

## Brentwood Board of Adjustment Minutes April 12, 2021

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Christiansen and Cowie were re-appointed for 3-year terms and resident Steve Hamilton was appointed to a 3-year term as a ZBA member. Stevens' term expired in 2021. Members were sworn in by Woss prior to the start of the meeting.

Members present: Chairman Ken Christiansen, Vice Chair Doug Cowie, Steve Hamilton and Alternate Daphne Woss.

Chairman Christiansen opened the meeting at 7:00 pm. The Board introduced themselves. Motion made by Hamilton, 2<sup>nd</sup> by Cowie, to give Woss voting rights. All were in favor. Motion carried.

Motion made by Christiansen, 2<sup>nd</sup> by Hamilton, to appoint Cowie as Chairman to the ZBA for a one-year term. All were in favor with Cowie abstaining. Motion carried.

Motion made by Christiansen, 2<sup>nd</sup> by Hamilton, to appoint Andrew Artimovich as Vice Chairman to the ZBA for a one-year term. All were in favor. Motion carried.

Newly appointed Chairman Cowie oversaw the remainder of the meeting.

Residents Present: Paul Kirby, Bruce Stevens, Doug Finan, Regan Elliot, Jack Garber, Frank Albert, Jay Wright.

**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.

Present: Applicant Michael Kirby; Bruce Scammon with Emanuel Engineering representing Kirby. No abutters were present.

Kirby said he is seeking relief from insufficient frontage on his lot (12+ acres) and feels they meet the criteria for impact on the community as stated in the earlier ZBA meeting and believes this type of relief has been granted in recent history. The area is on Lausier Lane off of Prescott. Scammon presented a copy of a recorded plan on Prescott Road with a lot with 75' of frontage plan that had been subdivided (Recorded plan #D-28332).

Bickum commented that she had reviewed this Prescott Road plan with Greenwood, and it had been permitted due to an allowance in the zoning for 75' of frontage on a curve. Resident Stevens agreed. Scammon thought the zoning from year 2000 was for a cluster subdivision. Stevens disagreed. Stevens thought that Scammon and his client were working with the Planning Board and was given an alternative to accomplish what Kirby would like to do staying within the allowances of the regulations. Scammon said they went to the Planning Board proposing to do a private ROW for frontage and then after the Planning Board's next meeting, an email was received from Mr. Greenwood saying that it would have to be a public road and our client does not want to build a public road with a hammerhead or circle at the end. He is fine with it being a private road. The Planning Board reversed what they had told us and did not want us to have a private road. Stevens said it was stated on the subdivision (Kirby's lot) that it wasn't a buildable lot without the required frontage. After discussing that, one of the members of the Board pointed out that the regulations say 200' of frontage on a Town road, Class V or better. Stevens asked Greenwood to inform you of that to save on engineering costs and you wouldn't think it would be allowed to be a private road. He wished Scammon had followed up with the Planning Board. Scammon confirmed that it would have to be a public road. Stevens agreed, suggesting they work with the Planning Board further.

Christiansen felt that they hadn't exhausted their options with the Planning Board and suggested that they continue this ZBA hearing again giving them time to go back to the Planning Board. Kirby and Scammon thought that Lausier Lane (Prescott Road plan) appears to be a private road. Christiansen wasn't familiar with it and would need to look into it.

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Motion made by Hamilton, 2<sup>nd</sup> by Christiansen, to continue the Kirby hearing for a variance 300.002.006.005A lot area requirements; frontage of 50' on a lot of record where 200' is required to **May 24<sup>th</sup>, 2021 at 7:00 pm**. All were in favor. Motion carried.

**7:00 pm: Variance Application:** Applicant Joseph Falzone; Owner Gardner & Mildred Ladd Revocable Living Trust. Applicant requests a variance from Article III, Section 300.002.007.005.A.2 to allow interior lot lines to infringe into the perimeter 100' buffer. Property is located on Route 107, Brentwood, NH 03833 in the residential/agricultural zone, referenced by tax map 224.036.000.

