

**Brentwood Planning Board  
Minutes – September 6, 2012**

Members Present:	Bruce Stevens, Chairman	John Kennedy, Vice-chair
	Mike Hubbard, BOS rep	Bob Magnusson
	Rob Wofchuck	Steve Hamilton, Alternate
	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 Kennedy, 2<sup>nd</sup> by Magnusson to approve the August 16 minutes.

Motion made by Wofchuck, 2<sup>nd</sup> by Kennedy to give Hamilton and St. Hilaire voting rights: all were in favor.

The motion to approve the August 16 minutes carried with Wofchuck abstaining as he was not present.

Motion made by Kennedy, 2<sup>nd</sup> by Wofchuck to grant an extension to October 18<sup>th</sup> to the Musso conditional approval, to allow the surveyor time to complete the Mylar. Greenwood reviewed the Mylar Wednesday, and there were a couple items that needed to be done to meet the CA. The motion carried by unanimous vote.

The Board is in receipt of a letter from the DMV, asking if Rizzo Wholesale can hold a retail dealer license at St. Armand's property, referenced by tax map 224,101. This use has been previously approved by the PB.

Motion made by Kennedy, 2<sup>nd</sup> by Hubbard to approve this use, and to authorize Stevens to sign the letter: all were in favor.

Greenwood explained that the old fire station property has been sold, and the new owner will need to come before the PB. He met with him a month ago, and owner John Strymish wants to warehouse books, but this parcel is located within the Town Center district, and warehousing is prohibited. Strymish was asked to come speak with the Board this evening, but since he is not here, he will be contacted, and asked to attend the meeting when the PB talks about amending the Town Center ordinance on September 20<sup>th</sup>.

**Continued Hearing: Champigny: 2 lot subdivision tax map 217. 097**

Nancy and Paul Champigny were present. They said that the Town of Fremont has approved the plan, but that her surveyor needs to make a couple corrections to the plan, and he will be back later in the evening with the plans. Stevens asked that the hearing be suspended until later this evening, to allow the surveyor time to return. The applicant and PB agreed.

**Continued Hearing: Site Plan Review – Trendezza, LLC work force housing development tax map 224.084**

Christian Smith of Beal's Associates spoke on behalf of the applicant this evening. Also present were property owner John Lariviere and many abutters.

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Smith provided a letter (on file) supporting their request for the CUP, which he explained to the PB. The soils would support 62 bedrooms, and this proposal is for 28. With regards to maintaining the character of adjoining uses, the homes will be smaller than some, but the architecture will not be significantly different. Smith said this will be a vast improvement to the abandoned residential structure that currently exists on the parcel, and adequate vegetative screen will be designed to ensure the character of adjoining uses will not be adversely affected. He said they will work with the Board and abutters to provide adequate screening. Smith said there will be no negative impact on abutting property values. He said the purchase maximum of a workforce house is \$277,000 and the average assessed value of homes on South Road west is \$242,000. The existing stock of homes consist of old farm houses, some built in the 1700's and 1800's, trailer and a mix of colonials built in the past 100 years of varying character. He said the likelihood of Firefly sales, which are selling for an average of \$274,000, or this proposed development being used in an appraisal for the sale of one of these existing homes is highly unlikely, as they are very different. He said the average selling price at abutting Mill Pond Crossing is \$236,000.

Smith said the proposed development complies with all other applicable sections of Article 300.002.009 and is demonstrated in the review memos from the town engineer and circuit rider planner.

Stevens said there are fewer proposed homes than the 17 shown during the Design Review Hearing, and this proposal is for 10. Smith said they have also submitted a waiver to reduce the pavement width from 24 feet, down to 22 feet, to reduce the impervious area. Stevens said the town has pushed for this recently. Kennedy said he prefers that the road be approved as a town road, and not a private road. Lariviere said he is open to having the road become public, but said the setbacks would be different from a private road.

Lariviere would submit building plans as part of the approval process if the Board wishes. He said that, regarding the value question, all the research shows that the Fire Fly subdivision is selling for higher than the average prices in the neighborhood, and not dragging them down. He went on to say that the value argument shouldn't even be an argument because that's the entire intent of the Workforce Housing Ordinance. And the town has the ordinance to create housing that is affordable. He said and then to use that fact that it is affordable as an argument against approving something that is work force seems circular. Hubbard said he thinks the argument is the saturation of affordable housing, and 53% of the homes in Brentwood meet the workforce criteria. Lariviere said the ordinance exists, he bought the property based on the ordinances that were in place at the time. He said they have spent two months debating the ordinance that is not debatable, and Stevens said that they stipulate to that, that is the rule.

Lariviere is willing to put a restriction that he will not sell more than three non-workforce housing homes ahead of a workforce home.

Stevens read the criteria for the CUP, in accordance with section 300.002.009.003, Section 5. He said that each of the three conditions will be voted on separately.

