

**Brentwood Planning Board
Minutes
November 4th, 2021**

Members	Bruce Stevens, Chairman	Mark Kennedy
Present:	Kevin Johnston, Vice Chair	Doug Finan
	Jon Morgan, BOS rep	Paul Kleinman
	Kristin Aldred Cheek	Alternate, Brian West – not voting
		Town Planner, Glenn Greenwood

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

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.*

Present: Applicant Dave Roberts of Brentwood Park, LLC; Jeff Murphy of SFC to review the site inspection report (on file). No abutters were present.

Murphy gave an overview from the site walk on Oct. 21st, 2021. SFC was asked to walk the property under the idea that the current approved uses are lumber storage and did a walk through to understand what the uses are there now. SFC was able to review all but the spray foam insulation and one tenant space. They identified the uses there currently according to the state building and fire codes and prepared a report outlining the general code items needed for a change of use for the uses there today and to understand the scope involved to do that. There is work that needs to be done and multiple pathways to bring it into compliance but that's the owner's decision on how he wants to proceed. Some of the hazardous uses out there should be discussed and mitigated and the electrical report was added as an appendix in SFC's report to have one report on file.

Stevens said this came about due to the changes of use that have taken place there and the Town is concerned about the Town's liability for allowing ventures to go on there that over time could be harmful to the people there; it's quite extensive.

Roberts would like a chance to sit down with the Fire Department to review the suggestions and code requirements. It's been 30 years and it has evolved from lumber storage with many small site plan reviews in that time. The RVs were approved for sales and service, which goes hand in hand with the vehicles there now. Roberts said he's a tradesman and views Atlantic spray foam as part of building a house, same with the landscaping. It's evolved out there, but he takes exception to a blatant disregard to safety. Stevens said you have a copy of the electrical report. Roberts wants to fix everything that's reasonable and required to fix or get some of the uses out of there. The requirement for sprinkling; that's monumental as every building there would need to be sprinklered. Murphy said there are a lot of different pathways; take the uses and bring them all together so that all the vehicle repair is in one building for example. Roberts said this is something he needs to explore and would like a chance to review option. Murphy said the building inspector should also be a part of that discussion for code requirements that could be big ticket items, bathroom facilities, energy code compliance etc.

Roberts said they are open air barns; they come and get their trucks and go. They're back at 5 or 6 pm and unload so it's not like dozens of people are working on the site and they've had port-a-potties and a couple of holding tanks there. Building #1 has a sink. The renters don't demand a permanent toilet facility. They come here because it is relaxed with plenty of room for cars but that seems to be a

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problem too. Stevens said there are so many unregistered, un-roadworthy junk vehicles on the site it appears to be a junkyard. The BOS is the enforcement agent and there is concern from a liability standpoint. There will have to be some hard choices about how these improvements are laid out and are going to take place if you are going to stay in business. Maybe it doesn't, the real estate market is hot, clean it up and sell it...that could be an idea. Septic alone could be quite a cost. The Town can't continue to allow this to go on. Roberts agreed and said fix it up, change it over or a combination of both. Stevens said it's been an ongoing liability. Roberts said the separation of materials and 2nd means of egress, can be done quickly. Stevens said the electrical work could be quite a project.

Morgan asked realistically would the property be able to come into compliance. Roberts said he'd have to find ways around the sprinklers and if there could be a common septic facility or would each unit have to have their own? Murphy said he thought Roberts could do something and meet the intent but that's a building department question; maybe waivers or variances could be required. Roberts said what's required for a permanent sanitary facility, a heated bathroom? Murphy agreed, heated as you would need a sink and can't have pipes freezing. Roberts said there's a lot to look into and find a middle ground.

Stevens suggested giving Roberts another month to meet with the experts and see what the costs are and come up with a plan. The Town can't keep letting things go on and on and suggested a good faith gesture would be to hire a towing company to go in there and pull the vehicles out of there, especially the one by the wood shop where Matt is living in occasionally. Roberts said there's probably 10 and there are project cars. Unregistered and un-roadworthy vehicles and so many per site, not per tenant. Roberts said no more than 2 per property. Stevens reiterated it's gone on long enough and Bickum researched the history there over the last 30 years and the Town's met with Roberts on many occasions but there are a lot of unresolved issues there.

