

**Brentwood Planning Board  
Minutes  
February 18th, 2021**

<b>Members</b>	Bruce Stevens, Chairman	Alternate, Regan Elliot
<b>Present:</b>	Ken Christiansen, BOS rep	
	Kevin Johnston, Vice Chair	<b>Present but non-voting:</b>
	Steve Hamilton	Alternate, Brian West
	Mark Kennedy	Alternate, David Menter
	Doug Finan	Town Planner, Glenn Greenwood

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

Motion made by Hamilton, 2<sup>nd</sup> by Finan, to give alternate Elliot voting rights. All were in favor. Motion carried.

**Public Hearing**

**7:00 pm: Affidavit of Amendment to a Previously Recorded Site Plan Application:** Applicant Todd Griffin of Griffin Automotive LLC; Owner R&D Commercial LLC. Property is located at 313 Rte. 125, Brentwood, NH 03833 in the commercial/industrial zone, referenced by tax map 209.066.000. Intent is to allow a NH State Inspection Station and repair plates within an approved auto repair and metal fabrication shop.

Present: Applicant Todd Griffin; Erika Griffin. No abutters were present.

Motion made by Finan, 2<sup>nd</sup> by Hamilton, to invoke jurisdiction and accept the application. All were in favor. Motion carried.

Griffin moved his Automotive Business into the building (313 Rte. 125) in November of 2020 and assumed that it included state inspections, which is part of automotive service, repair & maintenance. Stevens said the previous approved auto shop was storing unregistered vehicles on the premises and that isn't allowed. It's not Griffin's intent to store vehicles as he works on titled vehicles; some are owned by dealerships. No vehicle restoration, only service and maintenance. Typically, 90% of vehicles would be there 2-3 days; others may be there longer dependent upon parts availability. Greenwood said the only difference from the last approval is the inspection portion. Griffin confirmed that the previous tenant was a restoration service with cars that sat around long term. Griffin is only repair and maintenance: oil changes, tune-ups, tire rotation and he does not have a dealer license.

Greenwood to prepare an Affidavit of Amendment for recording with the same conditions as before (*Preservation Autowerks-on file*) and adding the state inspection station portion.

Motion made by Kennedy, 2<sup>nd</sup> by Christiansen, to approve the amended site plan allowing for a state inspection station. All were in favor. Motion carried.

Stevens signed the NH DMV permit application to be emailed back to the DMV.

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**7:00 pm: 6-lot Subdivision with Open Space Application:** Applicant Joseph Falzone; Owner Gardner & Mildred Ladd Revocable Living Trust. Property is located on Route 107, Brentwood, NH 03833 in the residential/agricultural zone, referenced by tax map 224.036.000. Intent is to subdivide the parcel creating 6 frontage lots with approximately 18.7 acres of open space.

Present: Applicant Joseph Falzone; Scott Cole of Beals Associates; Colton Gove of Gove Environmental.

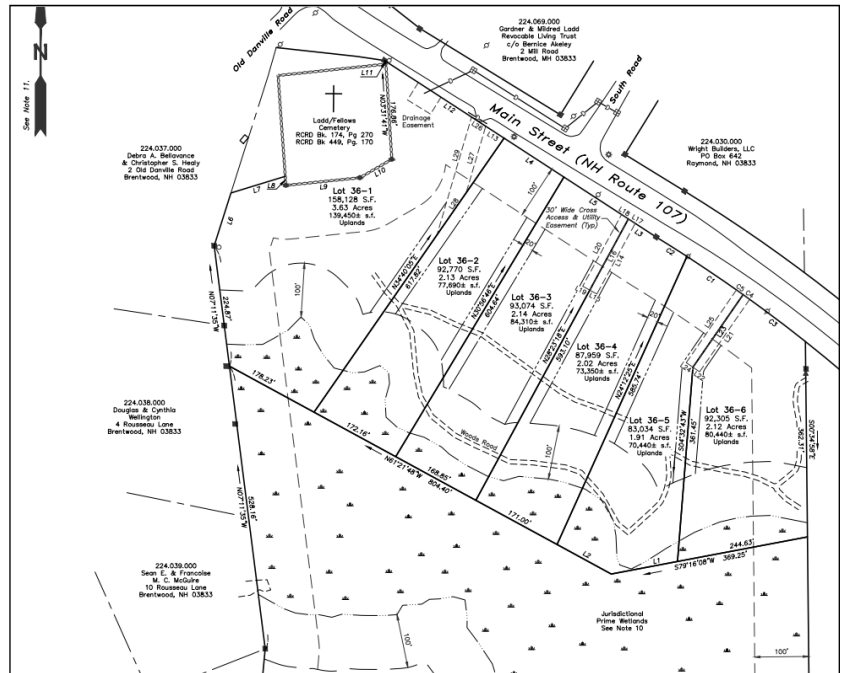
Abutters Present: Gary Scott; Sally Winchell; Jay Wright; Eric Wallace.

