

**Brentwood Planning Board
Minutes – July 19, 2012**

Members Present:	Bruce Stevens, Chairman	Kevin Johnston
	Mike Hubbard, BOS rep	Rob Wofchuck
	Kathy St. Hilaire, Alternate	Glenn Greenwood, Circuit Rider Planner

Minutes – Mail – Board Business

Chairman Stevens called the meeting to order at 7:00.

Motion made by Stevens, 2nd by Johnston to give St. Hilaire voting rights: all were in favor.

The manifest was signed.

Stevens said the Board had received a request from the Champigny subdivision applicant to postpone tonight's hearing, and to reschedule to September 6th.

Motion made by Stevens, 2nd by Johnston to continue this hearing to September 6th at 7:00 pm: all were in favor.

He also said that the Board received a request from the Trendezza applicant to postpone tonight's hearing until August 16th.

Motion made by Stevens, 2nd by Johnston to continue this hearing to August 16th at 7:00 pm: all were in favor.

Motion made by Wofchuck, 2nd by Johnston to approve the June 21st minutes: the motion carried with Hubbard abstaining as he was not present.

Reginald Moreau and Joseph Falzone were present to speak to the Board regarding their workforce housing development known as the Fire Fly development that is currently under construction. There were many neighbors present for this discussion.

Greenwood told the Board that Moreau requested that they be released (as allowed in the Affordable Housing Restrictive Covenant and Agreement) from having to find eligible buyers because they have been marketing them for about a year. (Moreau's letter was a notice of intent to sell to non eligible buyers) Greenwood said the agreement recorded says that if they are marketed for 90 days and they can't find an eligible buyer (as defined in the agreement), they can be released of having to find an eligible buyer that meets the requirements. Greenwood said the issue is how the Planning Board interprets the time it needs to be marketed. The agreement states that once a building permit is pulled for a WF home, they will actively market that unit for 90 days. Stevens said that 10 of the 24 approved lots have to be designated as workforce housing, and that if they cannot find an eligible buyer that meets the income threshold, the home can then be sold to anyone, but the workforce deed restriction stays with the house for 30 years. Falzone said all the units there now are affordable except three. Neighbors present expressed concern that there were changes being made from the original approval, and after much discussion it was explained that all Moreau and Falzone were before the Board tonight was to determine when the 90 day begins. Stevens said there are no changes being made. Moreau agreed to pay to have town counsel review the Affordable Housing Restrictive Covenant and Agreement, to provide a legal opinion as to when the 90 day begins.

**Brentwood Planning Board
Minutes – July 19, 2012**

Motion made by Johnston, 2nd by Hubbard to contact town counsel for their legal opinion: all were in favor. Falzone and Moreau thanked the Board for their time this evening.

New Hearing: Amendment to a previously approved site plan: 180 Rte 125, LLC tax maps 216.027 & 216.028

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

Motion made by Johnston, 2nd by Wofchuck to accept the application: all were in favor.

Charlie Zilch of SES Associates spoke on behalf of the applicant this evening. There were no abutters present for this hearing.

Zilch said they are proposing to establish a driveway access for tax map 216.027. This lot has frontage but no rights to access off Rte 125 as it is in the limited access portion of the highway. They are proposing access through the abutting parcel, map 216.028. He said the wetland impact will be approximately 725 sf, and Zilch provided the PB with a copy of the NHDES wetland permit. Greenwood's and town engineer Steve Cummings comments were reviewed at this time. The applicant has requested a Conditional Use Permit for the wetland crossing.

Motion made by Stevens, 2nd by Johnston to grant a Conditional Use Permit in accordance with RSA 674:21.II and Brentwood's Land Use Document, Article 700.002.009.001 based on the following:

That this meets criteria number 1: all in favor.
That this meets criteria number 2: all in favor.
That this meets criteria number 3: all in favor.
That this meets criteria number 4: all in favor.
That this meets criteria number 5: all in favor.
The motion carried.

Motion made by Stevens, 2nd by Johnston to grant a 120 day conditional approval, contingent upon the following:

1. Satisfy both Greenwood's and Cummings comments
2. Approval from the NHDOT

All were in favor. Zilch thanked the Board for their time this evening.

New Hearing: 4 Lot Subdivision – Sharp tax map 212.016

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

Motion made by Hubbard, 2nd by Wofchuck to accept jurisdiction: all were in favor.

Henry Boyd of Millennium Engineering spoke on behalf of the applicant this evening. Also present were applicants John Henning and Jocelyn Sharp-Henning and several abutters. Boyd said this is a 16.87 acre parcel that has frontage on both Middle Road and Pine Road. They are

**Brentwood Planning Board
Minutes – July 19, 2012**

proposing to divide this into three 2 acre lots and one 10.87 acre lot. The existing home does not have the required frontage on Middle Road, and does not meet the setbacks. They were granted ZBA approval for a variance for both on February 13, 2012. Greenwood's comments were reviewed. Greenwood stated that Boyd's note regarding the plan conforming to the NH urban survey is appropriate. Boyd will add the required 40 x 80 box indicating the possible house location, and they have received state subdivision approval (on file). He will add a note to the plans that the new individual homes will have sprinkler systems installed.

Cummings comments were reviewed at this time. Boyd submitted a waiver request for the Stormwater Management, stating that this is a simple subdivision with no proposed roadway, and will result in very little runoff. In addition, the soils are of great quality and infiltrate stormwater very well:

Motion made by Wofchuck, 2nd by Stevens to grant the waiver request, based on the above: all were in favor.