Board discussed giving Roberts another 30-days to update them on the ideas he's come up with to resolve; the electrical issues are pretty concerning. Murphy said there is some language in the electrician's report with some concerns, but he thought that a licensed electrician for a few hours could address a lot. There are some big ones and little ones and risk mitigation. Checking with the Board makes sense, as this progresses, it's a moving target with the codes and the number of uses out there...if we do this, then we don't need to do that and if we go this route, it changes...so it needs a comprehensive plan of action to do it right the first time.

Kleinman and Finan were in agreement the uses have far exceeded the initial lumber storage and has significant violations. Kennedy said the Board has the right to pull the site plan. Stevens added but if he's going to continue in business, then that is in the Board's purview, pull the site plan, the BOS could proceed to superior court if Roberts was inclined to not follow the instructions and then it could be shut down. The Board doesn't want to have that happen but from a financial standpoint, maybe that is the way to go but that is up to Roberts. So, if Roberts can come back in 30-days and tell the Board what the plan is; it can't keep going on. Kleinman said it's significant in what needs to be done to bring this into compliance and isn't sure Roberts would be back and be able to comply with it all and this needs a firm deadline that if there's no compliance, then yes, pull the site plan. Stevens said if a fire started in one of those buildings, and someone was killed or injured, they could sue Roberts and could also come after the Town and the case has been made; for 30-years the Town has allowed these uses to go on and not in a proper way and the jury could find the Town negligent for not making the business compliant within reason. There are major significant, dangerous situations as the electrical inspector noted so come back in 30-days and tell us what you're going to do but the place may need to be closed until such

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improvements can be made to make it safe. A septic system design submitted and built or at least a design application to the state for septic design.

Murphy said it's important to note where that enforcement piece comes in because much in that report is intended to be used at a site plan level to understand the big picture items; for bathrooms, if it's determined that a septic system needs to be installed, that might fall under updating the site plan. But it's the building department that enforces and identifies what those requirements would be, same for the Fire Department and it's important to make sure we keep the right people involved so there's not multiple conversations about who is asking for what.

Stevens said the Planning Board would ask for sanitary approval from NHDES and put on the plan that the uses will conform to NFPA code and then as people build out that plan, then the inspections would take place through the building department and/or the departments electrician, and an occupancy permit wouldn't be granted until those requirements are met. Murphy agreed and added design, permitting, and inspections but SFC's report is not a list of action items. There is another round of evaluation that would need to be done to determine long term uses on the site. This report is not a to do list. There is a change of use process that needs to happen before any work is done in the buildings to make sure the uses are there by right and figure out how that sequence works. It's undoing 30-years of bits and pieces, so everyone pushes in the same direction.

Stevens said that sequence may be an enforcement action by the BOS who could create a timeline and wishes that SFC had been able to get inside the spray foam building as it's a concern and asked why they weren't able to access it. Roberts said the tenant was in Vermont. Finan confirmed that Roberts doesn't have a key or a required lock box (*Knox box*) with keys for the Fire Department to access.

Murphy said SFC is happy to remain involved. Stevens said within 30-days, have SFC go back out and inspect the Spray Foam building; within a week's time, have Robert's contact Andrea to let SFC when there is access to that building. Roberts agreed. Kleinman asked about residential occupancy. Roberts said he considers it his legal residence and he's there once in a while; only for him. Stevens said the commercial district allows once residence as long as it meets sanitary provisions; it has to be compliant. Stevens hopes that Robert's gets a wrecker in there and yank out that vehicle that Matt lives in once in a while, get it out of there and come back with a list. Greenwood said Roberts has a list of the vehicles that remain on the site. Stevens reiterated the unregistered, un-roadworthy vehicles are junk vehicles. In 30-days before the snow flies, all those vehicles, with the exception of two be removed from the property. Roberts said they can be inside. Aldred Cheek said some of the cars were registered but are still un-roadworthy. Roberts said Rock Iron Repair has three cranes, they are trucks, he tows them to job sites. They are vehicles, they don't have plates, but their viable tools. Stevens reiterated the camper trailer and at least a dozen cars need to be removed.