Residents Present: Brett & Kelly Ramsdell.

Motion made by Hamilton, 2<sup>nd</sup> by Finan, to invoke jurisdiction and accept the application. All were in favor. Motion carried.

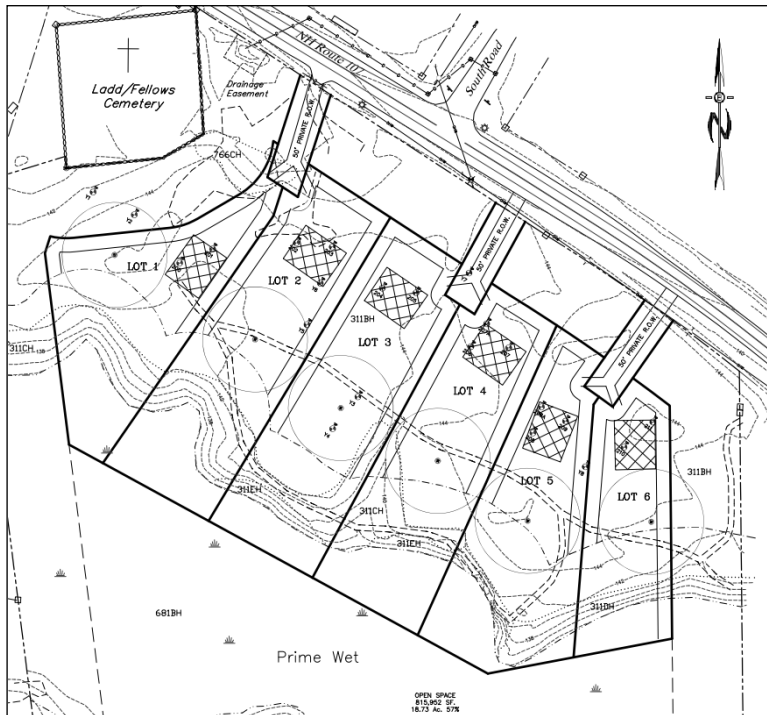
Scott Cole from Beals & Associates introduced himself and gave an overview of the proposal. Joe Falzone is looking to develop a cluster subdivision on a parcel on Route 107. Located across from South Road and to the NW corner is the Ladd and Fellows cemetery. In order for that to happen, you have to design a conventional subdivision in order to establish the number of lots that can be developed, a yield plan (on file). The yield plan shows a short 500' cul-de-sac with a bulb, 6 lots, 200' of frontage, on own septic and well. Total area is 32.67 acres. There is a prime wetland on the site and there is a 100' buffer to that prime wetland. The yield plan was reviewed by Mike Cuomo of RCCD (*Rockingham County Conservation District*) (on file). The density calculations show that there is more than enough land for the 6 lots on the property.

