

**Brentwood Board of Adjustment
Minutes December 14, 2020**

Members present: Chairman Ken Christiansen; Bruce Stevens, Alternate Daphne Woss.

Christiansen opened the meeting at 7:00 pm. The Board introduced themselves.

Motion made by Christiansen, 2nd by Stevens, to give Woss voting rights. All were in favor. Motion carried.

7:00 pm: Continued hearing: Applicant/Owner: Michael Kirby & Teresa Forsyth/Kirby, request a variance from Article III, Section 300.002.006.005A-Lot Area Requirements; frontage of 50' on a lot of record where 200' is required, in order to construct a single-family home. Referenced by tax map 210.024.000; Scrabble Road, Brentwood, NH 03833 in the residential/agricultural zone.

Applicant requested a continuation to April 12, 2021 to give them time to present options to the Planning Board.

Motion made by Woss, 2nd by Stevens, to continue the Kirby variance regarding frontage hearing to April 12, 2021 at 7:00 pm. All were in favor. Motion carried.

7:00 pm: Applicant/Owner: Greg Lambert & Sons Realty, LLC requests a variance from the following: Article III, Section 300.002.001.005(C) requiring a landscaped vegetated strip be maintained along the road frontage to a depth of at least 50 feet; Article VII, Section 700.002.006.001(A) requiring a wetlands buffer of 50 feet from any construction or placement of any structure; and Section 700.002.006.005 no removal of vegetation or disturbance of soil within 25 feet of wetlands with poorly drained soils. Property is located on Rte. 125, in the com/ind zone, referenced by tax map 209.068.

Present: Suzanne Brunelle, Attorney with Devine, Millimet & Branch in Manchester representing Greg Lambert & Sons Realty, LLC; Greg Lambert; Christopher Tymula, Project Manager at GPI (Greenman-Pedersen, Inc.). No abutters were present.

Brunelle gave an overview for the property; tax map 209.068 located on Rte. 125 in the commercial/industrial zone. Back in February of 2019, Lambert had received two (2) variances for the propane and oil storage facility, but that project has been scrapped. They are here tonight to request three (3) variances on the new proposed project, which is for two buildings, an 8,000 sq. ft. small office and warehouse spaces and a 12,000 sq. ft. building which will house Brentwood Surplus Sales. Back in June of 2020, they met with Glenn Greenwood with this new plan and he said 3 variances would be required. The first is for 300.002.001.005(C) requiring a landscaped vegetated strip be maintained along the road frontage to a depth of at least 50 feet. That variance had been granted back in February of 2019 (which will expire) and she wasn't sure if it could be extended or whether a new variance would have to be issued. The Board discussed and felt that since this was a new proposal, it would be cleaner to treat it as a new variance request. The second variance request is for 700.002.006.001(A) requiring a wetlands buffer of 50 feet from any construction or placement of any structure. The last is requiring a wetland buffer of 25' from any disturbance of soil (*700.002.006.005 no removal of vegetation or disturbance of soil within 25 feet of wetlands with poorly drained soils*). All of the variances requested are due to this property having a large amount of wetlands and there is no feasible way to build on this property without running afoul with either the wetlands or the buffer area. These plans have been drawn to provide the optimal combination, protecting the wetlands, following the spirit of the ordinance, and making the best possible use of the property.

The first variance is for 300.002.001.005(C) requiring a landscaped vegetated strip be maintained along the road frontage to a depth of at least 50 feet. Wetlands run across the front of this lot, which reduces the ability to install the required landscaping. To attempt to install landscaping could have a negative impact on the wetlands and create problems contrary to the stated purpose of the Brentwood Zoning Ordinances. Further, the current state of the frontage without landscaping provides safe sightlines along the property access to Route 125.

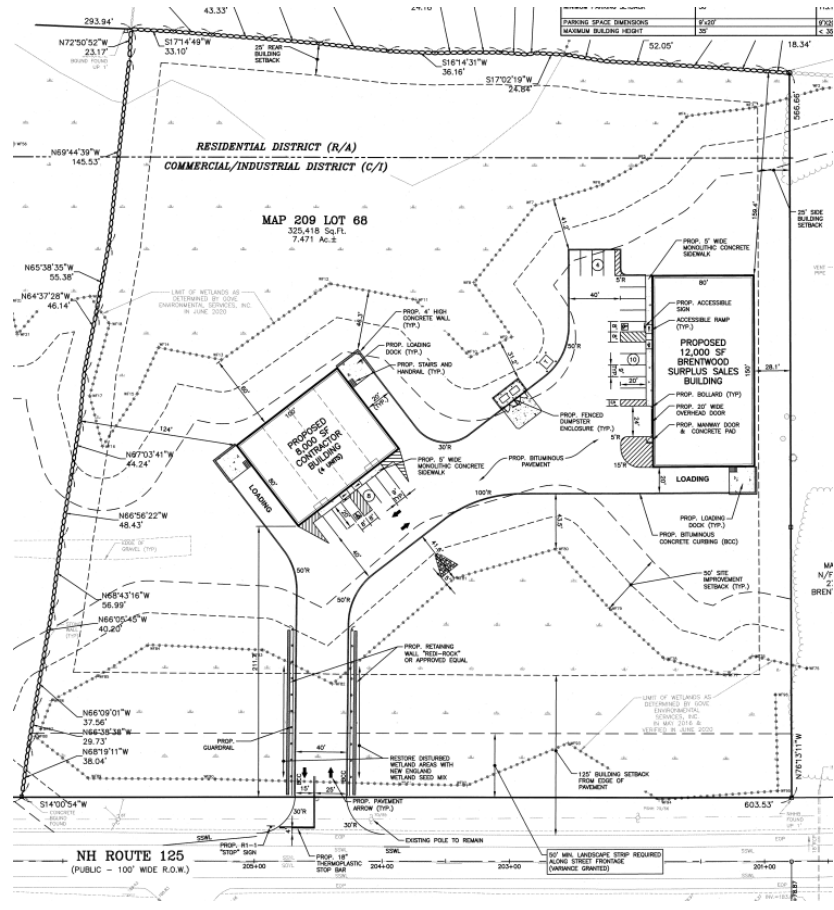
The second variance is for 700.002.006.001 (A) requiring a wetlands buffer of 50 feet from any construction or placement of any structure. The new plan requires that four-foot-high concrete wall be installed around a loading dock on a corner of