Motion made by Wofchuck, 2nd by Hubbard to grant a 120 day conditional approval, contingent upon the following:

1. Add boundary pins where the property line exceeds 400 feet
2. Plans stamped by soil and wetland scientists
3. Add 40 x 80 box for house
4. Add note regarding sprinklers
5. Add note that property is within the aquifer protection
6. Receipt of the plan on a CD

All were in favor. Boyd thanked the Board for their time this evening.

Board Business Continued

Greenwood and Wofchuck did a site walk of the Hayward Realty Trust property, tax map 217.026, and Greenwood provided a comment letter (on file). Some of the non compliant issues include parking on both sides of the building with pavement going completely around the building, the placement of a storage trailer behind the building, display of items for sale in the front yard of the facility, along the driveway, and multiple signs. Stevens said owner Dennis Hayward should be asked to meet with Greenwood on August 1st, when he is in Brentwood. Members agreed.

The Board is in receipt of a request from NEI asking if they can install 3 small concrete pads: a 3' x 60' as a ramp for an existing pad, one 20 x 26 ' outside the overhead door, and one 12 x 50 trailer landing gear pad, for a total of 1300 sf. This is in conformance with site plan regulation 4.1.3/4.1.3.1 which states that no formal site plan review is required. Members noted that this is the second, and last allowed request for minor expansion without going through the site plan review process.

Motion made by Johnston, 2nd by Hubbard to grant the request, based on the above: all were in favor.

Brentwood Planning Board
Minutes – July 19, 2012

The PB is in receipt of a letter from Brian Greeke, asking if he can have an inspection at his location on 25 Commercial Drive, unit 6A. The Board also received a letter from the NHDMV, asking if this is an allowed use. Hubbard said the Selectmen received a complaint regarding Commercial Drive, and Greenwood said that was for unit 1, and that place is all taken care of. He said there are two flatbed trailers there, but he does not think they are a problem. Regarding unit 6, the Board would like Greeke to come to the Board to discuss this further. If he has a copy of the condo association agreement, the Board would like to see that.

The PB is in receipt of a letter from Steve Cummings, recommending that the Letter of Credit being held for Alton Bailey, tax map 223.070, be reduced to \$5,000.00. There is currently \$15,000.00 being held, so his recommendation is to reduce the LOC by \$10,000.00.

Motion made by Hubbard, 2nd by Johnston to approve the release the \$10,000: all were in favor.

Harriet Cady was in to speak to the Board regarding the Conditional Approval granted to the Musso property on May 17th. Also present were Dan Musso and Jim Johnson. Cady said the CA was based on a driveway permit for the pre-existing road the Board said was not there. Wofchuck said that the Board did not say it wasn't there, but that it was not on the prior plan. Cady said maybe it was not on the prior site plan. They have talked to the surveyor and showed him two highway plans. She showed one done 1941 and she said it shows the driveway to the saw mill. Hubbard asked if this was a recorded plan and Cady replied that it was a state highway plan the bridge built on Crawley Falls Road and Stevens said it is not a recorded registry plan. She then showed the plan for the bridge done by Hoyle & Tanner done in 2009 that was done for the town for the new bridge proposal. This plan also shows the gravel driveway.

Stevens said, to explain where the PB is at this point in the process: the PB received an application for an amended site plan and went through the hearing process, notified abutters as required by law and at the conclusion of the public hearings they came to an agreement as to what was required for a conditional approval. He said Cady and her agents and the PB all agreed to and at that time the PB noted all that and the plan was conditionally approved, and the public hearing process was closed at that point. He said both parties (the PB and the applicant) came to an agreement on what needed to be completed. He said the Board has no recourse as a board; they cannot re-open that closed public portion of the process. Cady said that the Board had also said they would accept whatever the surveyor put on the plan, and he is willing to put what he now knows he missed. Stevens said that happens, but what she is not hearing is the fact the public hearing portion of this process is over and the PB can't legally reopen the process. Cady answered that the PB would be legally in court because Stevens said they would accept whatever the surveyor would put on the plan. Cady said there was not one abutter who spoke about the driveway or was in objection to any of this. Stevens said there is an avenue for this, a process that they simply go to the town engineer and get an approval for a driveway permit, and asked why would she want to litigate this, or draw the process out longer? She said because the Board's process has been unreasonable. She said the fact that Stevens knew the driveway was there and has driven by it for years-the abutters knew it was there. Again she said that Stevens said that the PB said they would approve what the surveyor put on the plans. Cady said she is simply coming here tonight to show the PB that the surveyor made a mistake and is now willing to put on the plans what he knows to be an existing road. She said the PB can make minor changes, and this is a minor change. She said there is no reason for Musso to have to spend money (\$100) and have an inspection by an engineer to get a permit for a driveway that existed since 1941. Stevens said they are not opening the hearing, so they are not taking new testimony on it. He said state law does not allow the PB to open this up to have

**Brentwood Planning Board
Minutes – July 19, 2012**

further discussion on something that is a closed matter at this point. He said he would love to see them come through and just get the permit and conclude the whole process. Cady said Musso's attorney, BJ Branch called her and asked if the PB had approved the plan, and she told him she was meeting with the Board tonight. Stevens said Branch would be aware that the process, as defined by the RSA's, that once a hearing is closed to the public, unless it is re-noticed. He said the Board will work with them if they want to file a new application and they can start over again. Cady said forget it. Cady, Musso and Johnson left at this point.

The mylars were signed for the Wilson/Hussey lot line adjustment, and the Rte 125, LLC.

Motion to adjourn at 9:15 pm made by Wofchuck, 2nd by Hubbard: all were in favor.

Respectfully Submitted,

Kathy St. Hilaire,
Administrative Assistant,
Brentwood Planning Board