They had a preliminary review with Mr. Greenwood for the open space subdivision, with a 100' buffer from the perimeter, to provide the required frontage and access Rte. 107 (*1<sup>st</sup> submitted plan-shown at right*). However, there is a zoning regulation that states that a 100' perimeter cannot be impacted by proposed lot lines (*as shown here*). Therefore, a 2<sup>nd</sup> plan was provided. Stevens added otherwise it wouldn't be common area. Cole agreed and continued so the 2<sup>nd</sup> plan sheet that was submitted (*2<sup>nd</sup> plan shows 3 ROW's-on file and is shown on next page*) and is what Mr. Falzone is looking to proceed with, an open space subdivision with 6-lots with approximately 18.7 acres of open space. Private 50' ROW's with a common driveway through the 100' that split off, going into the lots enough so they all have 75' of frontage to meet cluster zoning. 25' reserve strips on the side can be added. The portion within the 50' ROW "built to Town standards". Cole reviewed the zoning verbiage and it says "streets will be built" so these are not intended to be streets but common driveways so that's a question for the Board. Each would have individual septic and wells and the benefit is a large component of open space with a 100' buffer around it. No Town road and it pulls everything away from the wetlands and protects them.



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*2<sup>nd</sup> plan option with 3-ROW's below.*



Stevens referenced common driveways from a 2020 cluster development currently being built off of Crawley Falls Road. The driveways are built to Town specs as far as sub-grade and roadbed to provide public safety, so fire trucks and heavy vehicles can access them. Accessways have always been built to Town specs in Brentwood and we applied that to those driveways. Is the Fire Department in concurrence with the proposed driveways? Greenwood said the Fire Department has concurred with SFC's letter (on file). Cole said across the street is the Mill Pond development with an existing functioning dry hydrant less than 900' away and the subdivision criteria allows less than 1200'.

Stevens recommended that they meet with the Fire Department and SFC to review. The Fire Chief can tap a water source and in some cases, people have contributed to the cost to maintain a water source or fire cistern. That bears more looking into on how that would practically function. Cole also mentioned sprinklers. Greenwood commented that the regulations state that if there are more than 3 lots, you have to submit that there is a credible water source. SFC wouldn't have known that unless it had been submitted to them. Falzone agreed to do that. Greenwood added if the water source is to be used for fire protection, a new developer has to tie in somehow and help maintain that water source. The HOA would be the mechanism for the water source as an HOA would be required for the open space component.

Stevens asked Greenwood if he can recall any instances where a common driveway was not required to be built to Town specs. Greenwood could not. If it's not built to Town specs, then it can't be determined to be a Town road because you can't subdivide on anything but a Town road. Frontage has to access the applicable Class V or better road. Stevens said these lots wouldn't stand alone without the frontage created by those individual roads. Brentwood has never acquiesced to less than 200' of frontage. Greenwood confirmed 75' of frontage for a cluster but frontage still has to be derived from a Class V or better road. Kennedy commented so if those driveways are a Town road, then the Town has to maintain them? Greenwood replied they can keep them private. If the landowners then petition the Town to make them public, they can do that. If it's to become a Town road, it has to be built to Town standards. Stevens referenced Abbey Lane which granted the Town a maintenance ROW with bound markers. Kennedy said will you ask the same of this and can they use the ROW for the 75' of frontage?

Cole commented the ROW's would be built to Town specs but it's the width question and a waiver was submitted that if they are deemed Town roads, can they be less than 22' wide to 16' wide. Stevens said 16' wide is narrow and the Board needs to think about that. The width of road is based upon trips per day etc. but here it would serve only 2 homes so we can talk to our engineer on that.

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Kennedy asked so these “roads” will be owned by the Town of Brentwood? Greenwood reiterated they are proposing these to be private ways. This Board won’t allow a private road not be built to Town standards because at any Town meeting, it can be petitioned to become a Town maintained road. Kennedy said it has to be a Town road to get the frontage isn’t that a contradiction to what we’re talking about? A private road is not a Town road so you cannot gain your frontage from a private road. Are they using a private road to get the amount of frontage?

Greenwood said our take on that as a Town is if it’s built to Town standards, then it qualifies as a Town road. Keeping it private, that’s fine, the Town won’t maintain it, but it has to be built to Town standards. Kennedy commented Town road vs. private road; you open yourself up to properties like this doing exactly that. Hamilton agreed. Kennedy also had an issue with a previously proposed Scrabble Road plan with a similar proposal for a private road built to Town specs. It’s either a private road or a Town road. Maybe the ordinance needs to be changed but just building it to Town standards doesn’t make it a Town road to get frontage. Stevens said the regulations say 75’ for cluster, built to Town specs.

