

**Brentwood Planning Board
Minutes
December 6th, 2021**

Members	Bruce Stevens, Chairman	Mark Kennedy
Present:	Jon Morgan, BOS rep	Doug Finan
	Kevin Johnston, Vice Chairman	Brian West, Alternate
	Paul Kleinman	

Open Public Meeting: Chairman Stevens opened the public meeting for a Planning Board Work Session to discuss possible zoning amendments at 6:30 pm.

Present: Rob Wofchuck; Paul Kirby

Motion made by Stevens, 2nd by Johnston, to give alternate West voting rights. All were in favor.
Motion carried.

Bickum went through the list of zoning amendments that were to be revised by Greenwood based on the discussions during previous work sessions. Summary of meeting below.

- 1) Revise the CUP section to make it clearer what pertains to senior housing only (from 10/7/2021) p. 81.

Revise section 700.002.009.001 to clarify what statements apply to age restricted housing and to read as follows:

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.~~ **The standards found in paragraphs A-E below must be met. A Conditional Use Permit may also be granted for buildings for senior housing, but in no case shall these buildings** be 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:~~ **A-E below are found to exist: (3/2016, 3/2022)**

Bickum commented that section A-E didn't change, and the two proposed paragraphs by Greenwood can be combined into one paragraph (see above).

Motion made by Johnston, 2nd by Kennedy to bring forward the two CUP changes in the first paragraph of 700.002.009.001 in the ordinance to the public hearing on zoning amendments. All were in favor.
Motion carried.

- 2) *This section is still in progress: Tighten up road frontage language and REMOVE private roads/streets: See minutes from March 18, 2021, and Nov. 1, 2021. Greenwood to find all frontage and replace with Class V designation and remove all private roads and private streets in the zoning, subdivision (addendum C), regs and site plan regs.*
 - a. *Zoning*
 - i. *Better define frontage? p. 4, 11, 13, 19, 23, 25, 29, 100, 102, 107*
 - b. *Sub. regs. P. 3,*
 - c. *Addendum C p. 53*
 - d. *Describe ROW as Class V or better or in conjunction with RSA 229:5*
 - e. *This would also be addressed in subdivision/site plan regs.*

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- 3). *Flag lot zoning w/ 50' ROW's: Address other large parcels from 1980's that were created with 50' of frontage or ROW. See list of possible properties and zones. Greenwood to write for those existing lots in residential/agricultural zone ONLY and associate with their tax map/lot (parcel id). They would still need to prove water and septic capability.*

Bickum said Greenwood was in favor of writing a "flag lot" type of ordinance but wants to verify with counsel that it isn't creating spot zoning. Bickum said they have a list of about 8 properties that were developed like this in the 80's and this would be a corrective action. These lots were created for agricultural use, open space or wood lots, and were left with 50' of frontage/ROW and were "unbuildable" until septic capabilities were confirmed, and a road built to Town standards was created, with the intent of future subdivision.

The Board discussed whether there should be minimum acreage or not (*not decided*). It would only apply to existing lots that were left with 50' of frontage or a 50' ROW'. This would give a property owner with this type of lot the option to build one single family house and have a driveway vs. building a road for one single family dwelling. They would still have the option of being able to subdivide the property with enough acreage, septic is proven, and a road is built to Town standards.

Stevens suggested it would still require 50' for frontage and suggested adding lot creation prior to the adoption of this ordinance in March 2022 so in the future, a lot can't be created with a 50' ROW to build a house, which is contrary to the rules. In this case, this is corrective action for these specific parcels. If it passes legal muster, Greenwood could have this written up for the first public hearing.

Stevens suggested a straw vote tonight to see what the interest is to put this up for vote to Town meeting. By putting it to public hearing, it's to be discussed and can be voted on or stricken. Stevens said Kirby could still draft language for a citizen's petition and the deadline is December 8th, 2021. Stevens was in support of an amendment for this. Finan, Morgan, Johnston and Kennedy were not opposed so it looks as if this could go forward to a public hearing. Kennedy wants legal counsel's opinion on spot zoning first. Stevens said the Board won't endorse anything until at least the first public hearing and then if substantial changes need to be made, they wouldn't officially vote to put it on the ballot until a 2nd public hearing before January 31st. All we're doing is giving the Board the option to look at it.

Board discussed the cluster ordinance proposed changes re: reserve strips for constructing the road and lot lines extending through the buffer area.

- 4) Change cluster ordinance re: buffer and lot lines through buffer per the 6-lot cluster by Falzone on Route 107, April 15th, 2021, hearing. Cluster ordinance – p. 23 – Per 6/3/2021: Remove language regarding lot lines can't extend through the buffer. Rewrite to allow lot lines through buffer areas and ADD that individual lot deeds have to reflect the 100' no disturb area. 300.002.007.005-2). Stevens said Falzone had to get a variance on this for the 6-lot cluster project. The lot lines can come to the street, but the buffer is still protected.