Morgan would like a plan of attack within 30-days to become compliant and associated costs, action plan, no or no-go decision on it. Stevens said as a condition of approval, the Board can bond projects; some of the electrical work, structural work, water/sewer component and have a plan to deal with those. Roberts may come back and say the costs would be too much, it's better to remove the tenants and sell the property but that's his decision. Morgan and Kennedy agreed that the proposed costs would be needed to determine a bond amount. Stevens reiterated that the Town can't let this go on from a liability standpoint, so in 30-days have a plan and see some visual improvement. If not, the Planning Board would hold a hearing to revoke the site plan which would make all the uses there illegal; maybe that would move your tenants toward some clean up and do some electrical work; remove the junk vehicles, the trailer Matt stays in, have Board members take a drive around, that's step one.

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Murphy said the site plan currently is for lumber storage so it's out of compliance anyway. Until the pathway is determined...what if he goes for approval for a junkyard? Stevens said if he came in for an application for a junkyard, ZBA action required, pays the fee and submits the application, that's fine. Murphy said and life safety issues in the short term, there's a lot of planning needed. Roberts said maybe the most viable option is to empty the place. Stevens said SFC can do the inspection of the foam place and provide an update on December 2nd if needed. Roberts said there's no reference to the number of occupants, with life safety code. Murphy said it's occupants and square footage.

Motion made by Kleinman, 2nd by Johnston, to continue the hearing for Brentwood Park, LLC to December 2nd, 2021, at 7:00 pm at the Town Office with the conditions discussed to include the removal of the of the junk vehicles, an action plan, associated costs and a timeline. All were in favor. Motion carried.

Stevens closed the hearing for Brentwood Park, LLC.

7:00 pm: Continued Subdivision Application: Applicant S & H Walker Woods Holdings, LLC; Owner: Debra Sanborn. Intent is to subdivide lot 206.090.002, a 24.48-acre lot, into two buildable lots. Property is located on Deer Hill Road, Brentwood, NH 03833, in the residential/agricultural zone, referenced by tax map 206.090.002. Applicant has requested a continuation to November 18th, 2021 (request on file).

Motion made by Kennedy, 2nd by Aldred Cheek, to continue the hearing for S & H Walker Woods Holdings, LLC to November 18th, 2021, at 7:00 pm at the Town Office. All were in favor. Motion carried.

7:00 pm: NEW Amendment to Site Plan Application: Applicant Carl H Rullo; Owner Brentwood Real Estate Trust, Carl H Rullo Trustee; Intent: Area of vegetation removed to allow grading and leveling for storage containers. Area was not called out in previous site plan D-35181. Property is located at 414 Route 125, Brentwood, NH 03833, referenced by tax map 208.030.000.

Present: Chris Guida of Fieldstone Land Consultants for the applicant; Mr. Carl Rullo; Residents Mark Thompson and Richard Trubiano both of North Road.

Stevens said all paperwork is in order and abutters legally notified from the list provided by the applicant.

Motion made by Kennedy, 2nd by Finan, to invoke jurisdiction to accept the application as complete. All were in favor. Motion carried.

Residents Thompson and Trubiano thought that they were abutters and were not notified. However, the parcel in question is 208.030 in the commercial/industrial zone on Rte. 125 and the two residents are abutters to the rear residential parcel (208.024) that Rullo also owns but is not the lot in question. Greenwood showed them the tax map with the two parcels and the residents understood they were not abutters to the front parcel, 208.030 noticed for tonight's hearing.