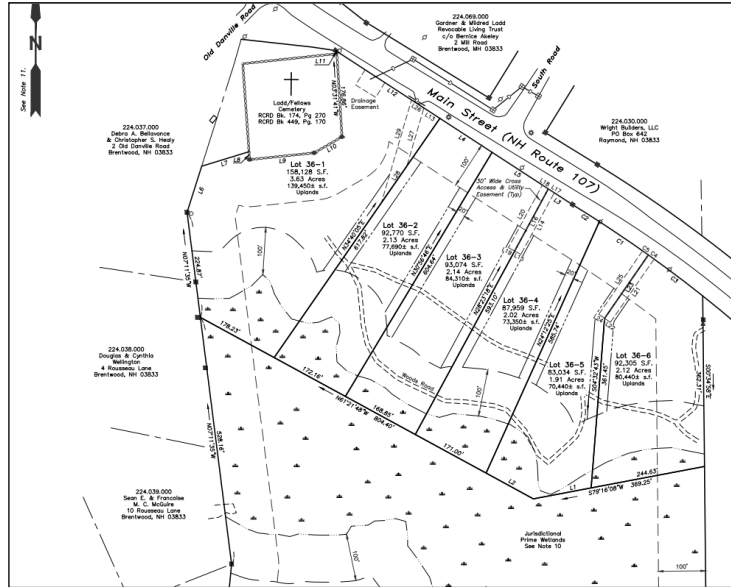
Greenwood said in the subdivision regulations it says a Class V or better road, which is a Town maintained road. Hamilton said that’s not what these would be. Greenwood said the Board has a right to waive that, if they choose, as it’s a subdivision regulation. Stevens said it would look like a Town road, but they would do their own maintenance on it. Kennedy said this will become an issue on constrained properties without the frontage. Why would you ever make a Town road then? Stevens said it would be bonded and built to Town specs. Kennedy said so when that road degrades, who is responsible for fixing it? Hamilton agreed it’s a contradiction and we’re convoluting this to make this work for this many lots. Kennedy said he’s looking ahead 20–30 years from now, lots with 10 or 15 acres without frontage allowing a private road vs. a Town road and then who maintains it? It’s a can of worms. Finan asked about the waiver for reduced width. Stevens replied they have done that before on small subdivisions where the ROW is the same and the subgrade is the same, but the width of hot top is less. The Board can go back to the Town Engineer and ask that 22’ is the rule but what is reasonable here? Finan agreed that Kennedy has raised a good point.

Falzone thought that the property line to the street regulation had come out of multi-family and maybe should have been taken out of cluster but it wasn’t. They have sufficient frontage, but the lot lines can’t go to the street here. Cole said the zoning has the same perimeter buffer in multi-family but doesn’t have the lot line being impeded by the buffer line as it is in cluster development. Greenwood said it’s in the cluster development because a cluster is deemed to have a perimeter buffer area. The same standard wasn’t held for multi-family but it was always part of the cluster ordinance since its inception around 1989. The concept is that in a cluster development there would be an access road going into the property and then the development would take place off of that road and that’s not the concept being proposed here.

Falzone commented they could do a short cluster road and the Town would maintain the road for 6 lots with a buffer and open space. Cole was surprised by the Board’s reaction to the plan. Kennedy said his reaction was not to the cluster development and thinks they are a good idea as they conserve land and save wetlands. It’s the definitions of a Town road and a private road and the issues that can arise. He would like it better defined because it’s a gray area. When the roads degrade and need maintenance, who is responsible? That’s what needs to be clarified but he’s not against the cluster development concept.

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Greenwood said this proposal came within the last week. I'm not endorsing this but said that this was a legitimate request to ask of the Town. My advice to Mr. Falzone was to go to the ZBA and see if he could get relief to allow the boundary lines through the buffer area. Then they would just be shared driveways if the boundary lines were allowed to go to Rte. 107. Kennedy agreed. Greenwood continued that was where this plan started (1<sup>st</sup> submission). You could make the Deeds say within that 100', nothing is allowed to be built. There is no visual impact of a boundary line going to the road and recommends seeking ZBA relief.



Kennedy suggested that they revisit this and re-define it, the zoning and subdivision language without impeding the cluster ordinance, and agreed that it should go to the ZBA.