*New language to become the third sentence in section 300.002.007.005, A., 2. (existing third sentence in section to be deleted.) The new sentence will read as follows: **If internal lot lines are utilized these lot lines may be extended into the buffer area. If they extend into the buffer area deed restrictions shall be developed that ensures that the area of lots within the buffer remain in a natural or planted vegetative state.**

- 5) Change cluster ordinance: Reserve strips: Per 6/3/2021 no change necessary unless change name to call it construction reserve strip; primary access is confusing. See p. 23 section 300.002.007.005-3

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25' reserve strip on either side of the road – cluster and other developments. Stevens said this came up in 14 lot S. Road Cluster Sub. proposal for Brentwood R.O.H., LLC with a 60' ROW at the May 20th, 2021, PB meeting. Glenn changed to add:

*New Language to become a new third sentence in section 300.002.007.005, A., 3. to read;

These reserve strips are necessary and required only to allow for the construction of the roadway thru the buffer area.

Rob Wofchuck clarified so you need 50' for a road so any extra 25' allows for more flexibility for the equipment to construct the road and after, it leaves 25' on either side in a natural state, a buffer. Board agreed. He would like to see a requirement that an HOA pro-actively notify the Town, submit a letter, annually saying that it's monitoring and in compliance with deed restrictions as he's seen above ground pools, dumping yard waste in a deed restricted areas, etc. Stevens said the condo docs are reviewed by counsel, restrictions are spelled out in deeds. Maybe that's a note to add to the plan.

Motion made by Kennedy, 2nd by Johnston, to vote to bring forward the two proposed changes to the cluster ordinance to the public hearing on zoning amendments. All were in favor. Motion carried.

Both proposed cluster development changes are incorporated below:

300.002.007.005 External and Internal Design Standards.

A. Requirements applicable to the external boundaries of the development:

1) There shall be reserved a minimum frontage to serve as the access to the cluster development. This shall be no less than fifty feet and must be located on a road with a Class V designation or better.

2) A perimeter buffer zone having a minimum depth of one hundred (100) feet shall be provided between any structure, septic system or service road, and the perimeter lot line of the tract. Said buffer zone shall be comprised of vegetation, either natural or planted. ~~If internal lot lines exist, these lot lines shall not infringe upon the buffer area.~~ **If internal lot lines are utilized these lot lines may be extended into the buffer area. If they extend into the buffer area deed restrictions shall be developed that ensures that the area of lots within the buffer remain in a natural or planted vegetative state. (3/2006, 3/2022)**

3) No construction shall be permitted within the buffer zone, other than a primary access road which shall be allowed to cross the buffer zone at the point of access to the pre-existing class V or better road servicing the development. Along both sides of this primary access road reserve strips of twenty-five (25) feet must be maintained for the first one hundred (100) feet of said primary access road. **These reserve strips are necessary and required only to allow for the construction of the roadway thru the buffer area.** In instances where the proposed cluster residential development incorporates a design that includes several access points to the abutting Class V road these may be approved by the planning board if the board determines that the neighborhood and proposal are best served by this alternate plan for access. Related drainage and storm water management treatment devices may be constructed within the mandatory buffer area. (3/2020, 3/2022)

6) Board discussed the height restrictions in Commercial/Industrial Zones, currently 35'. Greenwood spoke with the Fire Chief and the Fire Inspector and asked their thoughts on eliminating the height requirement on Pine Road. The Town's fire equipment only reaches 35

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feet so they were both adamant that the zoning ordinance should not be amended. Board discussed and agreed no changes to the ordinance.

- 7) Board discussed addressing shipping containers, storage containers in residential but without a permit it would be difficult to determine the length of time a container had been in place on a residential lot so no changes to the ordinance.
- 8) Small house discussion, 900.002.002.002 regarding changing the 720 sq. ft. limit to 300 or 320 sq. ft. but only for separate lots (see p. 1 of minutes Nov. 1, 2021). Greenwood to talk to the Building Inspector regarding the size of the dwelling units, habitable structures, and clean up the language on page 111: Page 111: 900.002.002.002.

Bickum read (on file) that Glenn had spoken with the Town's Building Inspector regarding tiny houses. "He indicated to me that a variety of code issues arise when dealing with tiny home construction. Considerations of ceiling height, stair clearances, outlet separations and other standards would need to be waived for tiny houses. This creates a circumstance where the building code required of everyone for standard construction becomes altered for tiny house construction and that is problematic."

Board disagreed and discussed. Strike "tiny" house and just make it a 320' sq. ft. minimum size. Amend just that, and it would still have to meet all the building and safety codes. Board would like Greenwood to change the 720 sq. ft. limit to 320 sq. ft. *See proposed change incorporated below.*

900.002.002.002 Every dwelling shall have a minimum ground floor area of ~~seven hundred twenty (720)~~ **three hundred and twenty (320)** square feet, outside measurement, to be used by one family unit. Dwelling, for purposes of this provision, shall be defined as any structure, mobile home, trailer of any type or other vehicle, or building being used as a permanent living space or temporarily being used for purposes of establishing a residence in the Town of Brentwood.

Motion made by Stevens, 2nd by Finan, to bring forward the proposed change from 720' sq. ft. to 320' sq. ft. in the zoning ordinance 900.002.002.002 to the public hearing on zoning amendments. All were in favor. Motion carried.