Guida gave an overview. Mr. Rullo contacted us as he had received a cease & desist letter for work being done in the pink area (shown on the plan on file) where the vegetation had been cleared but was to remain in place. In the past he had purchased the back parcel and there was to be a 25' vegetated buffer to remain on the front parcel between the two lots and it was cleared. They're trying to address the cease & desist letter and request an amendment to the existing site plan to allow for this area to be cleared, leveled and re-graded for storage. Stevens asked about the commercial zone line.

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Greenwood said the 2nd back parcel is a split zone but is commercial where it abuts this front commercial property. The front parcel where he was clearing is all in the commercial zone. The applicant owns both parcels, but they could request a waiver from the site plan regulations for requiring a 25' buffer between commercial properties, not a zoning requirement and since they own both, they could provide information to the Board stating that they don't need to have a buffer between the two parcels since they own both. It's a waiver request for the Board to consider. The Board has the right to require a rear buffer. Kennedy asked if that 2nd parcel is landlocked. Greenwood agreed and added there was clearing and land alteration in an area on the existing site plan where there wasn't supposed to be any activity. The Town sent a cease and desist to have Mr. Rullo stop doing the activity and he did stop, and to bring in a plan to show the clearing and the intent and that's what this plan is trying to accomplish.

Guida confirmed that it would be storage area for trailers, intermodals and tractor trailers in the center of the lot. Storing one or the other or both perhaps. They aren't going out daily, they are more of a permanent storage. Kennedy asked if they would be parked and rented out for storage? Rullo said he bought the 6.5 acres behind them 15 years ago, so he cut some trees down. His son's dumpsters used to be there up to that tree line and his son bought another parcel and moved those down the street a couple of years ago. The trailers are from 1988, there is storage stuff and personal stuff. They aren't being rented at this time as they are full of stuff. They will empty them a little at a time and rent them out later on. Stevens said if trailer storage is on the plan, he wouldn't have to come back. If it's junk vehicles out there, that's different. Greenwood confirmed this area would be a new location for containers for storage. Rullo took all the other trailers and put them on the parking lot to do some grading and then that stopped. So, they are back, off the parking lot on their property. Rullo will probably call it "Thrifty Storage & Space Rentals". Guida reiterated that this is proposed on this property only (front parcel), additional work on the other parcel would trigger a new site plan.

One of the residents said the back parcel protects about 4 homes from the light and noise from Rte. 125 so when trees come down, it effects their "noise and light buffer" from Rte. 125. Stevens said that 2nd (*back*) parcel is about half commercial and half residential. Kennedy said where commercial abuts residential is a 50' buffer area; you can't cut trees within 50' from the commercial line to residential line on that back lot. Rullo asked about changing that back parcel to all commercial and do away with residential. Kennedy said that's a zoning change requiring Town vote and he would be against it.

Guida said the grading needs a little more work, but horizontal area will remain the same. It may be paved at some point but gravel for now. Rullo confirmed crushed rock and gravel for now. Kleinman asked why the Board was reviewing this after the fact? Guida said there was probably a misunderstanding regarding the site plan and what's required for stormwater management and parking, a misunderstanding of what was allowed there and now Mr. Rullo knows. Greenwood said this site plan came about because the Town issued a cease & desist. D-35181, everything on there was approved except the area where the trees were removed. Kennedy said so Mr. Rullo had this plan. Board agreed. Greenwood said the problem was the activity was supposed to stop here and he went further back and took out the tree line. Kennedy stated it's hard to claim ignorance when you have the plan. Stevens said the soils are good there but there won't be any drainage issues or flow issues South and East. Guida said there's been re-grading and stumping but no heavy topography changes. Not sure if boulders would be split or buried. Aldred Cheek wanted to make sure the ownership was the same. Guida said to the best of his knowledge there are no other owners. Bickum verified that the property card for 208.030 is owned by Brentwood Real Estate Trust, trustee is Carl Rullo, and the 6-acre back lot is also owned by Carl Rullo.

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Guida worked on a waiver request for Carl Rullo to sign (on file): 11/4/21 - RE: Amended Site Plan Map 208, lot 30 - Carl Rullo requests a waiver from section 9.14.3 side & rear yard buffers to allow grading to the property line of tax ma 208, lot 30, the abutting property map 208, lot 24 is also owned by the applicant Carl Rullo. Signed by Carl Rullo and dated 11-4-21.