Greenwood commented part of the approval for this subdivision can be that nothing can happen within the first 100' of any of those 6-lots and it can be in the Deeds. It's a risk to go to the ZBA, it's another Board and another process but in this case, if the goal of a cluster ordinance is to allow the preservation of open space and it is deemed in the best interest of the Town not to create another road that will become a Town road to maintain, then the relief granted for the disallowance of the boundary lines is an issue that the ZBA could clearly justify. Stevens agreed and added the cluster ordinance regarding boundary lines cannot be changed without Town meeting vote. Falzone was concerned that without a Planning Board recommendation, the ZBA might send him back to the Planning Board.

Stevens said the general concurrence of this Board, and the minutes can reflect it, is that the Planning Board is in support of going to the ZBA for those lot lines to go to the street and get that relief. Stevens added the ZBA can be presented with these minutes. Kennedy added he could attend the ZBA hearing as well. Falzone was in favor of that and it also increases the frontage to each lot. Cole commented that if the ZBA grants the lot lines through the boundary area, then the proposal would revert back to the original submission. This 100', other than the driveway, would still be protected. Stevens confirmed that the buffer protection can be written into the HOA agreement. Greenwood agreed. Mr. Falzone is in control of what these Deeds say for these sales and could even specify what plants have to be planted in that buffer if he wanted to.

An abutter asked about the wells as his is a shallow well and he was concerned about the water table. Cole responded individual deep drilled wells for each lot so it wouldn't impact his shallow well.

Stevens reiterated that they talk with the Fire Department regarding access and the cistern or pond across the street; state permits will be needed later. The Board discussed continuing the hearing to give Mr. Falzone time to go to the ZBA for the buffer relief on April 12<sup>th</sup>, 2021 (March 10<sup>th</sup> deadline for the ZBA application).

Motion made by Christiansen, 2<sup>nd</sup> by Hamilton, to continue the public hearing on the Falzone 6-lot open space cluster development to **April 15<sup>th</sup>, 2021 at 7:00 pm**. All were in favor. Motion carried.

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Stevens was concerned about a similar proposal obtaining frontage off of Scrabble Road that came in for a preliminary consultation a month or so ago. Greenwood added it contained a bump out off of Scrabble Road, building a portion of roadway to gain the 200' of frontage to make the 2<sup>nd</sup> lot legal. The Board had said they could do that to Town specs. Kennedy said it needs to be a Town road with a hammerhead and its Town maintained. A hammerhead long enough to add to the Scrabble Road frontage to get the 200'.

Stevens said those residents left with the idea that it didn't need to be deeded to the Town and could remain a private way but in this scenario that would change. In all fairness, Glenn should research this and contact this Board and Bruce Scammon of Emanuel Engineering. Greenwood said he would email everyone with his findings/suggestions. Stevens added before they invest thousands of dollars in engineering costs.

Motion made by Christiansen, 2<sup>nd</sup> by Hamilton, to allow the Town Planner to send to all parties concerned a draft of this determination by the Board. All were in favor. Motion carried.

**7:00 pm: Continued hearing for Master Plan Chapter adoption:** "Also, consideration of adopting the Community Profile chapter of the Master Plan. Full copies of the proposed text are available for review at the Planning Office."

Greenwood asked the Board to continue this hearing again as he has been waiting for the new census information to incorporate. The new information was released at the beginning of February. Greenwood will incorporate the new 2020 data sets, as opposed to using the 2015 -2018 data.

Motion made by Hamilton, 2<sup>nd</sup> by Johnston, to continue the hearing for consideration of adopting the Community Profile Chapter of the Master Plan to **March 18<sup>th</sup>, 2021 at 7:00 pm**. All were in favor. Motion carried.

### Board Business

The Board signed the manifest.

**Sig Sauer: Return of \$742.50** in unused escrow funds to North Branch Construction who submitted all fees for the Sig Sauer 4K classroom application, which has been withdrawn; tax map 202.007, 203.018, 019, & 026.

Motion made by Hamilton, 2<sup>nd</sup> by Finan, to return the unused escrow funds for the withdrawn Sig Sauer 4K classroom site plan application to North Branch Construction. All were in favor. Motion carried.

