of his (Kip's) immediate concerns:*

1. *Had Keane Fire re-certify all 23 fire extinguishers in every occupancy.*
2. *Removed the fuel storage tanks from inside building #5.*
3. *Stopped electrical service to building #3 – unit 3E.*
4. *Definitely ended living/sleeping in vehicles.*
5. *Removed unroadworthy vehicles from outside storage (except 2).*

I request a continuation until the board's next opening but will work with Kip immediately.

Stevens was concerned that this is Kip's summary, but Kip wasn't present at the meeting when we went through the SFC report and the electrician's report and it covered a lot more. Nothing to do with Kip but we don't want to gloss this over. There is a good basis of fact from the trades that reported on this. Those reports are good, have plans of action and contain a lot more than Kip's brief summary. There isn't anything regarding the sanitary provisions that SFC spoke too, heated bathrooms. It says temporary and there's one porta-potty out there now. Greenwood said he didn't think that was Kip's intent. Stevens said Roberts might think that as long as he satisfies Kip, I'm good to go but the Planning Board needs more input. The camper wasn't moved off the property, it's been repositioned on the property. The Board had a good game plan, Kip's summary is a point of beginning but Stevens doesn't want Roberts to take what Kip wrote as "that's good enough".

West said he's not complying with a time constraint. Stevens said what's the most effective way to convey to Mr. Roberts that what's laid out in those reports needs to be done; *SFC and 3rd party electrical*. West said anything done should have the compliment from Fire, Police, Road Agent and Building Inspector, feedback. Stevens said when someone applies, all departments are informed of what's been received and what's coming but there is very rarely a response and no attendance at the Planning Board meetings. Greenwood said on large projects, they could convene all department heads on a technical review committee, a staff level meeting during the day to review plans and issues. No Board members, a report with input from department heads. Bickum said Chief Bird has suggested a review committee months ago and Wed. is the only day Glenn can hold it.

Greenwood will talk to Kip next Wed. as Board still needs to work with Mr. Roberts.

Motion made by Johnston, 2nd by Finan, to continue the site plan review hearing for Brentwood Park, LLC to **December 16th, 2021, at 7:00 pm** at the Town Office. All were in favor. Motion carried.

Board Business:

- The Board signed the manifest.
- **Impact Fee:** The Chairman signed Bruce Mayberry's contract dated December 2nd, 2021, for Mr. Mayberry to update the impact fee assessment/schedule in 2022, of which the Planning Board

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already approved to encumber 2021 funds in the amount of \$4,250 for this update. This will be Mr. Mayberry's last update due in April of 2022 before he retires.

- **TEC's renewal contract:** Board discussed. This contract is open ended, either party can terminate with a 60-day notice, so it's not annually renewed. Aldred Cheek asked about a fee schedule/prices, is the hourly rate changing? What happens if there are price increases? Liability type language holds Town harmless. Bickum will reach out to TEC for more information and bring back for Dec. 16th meeting.
- **CIP Plan:** Greenwood informed the Board that he would have the CIP plan ready for the December 16th, 2021, meeting so the Board may not need to re-encumber \$3,000 in 2020 funds.
- The Board signed **3 mylars for Brentwood ROH, LLC** – 14-lot cluster dev. South Rd for recording.

CA 6-month extension (ltr. on file) requested for 21 Boylston Street, LLC: 102 Rte. 125; 102 Rte. 125, tax map 217.025, 120-day CA expires on Dec. 3, 2021. 8k contractor garages would like to wait to post the bond in spring in conjunction for proposed construction. Request a 6-month extension to June 3, 2022.

Motion made by Kennedy, 2nd by Johnston, to grant a 6-month extension for the conditionally approved site plan for 21 Boylston Street, LLC to **June 3, 2022**. All were in favor. Motion carried.

Continued w/ Brentwood Park, LLC: Letter submitted for used pickup truck sales at 335 Route 125: Nick Mancini of Coral Ridge Truck & Auto Inc. is seeking Planning Board approval for a class 2 used vehicle dealer, mainly pickup trucks at 335 Rte. 125, tax map 209.014.000 (email on file). RV use (same dealer class) was approved there before. Bickum Spoke with Mancini 11-29-2021 and he is still interested in this site. *Board will keep this on the agenda with Brentwood Park, LLC hearings.*

December 6th 6:30 pm is a PB work session on Zoning Amendments. Need to finalize, have Greenwood finalize language for legal notice for the 1st Public hearing for Jan. 6th. Publish date is Dec. 23rd edition in Carriage Town News and their deadline is Dec. 16th at noon. Schedule in conjunction with a revocation of site plan for Carl Rullo 324 Rte. 125, tax map 209.010 for the wetland infringement.

Thurs. Dec. 9th Zoom Meeting 6:00 pm re: County building and solar array Zoom meeting with Jude Gates and Thomas Tombarello (letter on file and emailed to PB on 11/15/2021). Bickum will send Zoom meeting link week of December 6th again to land use Boards, BOS and Karen.

Approval of Minutes: November 18th, 2021, and Site Walk minutes of Nov. 21st, 2021.

Motion made by Kennedy, 2nd by Johnston, to approve the minutes from November 18th, 2021, as presented. All were in favor. Motion carried.

Motion made by Finan, 2nd by Aldred-Cheek, to approve the Site Walk minutes from November 21st, 2021, as presented. All were in favor with Johnston, Kleinman and Morgan abstaining. Motion carried.

Motion made by Johnston, 2nd by Kennedy, to adjourn at approximately 9:35 p.m. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum,
Administrative Assistant,
Brentwood Planning Board