Brentwood Board of Adjustment Minutes December 14, 2020

the proposed contractor building and that wall will be located 3.7 feet into the fifty-foot (50') wetland buffer. The proposed concrete wall is a standard aspect of a loading dock and is necessary to allow trucks accessing the loading dock to back up and unload safely. There is no reason to expect that locating the concrete wall within the fifty-foot buffer will negatively impact the public or alter the character of the neighborhood.

The third variance is from 700.002.006.005, requiring a wetlands buffer of twenty-five (25') feet from any disturbance of soil. The current plan for the property requires grading of the lot within said buffer at varying distances, with some grading occurring about five (5) feet from the edges of the wetlands, in order to improve the existing grade difference across the property and along NH Route 125. The proposed grading is essential to account for on-site stormwater, building pads, and general site development due to the varying elevations across the property. The grading will allow construction to be done in a safe manner while substantially maintaining the current appearance of the land. There is no reason to expect that grading the soil within the buffer will negatively impact the wetlands.

The Board asked Tymula to review the new proposal. Tymula explained that these new plans show the wetland crossing required to get into the site from Rte. 125. On the last project, a wetland permit had been applied for and in discussions with Gove Environmental, an extension or a new permit with NHDES will have to be filed. There is no real change to the wetland impact or the driveway location from the last proposed project. There is no way to access the property from Rte. 125 without crossing the wetland. The proposed driveway with the wetlands crossing is at the narrowest point and will have two retaining walls and a guard rail. It will be wide enough for vehicles to travel in and out while maintaining a minimum safe distance with minimal impact to the wetlands. Stevens commented NHDES won't preclude a wetland crossing if there are upland soils in the back that can be utilized especially with minimizing wetland impact, which DES will also review. Tymula agreed. When DES reviewed the original application, there were no comments, and they issued the permit. We foresee the same here. The two buildings are on the plan, parking, and access drive aisles. Its designed to allow any tractor trailers to back into the spaces and get back out, which minimizes the amount of pavement needed. The closest distance to the wetland with grading is five and a half (5-1/2') feet because of the outlet apron for the stone rip rap pad for stormwater improvements. They are proposing an underground stormwater system under the parking lot to drain to the low spot on the site. Everything else is grass grading and the outlet pipe for the stormwater management system. The overall size of this development, from the last proposal, is larger and an AOT permit will be required meeting state standards for stormwater treatment, peak runoff, and the best management practices (BMP) for stormwater management. Septic systems were designed and graded and maintained the proximity to the wetlands with all the grading outside the 50' buffer zone. There is a closed drainage system with curbing throughout the site to minimize grading outside of the curb line, the buildings are placed as far from the wetlands as possible and the wetland crossing is at the narrowest point. Tymula confirmed that the Town has a 75' septic



**Brentwood Board of Adjustment
Minutes December 14, 2020**

requirement and the footprint of the septic is outside of that 75 feet from the wetland's requirement. The septic flow will be small, so the septic sizes are smaller, and they fit without encroaching on the 75 feet.

Brunelle went through the five variance criteria for the each of the (3) three variances (on file-application docs). The plans created have as minimal impact to the wetlands as possible while allowing the applicant to develop the land to its highest and best use; the hardship for all three (3) variances is that this site has a large amount of wetland. There would be no negative impact to surrounding properties.

Christiansen closed public input for board discussion.

The Board went through the five variance criteria.

1. The variance shall not be contrary to the public interest. All agreed.
2. The spirit of the ordinance shall be observed. All agreed.
3. Substantial justice is done. All agreed.
4. The values of the surrounding properties are not diminished. All agreed.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. All agreed.

Voting in favor of granting all three (3) variances were Christiansen, Stevens and Woss.

Motion made by Stevens, 2nd by Woss, to grant a variance from Article III, Section 300.002.001.005(C) requiring a landscaped vegetated strip be maintained along the road frontage to a depth of at least 50 feet. All were in favor. Motion carried.

Motion made by Woss, 2nd by Stevens to grant a variance from Article VII, Section 700.002.006.001(A) requiring a wetlands buffer of 50 feet from any construction or placement of any structure. All were in favor. Motion carried.

Motion made by Stevens, 2nd by Woss, to grant a variance from Article VII, Section 700.002.006.005 no removal of vegetation or disturbance of soil within 25 feet of wetlands with poorly drained soils. All were favor. Motion carried.

Christiansen signed the notice of decision form and copies were handed to Greg Lambert and Suzanne Brunelle.

Board Business:

The Board reviewed the member terms expiring in 2021, Stevens, Cowie, and Christiansen.

Woss was not a voting member at the last meeting so the minutes from November 9th, 2020 were not approved due to the lack of a quorum.

Motion made by Woss, 2nd by Stevens, to adjourn at approximately 7:30 pm. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum
Administrative Assistant,
Brentwood Zoning Board of Adjustment