Guida confirmed that the area was cut beyond the property line (he owns both parcels) but he's not grading over the line and confirmed it's staked. Rullo said he owns both properties but said that Steve Cummings looked at the site and had told him it's his property he could do what he wanted. Stevens warned that this is hearsay.

Finan confirmed so he can go up to the property line but not over. How much over the line was cut? Guida confirmed about 20-30' and 150-200' long. Stevens asked about concrete bounds as he thought the rock wall had probably been disturbed. Guida confirmed that part of the rock wall was disturbed, and part of the wall hasn't been disturbed. Greenwood said if it's a boundary line you shouldn't touch it. Stevens asked for concrete bounds every 50' along the disturbed area to mark the property line for what's being approved. Guida said they know where the line is and can set points on that. Board discussed that a condition of the waiver request could be setting of those bounds at 50' intervals to make sure that line stays where it is and note it on the plan. Kennedy said he's not opposed to putting the stone wall back. Greenwood confirmed that there has been no grading on the other side of the property line, tree removal only. If they were to do anything on that back parcel, the Planning Board could require that they do an entire buffer zone on that property but they're not proposing anything on that back parcel. Timbering on your property is not illegal. Stevens didn't think this was enough timber removal to require an intent to cut. Guida replied every 50' might be difficult due to boulders. Greenwood suggested the placement of 5 granite or concrete 4 x 4 bounds within that 300+/- feet and that would be a condition of approval that those monuments are noted on the plan. Greenwood said the approval would be conditional and then just submit the final plan, 45 days max on setting those bounds.

Motion made by Morgan, 2nd by Johnston, to approve the waiver request with the conditions discussed; to place five (5) granite or concrete 4 x 4 bounds within that 300 +/- feet to mark the property line within 45-days (Dec. 19,2021) and to submit a final plan with the monumentations noted for Greenwood's review. All were in favor. Motion carried. The waiver was granted, and an affidavit of amendment will be recorded at the registry of deeds once all conditions of approval have been met.

Board Business:

- The board signed the manifest.
- *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. Keep on agenda with Brentwood Park, LLC.* Bickum confirmed that she has not had an update from Coral Ridge.
- Board discussed Brentwood Fence again due to excessive storage up to the state ROW. Greenwood to review site plan on Nov. 10th and take another look.
- Bruce Gilday, wetland consultant for the mitigation for 209.010, was planning on coming back on Nov. 18th to update the Board re: the wetlands remediation for 324 Rte. 125.

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- Brentwood Surplus update: A letter was sent with a 30-day deadline for Greg Lambert of Brentwood Surplus to clean up the site or come in to talk to the Board regarding the excess of materials on the site. Board discussed that a cease and desist should happen if they don't hear back within the 30-day time frame.

Motion made by Morgan, 2nd by Aldred Cheek, that if there is no correspondence from Mr. Greg Lambert regarding the excess of materials on the site of Brentwood Surplus Sales after the 30-day deadline, that a cease-and-desist letter from the BOS is issued. All were in favor. Motion carried. *The 30-day deadline is Nov. 17th, 2021, as certified letter was mailed on October 14, 2021.*

- Morgan said Sampson and Smith Road are in progress.
- Finan commented on the Economic Development Committee and encouraged the members to at least attend a meeting, it's a great articulate committee with a lot of talent and they might appreciate any insight. Jon did a good job.

Approval of Minutes: October 21st, 2021, and Nov. 1st work session minutes.

Motion made by Finan, 2nd by Stevens, to approve the minutes from October 21st, 2021, as presented. All were in favor with Morgan abstaining. Motion carried.

Motion made by Morgan, 2nd by Finan, to approve the minutes from November 1st, 2021, as presented. All were in favor with Johnston abstaining. Motion carried.

Motion made by Johnston, 2nd by Finan, to adjourn at approximately 8:40 p.m. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum,
Administrative Assistant,
Brentwood Planning Board