- 9) Bickum said there was a previous discussion on Mixed Use, Density, Duplexes, Town Center Zone, and Affordable Housing See pg. 2 of Nov. 1, 2021, minutes). But this needs a lot more thought, so this should be discussed again in about 6 months, May-June of 2022 for zoning amendments for the March 2023 ballot. *Keep on list as reminder for next year.*

Subdivision and Site Plan regulations: *(Not on the ballot but it still needs to be noticed).*

Bickum said Greenwood is going to change the following in the subdivision and site plan regulations. *In progress.*

1. Determine what is frontage, town-maintained roads and private vs. public roads or town-maintained roads. Change to RSA 229:5. *Glenn to make this clearer.*
 - a. p. 26 (U)
 - b. Addendum C p. 52
 - c. Site plan regs. p. 13 (9.1.12), 21 (9.10)
2. Add to pre-con meetings for any construction project, not just roads, by Town Engineer paid for by applicant. *Glenn to change current verbiage to add this.*

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Senior Housing:

Johnston said I'd like to make an amendment to the senior housing ordinance, 300.002.008 (p. 24) and repeal it in its entirety.

Johnston said there is an overabundance of these, and they are ugly. The way the ordinance is written, we can't make them do it a certain way and it changes the rural character of the Town. North Rd., Pickpocket Road, cluster houses and someday those houses will have families in them.

Morgan presented a 2-page printout on NH's Demographic Future (on file). Kennedy asked what is the correlation between senior housing and birth rates and death rates? 18-year-olds are leaving NH but it's not because of senior housing. Morgan said fewer children and fewer workers is playing out now. Kennedy said 43% of the people in NH are over 55 but only 14% of our home stock is 55+. Stevens said it's the value of land. Morgan said we are at 50% of 55+ individuals. Start there and then add 14% of housing stock. It impacts people 60 years and older, no care, no work. Staff at Rockingham Nursing Home is shipping in workers per diem. Johnston said this is beyond senior housing. Kennedy said say it's 12,000 per student. Average tax bill is about 12,000. One child, tax bill pays for your 1 child for 1 year. 2 children = 24,000, someone else's tax bill is paying for your second child's education. Say you have 3 children and so on. You need people in your community without children, their money helps the community and educate the children. Johnston said those 55+ communities can also vote down the school system. Stevens said Greenwood had said before there is no evidence of that. Most of them have grandkids.

Stevens is totally against removing senior housing from the ordinance and would like to see a balance. What about modifying it. Brentwood is not going to solve the seacoast housing problem. What's driving workforce people out is the cost of the land. The land values are keeping the young people out, not the zoning. The only way to get young people here is to have super high density for affordable housing. When other towns years ago were doing 3 and 4-acre zoning, they were getting in legal trouble and Brentwood had lot soils by soil type, DES requires 6 bedrooms per developable acre. We did 3 bedrooms per buildable acre. But sooner or later, you can't stop development. It will continue to come and some of these things, like 2-acre zoning will be struck down. Johnston agreed with that but over 55 is a blight on the community.

Stevens also disagreed with the 100 missed 911 calls being because of 55+ communities that was brought up again during the December 2nd Planning Board meeting. Morgan said he mentioned the Fire Dept. due to lack of staff, not additional services. Stevens said you need to pay more money and 55+ helps with that. Kennedy said the BOS increased the per diem for EMT's from \$50 to \$100. Advanced EMT from \$18 to almost \$25. Now slots are full. Stevens said maybe it's pulled out at 30% but not at 14%. Johnston said there is no percentage requirement. Morgan added 150 NH communities have banned senior housing from their zoning. Kleinman agreed with Johnston. Stevens said the economic development, they will never be able to build enough to off-set what comes in from senior housing.

Wofchuck agreed with Johnston that it should be repealed. The ordinance could use some changes to improve it. Right now, we're not in control so put it on pause, repeal it, then work on it, we don't need it. Stevens said after Town meeting you can come up with some new criteria or modifications and if it's posted for public hearing after Town meeting that rule stays in effect until the March vote. So why throw it out, it can be modified. Johnston said a lot of people in Town aren't happy with senior housing. West feels 3 Ponds is a hazard, 25 ft. apart, propane goes, sprinklers won't do squat and other houses will go up to.

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Motion made by Johnston, 2nd by Morgan, to call to question, those in favor of stopping the debate and voting now. Morgan, Johnston, West, Kleinman and Finan were in favor. Kennedy and Stevens were against. Motion carried with a vote of 5 to 2.

Motion made by Johnston, 2nd by West, to remove the senior housing in its entirety from the zoning ordinance. Johnston, West, Morgan and Kleinman were in favor. Stevens, Finan and Kennedy were against. Motion carried with a vote 4 to 3.

Wofchuck suggested a planning survey like the economic development committee is doing; put money into more planning.

Motion made by Johnston, 2nd by Finan, to adjourn at approximately 8:15 p.m. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum,
Administrative Assistant,
Brentwood Planning Board