Present: Applicant Joseph Falzone; Scott Cole with Beals & Associates, Colton Gove with Gove Environmental.  
Abutters Present: Jay Wright

Cole from Beals & Associates presented. Property is on Route 107, a 6-lot open space subdivision which has been presented to the Planning Board. Access is three (3) common driveways off of Rte. 107 for the 6 lots. After a meeting with Greenwood, he brought to our attention per zoning requirements, "interior lot lines of a cluster subdivision cannot impede on the 100' perimeter buffer." A re-design shows the same 6 lots but with proposed three (3) 50' ROW's (right-of-ways), approximately 150' long. These ROW's would provide access and frontage and need to be built to Town standards, which would become public ROW's. If the ZBA allows the variance, we could use the initial plan with three common driveways, minimizing the amount of disturbance. There would be no detriment to the Town, as they would be privately owned and no 50' ROW's would be necessary. It meets the spirit of the ordinance with the roads but seems unnecessary for the Town to have to have those ROW's to maintain when the variance will provide private driveways.

Abutter Wright had no objections to the project. Stevens commented that the Planning Board was in support of Falzone coming to the ZBA for a variance. A 100' buffer around the property but in this case, it's the only cluster that has expansive road frontage on a State road. The proposal for the 3 ROW's is to gain frontage on a Town road and the Town would then have to own 3 little 150' "driveways" to plow and maintain. There is no future expansion possible here. The cluster development preserves a large expanse of land. The Planning Board still requires a buffer along Route 107, but it will be broken by the 3 driveways, saving the Town the expense and liability of little roads to maintain. The Planning Board will work this year to make a change to the cluster subdivision regulations where when there is excess road frontage to be able to allow access through that buffer space.

Cole added benefit is that green space won't be impeded upon or disrupted so there is actually more green space provided by allowing the variance vs. the larger ROW's. Stevens agreed that the driveways would be more appealing visually than wider ROW's.

Cowie read the variance criteria and the Board agreed that the variance request met all five criteria.

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

Motion made by Christiansen, 2<sup>nd</sup> by Woss, to grant a variance from Article III, Section 300.002.007.005(A)(2) p. 23 to permit the interior lot lines to infringe into the perimeter 100' buffer in the cluster zoning ordinance. All were in favor. Motion carried. Cowie signed the notice of decision granting the variance and copies were handed to Falzone and Cole.

**Board Business:**

Motion made by Christiansen, 2<sup>nd</sup> by Hamilton, to move the ZBA meeting night from the 2<sup>nd</sup> Monday of the month to the 4<sup>th</sup> Monday of the month. All were in favor. Motion carried.

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The Board reviewed the draft Rules of Procedure crafted by Town Planner, Greenwood, using recommendations from OSI (*Office of Strategic Initiatives*), as a guide for ZBA procedures. Stevens added Greenwood's doing the same for the Planning Board as the last Rules of Procedure document is from 1994.

Motion made by Hamilton, 2<sup>nd</sup> by Woss, to adopt the ZBA Rules of Procedure as presented. All were in favor. Motion carried.

Two residents, Frank Albert and Regan Elliot (in attendance) have submitted letters of interest (on file) to become ZBA alternates. Elliot would step down from being a Planning Board alternate to become a ZBA alternate. Cowie would like them to attend one more ZBA meeting first. Albert and Elliot will plan on attending the May 24<sup>th</sup>, 2021 ZBA hearing.

**Approval of minutes** – November 9, 2020 and December 14, 2020

Motion made by Christiansen, 2<sup>nd</sup> by Woss, to approve the minutes from November 9, 2020 as presented. All were in favor with Hamilton abstaining. Motion carried.

Motion made by Christiansen, 2<sup>nd</sup> by Woss, to approve the minutes from December 14, 2020 as presented. All were in favor with Hamilton abstaining. Motion carried.

Motion made by Hamilton, 2<sup>nd</sup> by Woss, to adjourn at approximately 7:40 pm. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum  
Administrative Assistant,  
Brentwood Zoning Board of Adjustment