**Sig Sauer letter to Board** about replacement of 2 existing temporary classroom trailers with 2 larger temporary trailers, tax map 202.007, 203.018, 019, & 026. The Board discussed the letter (on file). Kennedy said when is temporary no longer temporary? Stevens thought that the word temporary was deleted from the zoning by Town vote a few years ago when the ordinance went in that those "temporary hoop houses" on Rte. 125 have to have a site plan for that construction, in the commercial/industrial zone. If you have a site plan on file, temporary or not, the approval is based on the site plan. The most recent site plan shows the trailers but if now they want to replace with larger trailers, they should come in for an amendment to site plan. If they were replacing in kind, it's not an issue. It doesn't have to be a fully engineered plan but an addendum. Greenwood said the affidavit can say there is an exhibit in the Planning Board office that shows the size of the structure. The consensus of the Board was that an amendment to a previously recorded site plan application was necessary along with a scaled drawing.

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**Precision NE BMW Repair:** The Board received a request from NHDMV asking if Precision NE BMW Repair, LLC at 25 Commercial Drive in Unit 1A can hold a dealer repairer plate permit; tax map 208.014.000.001. Not a dealer and not selling cars. BMW repair shop only and repairer plate means to transport cars or to legally drive a car that is in for repairs due to inspection failure or similar. This was previously approved as an inspection station in 2015.

Motion made by Kennedy, 2<sup>nd</sup> by Hamilton, to approve a dealer repairer plate permit at 25 Commercial Drive, Unit 1A for Precision NE BMW Repair. All were in favor. Motion carried. Stevens signed the NH DMV permit application to be emailed back to the DMV.

**The Board signed the Mylar for the Dexter Swasey subdivision** for recording at the Registry of Deeds for an approved subdivision creating one new lot - 42 Ole Gordon Road, tax map 218.048.

**The Planning Board signed West's appointment slip** for another 3-year term as Planning Board alternate. West to be sworn in by the Town Clerk prior to April.

**PB Alternate:** John Recesso is interested in becoming a Planning Board alternate. He came in and spoke with Bickum but she hasn't received anything in writing yet. He couldn't make it tonight but Bickum will keep it on the agenda.

**Rullo:** Letter from NHDES Wetlands Bureau on Carl Rullo - Red dumpster site; tax map 209.010 construction activity in wetland buffer. Greenwood had filled out the NHDES complaint form which was mailed to NHDES Wetlands Bureau by certified mail and emailed in on 1-28-2021. On 2-5-2021 NHDES sent a response letter to Carl Rullo, regarding the complaint and giving him 20 days to respond and to submit any permits or pertinent information (letter on file). Greenwood said NHDES will get back to us if he doesn't respond.

**Old Business: Dave Roberts:** Stevens asked if we had heard anything from SFC regarding 335 Rte. 125. SFC has had 2 months to make contact with the Fire Department. Bickum had sent an email to Murphy 2 weeks ago for an update. Stevens suggested contacting the State Fire Marshall. Greenwood would like to wait. Bickum said Greenwood and BOS sent letters to Dave Roberts; 90 day deadline is around mid-March to respond.

**Sampson:** Greenwood said his letter gave him around a March 1<sup>st</sup> deadline. Stevens wants to review at the next meeting and then engage the Selectmen for legal authority.

**154 Crawley Falls:** Waiting on LOC so the Mylar is not recorded. Stevens said he has 2 years after approval to begin substantial improvements (*such as infrastructure*). If there's a zoning change that would impact it and there's no substantial improvement within 2 years, it comes back to the Board.

**Approval of Minutes:** January 21, 2020 (*no meeting Feb. 4<sup>th</sup>, 2021*). Motion made by Christiansen, 2<sup>nd</sup> by Finan, to approve the minutes from January 21<sup>st</sup>, 2021 as presented. All were in favor with Kennedy, Hamilton and Elliot abstaining. Motion carried.

Motion made by Hamilton, 2<sup>nd</sup> by Christiansen, to adjourn at approximately 8:30 p.m. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum,  
Administrative Assistant,  
Brentwood Planning Board