

Brentwood Planning Board
Minutes – August 20, 2009

Members Present: Bruce Stevens, Chairman John Kennedy, Vice- Chair
 Doug Brenner, Secretary Bob Magnusson
 Charlie Pratt Mike Amthor
 Glenn Greenwood, Circuit Rider Planner

Also present: CC chairman Rob Wofchuck
Chairman Stevens opened the meeting at 7:00.

Minutes – Mail – Board Business

The manifest was signed.

Revised drafts of the Build-Out Analysis were distributed, to be discussed with Rob Pruyne from the RPC on Sept 3.

Motion made by Stevens, 2nd by Kennedy to give St. Hilaire voting rights, for the purpose of approving the August 6 minutes: all were in favor.

Motion made by Kennedy, 2nd by Stevens to approve the August 6 minutes: the motion carried with Brenner, Magnusson, Pratt and Amthor abstaining as they were not present: the motion carried.

The Board is in receipt of a letter from Andrea Tierney of 140 rte 125, asking if she can operate a weekend flea market at her site from now through October 12th. She listed her hours, number of staff and types of merchandise to be sold. The Board also has a letter from the BPD that states that there are no safety concerns with the egress. Tierney also has a Hawker's and Peddler's permit that was previously issued by the BOS. Greenwood said he met with Tierney and recommended she contact the PB with this request, so that there would be some record of intent on file. Based on tonight's discussion the PB determined that they have no jurisdiction over this use, and that no site plan review is required.

Motion made by Kennedy, 2nd by Magnusson that the PB has no jurisdiction and a site plan review is not required: all were in favor.

St. Hilaire and Stevens will attend the Local Government Center Lecture Series on October 21st. Wofchuck said he is also going to this meeting. The session will discuss the legal status of incomplete projects that have been approved through subdivision, site plan review, building permits, etc.

7:15: New Hearing – Site Plan Review – Dwyer 374 Rte 125, tax map 208.006

Paperwork is in order and abutters legally notified from the list provided by the applicant.

Motion made by Kennedy, 2nd by Pratt to accept jurisdiction: all were in favor.

Wayne Morrill of Jones & Beach Engineers spoke on behalf the applicant this evening. Also present was applicant Ted Dwyer, his attorney Craig Solomon and fire engineer Lee DeVito. The intent is to retain the structures on site for the existing use of Goody Cole's Restaurant and a proposed fireworks retail store. Morrill explained that a small section at the back of the large wooden building will be removed, to allow room for four 8 x 20 storage trailers. They show two

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additional trailers in the front, for a total of 6 storage trailers. Morrill said there is a water easement from the two wells that go to the adjacent lot to the south. He said the easement allows for structures be built on it, as long as the water source is maintained. They have submitted a waiver request to allow the parking spaces to be 9 x 18 and not the required 9 x 20. If granted, this will allow them to add a 24 foot center aisle in the lot. They would like to leave the pavement as is, and re-stripe the parking lines. The only site improvements will be the striping, and upgrading the building in front. Morrill said the existing septic is sufficient, based upon the restaurant and the number of employees at the fireworks store.

Greenwood's comments were reviewed at this time. Morrill withdrew his request for zoning waivers for both parking and a landscape buffer. Greenwood states that this is a legally non-conforming lot with no construction proposed and he feels that the waivers are not necessary. The Board agreed. Morrill said they will maintain the existing tree line. The proposed striped, 20 parking spaces will comply with an 18 seat restaurant, and six employees at the fireworks store. Greenwood said he calculated the parking and the space exceeds the number the applicant needs. Morrill provided a photo of the existing building.

DeVito spoke at this time and explained that they have done the fire protection design in accordance with the requirements of the State of New Hampshire, and submitted them to the state fire marshall, and said he received verbal approval, except for a few minor corrections. He said NH requires that a fireworks store be sprinklered, but DeVito said there is insufficient water to sprinkler, so they will provide a gaseous system that is considered a life safety system that provides a voice evacuation that tells people to leave the building. The building plans show the placement of the fire protection package that include smoke detectors and the extinguishing system. The building plan shows three doors for egress. The separation between the two buildings is 16 feet, which is in violation of regulations, so the building will be remodeled to meet the fire rating, to have proper separation. Dwyer said the oil tank currently next to the proposed store will be removed, and the heating system will be replaced with electric heat. Dwyer asked if the tank could be buried and Stevens recommended they contact the town's fire consultant, Nick Cricenti of SFC Engineering. DeVito said the storage trailers will not have fire protection. Kennedy wants the plan to show how a fire truck can get to the trailers that are proposed to be in the rear of the site. He said there appears to be no access to even put the trailers in the proposed location, and Dwyer stated he will ask the abutter if he can drive through their property, and if not, he would have them dropped in with a crane. Dwyer said he would remove the trees along the boundary and Kennedy said there would be no buffer to the boundary if that is done. Morrill said their intent is to keep as much buffer as possible between properties, and try to find a way to get the trailer at that location without disturbing the tree line. Greenwood said regulations state that there shall be a 25 foot buffer along property lines. Stevens said that Cricenti will be asked about fire apparatus access to the trailers. Dwyer said they will be selling class C fireworks that, he stated, are rapid burning and not explosive, and when stored in a self contained, closed storage unit, it should contain itself.

Motion made by Kennedy, 2nd by Stevens to approve the waiver request for the size of the parking spaces to be 9 x 18, with wheel stops to be put alongside if the restaurant wall: all were in favor.

DeVito will provide the PB with a PDF of the approved building plan. Morrill said they will address both Greenwood's and town engineer Steve Cummings comments. He said revised plans will show access to the trailers. Morrill will contact a wetland consultant to show the wetlands on the revised plans.

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Morrill said the artesian well is the only well being used, that the dug well has been abandoned prior to August 1989. Morrill will revise the plans to show that the well was abandoned and capped, and draw the tree line along the north side of the site. Abutter James Giarrusso said he was not happy about having a fireworks store next door to his property. Abutter Tom Tarantin was also not in favor of this project. He said there is a lot of truck and residential traffic that comes off Commercial Drive (where he is located) and the site view to the south is not always good. He has safety concerns also, stating that he was required to install a 30,000 gallon water storage cistern for his building, that is just a warehouse, and said if there is a fire at the fireworks facility, he is concerned about it being controlled. Stevens recommended Tarantin come to the next hearing after the two fire consultants have spoken with each other.

Solomon told the Board that additional security lighting will be added to the site, and the roof to the building will be raised to accommodate the gaseous system and an awning sign over the entrance. Hours of operation will mostly be 9 am to 8 pm, but from June 15 to July 5 they would like to stay open until the last customer leaves. With the exception of the busy period in June, they will have one or two employees, but up to 5 between June 15 and July 5th.

Motion made by Brenner 2nd by Magnusson to continue this hearing to September 17 at 7:15: all were in favor.

Continued Board Business

Discussion with Bill Arcieri of VHB and CC Chair Rob Wofchuck on the storm water and erosion control draft ordinance.

The second draft, that was prepared based on the last work session, was reviewed along with a summary of suggestions from PREP (Piscataqua Region Estuaries Partnership) for the Board to consider. In X.3 APPLICABILITY, PREP would like to put back in “other land disturbing activities”. At the PB’s previous work session, the PB asked that that be eliminated. PREP also suggested language to close a potential loop hole for phased projects. They also asked the Board to consider lowering the applicability threshold back to 20,000 sf, but reduce the SMP submittal requirements for projects that fall within 20,000 sf and 40,000 sf. Kennedy said road construction is the concern in the development, not the house lots, and that is where the focus of this should be, and Arcieri said that a good road engineer would try to account for future lot development that might drain into the road. Kennedy and Magnusson stated they would rather add to the regulations that the road design should take into consideration a certain amount of flow off each lot.

Kennedy said he is trying to avoid imposing too much on the individual lots; this is something the PB does not want to do. Stevens said they do not want this to go onto the individual home owner, he does not want to cut the amount from 40,000 sf to 20,000 sf. Kennedy agreed. Wofchuck said there is evidence that other towns are going in both directions, and Arcieri said some towns use the 20,000 and others are lower, while some still use 40,000, but many are using the 20,000. Stevens said some towns have much smaller building lots, so that doesn’t correlate to the size of Brentwood. Wofchuck said PREP suggests different thresholds for storm water management plans; a 3 tiered approach, noted in their summary under x.7 STORMWATER MANAGEMENT PLAN. (on file in the PB office). Wofchuck said the intent behind the whole ordinance is to try and leave as much of the natural vegetation undisturbed. Kennedy said they are not taking into account the large amount of land that would need to be disturbed to build on, such as septic, driveway, foundation, etc. He

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said even though much of it will be put back, the equipment needs to move around the site just to build. Stevens said the commercial aspect of development needs to be tightened up, but doesn't want to get into the harassment of individual property owners. Arcieri suggested that a single family home be exempt if not part of a subdivision. Wofchuck said this is getting away from the intent, which is to encourage people to think innovatively, not restrict them, but getting people to think about if there is a different way to do work, without cutting down all the trees, etc.

Arcieri said they are trying to come up with some interim tier for minor projects that would require something, but not the full requirements. Stevens asked what would be the home owner's cost, if they triggered a permitting process and Arcieri said they would need to come to the PB with a plan with calculations that show that their impervious coverage will be less than 10 percent of the lot, and the disturbance be no greater than 65% of the lot. Stevens asked if this would require professional engineers and soil or wetland scientists and Arcieri said not necessarily. The wording of the ordinance could allow a sketch drawn by the homeowner that showed the areas of disturbance, how they plan to stay under 10% and stay within the 65%. Wofchuck said there would be a permitting process for this. Pratt suggested the definition of land disturbance be changed.

Kennedy is more concerned with commercial lots, road construction and site reviews than residential. Stevens expressed concern as to how this regulation would be administered, the process, etc, and by which board. Wofchuck said they will work on that.

While the proposed ordinance addresses water quality and run off from impervious surfaces, Wofchuck said it is also for alterations in the terrain, slopes, etc and Arcieri said reducing the amount of lawn is a benefit, the amount of run-off from a lawn is different than from a porous area. He said if there is incentive or restrictions on the amount of lawn area, that will help to reduce the amount of runoff. Kennedy said the town would then have to hire a professional to oversee this, and the average homeowner will have to pay an extra \$3,000 to \$5,000 to put a garage on their house to include hiring a surveyor.

Wofchuck said they will work on revisions for the next meeting and Kennedy said their concentration of effort would be better spent on the commercial side than on the residential side. Wofchuck said the commercial side does not have many issues, that they are mostly concerned about the overall lot development, saying that commercial development is a small percentage of the town.

On page 14, the word *outside* will be deleted from the second to last paragraph. Kennedy feels that any ordinance adopted should be put into subdivision and site plan review regulations.

All agreed to continue this discussion on September 3, right after the work session on the Build-Out Analysis.

Motion made by Pratt, 2nd by Magnusson, to adjourn at 9:40: all were in favor.
Respectfully Submitted,

Kathy St. Hilaire,
Administrative Assistant,
Brentwood Planning Board