*5. The minimum lot area shall be ten (10) acres or, subject to a conditional use permit granted by the Planning Board, may be less than ten (10) acres, but under no circumstances shall be less than five (5) acres. A conditional use permit may be granted only after written findings of fact are made that all the following conditions are met:*

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- A. *The specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.*

Stevens said that the applicant provided testimony for this. Wofchuck asked if any increase in traffic had been considered and Smith said that a 10 unit development is minimal, and Hubbard said a study should be done. Stevens said there have been many studies done in town, the one for the Ritter property of more than 70 homes, and he said the PB has learned from three or four studies conducted by professionals, and he said the essential thing they look at is the “cueing up” at intersections, traffic back up, and it has never been close to being a problem. There was a study done when Mill Pond Crossing came before the board, and another seems redundant. Hubbard said he wants a significant traffic study done. Stevens recommended he should read the data in the PB files on traffic studies done; it wouldn’t support the need for a traffic study. Greenwood said a single family home averages 10 trips a day. Stevens asked Greenwood if the RPC Transportation Planner could provide a letter, based on the ITE traffic generation manual on the impact of the addition of these 10 homes. Hubbard said, what he is hearing from Greenwood that based on 10 houses, there is one guy leaving, that’s 10 cars. That logic doesn’t necessarily apply when we have a room full of people that live in this town; Bruce interrupted and said they are trying to separate the emotion from the fact. He said if the Transportation Planner comes back and says there is a rational reason why we should have a full-blown study, we will.

Kennedy said he does not think the information to be provided by the RPC will be substantive.

Motion made by Kennedy and 2<sup>nd</sup> by Hubbard to require a traffic study. Voting yes were Hubbard, Kennedy and Magnusson. Voting no were Wofchuck, Hamilton, Stevens and St. Hilaire. The motion failed.

Abutter Rich Murphy addressed condition A. He said there needs to be a written finding of facts that demonstrates that the character (of adjoining uses) will not be adversely affected. He said the only ones that should be talked about are 10 abutters, and not the length of South Road. He said the average size of the lots and square footage of the homes of these abutters is larger than what we are seeing here. He said the character will be affected because there is a lot more traffic on the road than there was 6 years ago, including the Mill Pond development and traffic coming through from Fremont. Abutter Beverly Manning said during the construction the noise and traffic generated will affect the character. Lariviere said that Mill Pond is an abutter and needs to be included in any averages, and that the construction is temporary impact and not a considered item. He is willing to limit hours to not impede on family time. Wofchuck asked for an explanation of what the “condo” is, asking how that will differ from a residential house. Lariviere said the condominium gives him more flexibility as to where to put the buildings. He said there will be no way to look at them and say whether it is a condo or a single family home. These will be built as single family homes. Wofchuck said with a condo association there is more control with making sure it doesn’t look out of character with the rest of the houses.

Motion made by Stevens, 2<sup>nd</sup> by St. Hilaire to vote in the affirmative on item A of the Conditional Use Permit. Voting yes were Stevens, Hamilton, St. Hilaire, Wofchuck and Magnusson. Voting no were Kennedy and Hubbard. Hubbard said he thinks they are changing the character of the area, that we have workforce housing that is saturating that part of town. He said they are changing single family homes to workforce housing homes. Stevens said that they are working within the framework of the law that is on the books now. The motion carried.

- B. *The proposed development will have no detrimental impact upon abutting property values.*

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Stevens said that, considering his number of years on the Board, they have looked at CUP's before, and in most of the subdivisions the Board has looked at the character of the neighborhood and not just direct abutters. St. Hilaire said that this proposal does not have a detrimental effect. She said that on North Road, along about a quarter mile section of that road, on one side of the road there are 61 condo units on one side that are sold somewhere in the 219,000 to 240,000 range, and directly across the street, abutting, there are 34 single family homes that are selling anywhere from \$350,000 to \$500,000, and also next to the condos is an older smaller subdivision of small ranches and capes. She said there is nothing to support diminishing property values. The trailer currently on this piece has not affected values, and this will be an improvement on this lot. Wofchuck said while the numbers seem to support that, he is not so sure because if there were a choice between having two affordable housing units, which he said, for better or worse, have a negative connotation, and the Mill Pond retirement community, and he said if a person had a choice to live next to that or somewhere else where there wasn't, they would live where there wasn't. He said he prefers to see what the traffic looks like.

Motion made by Stevens to approve item B, 2<sup>nd</sup> by Wofchuck, conditioned upon a traffic evaluation, that whatever level of analysis needs to be done will be done. Lariviere said that this part of town does not have higher density than a lot of other parts of town. He said even without that density now, it does not carry higher than the rest of town. He said he would argue that this part of town carries lower values than the vast majority of town, and there are other high density projects, much larger than these 10 units spread throughout town. Hamilton said if he thought there was a legal way around this, he would vote against it, but they are legally entitled to do this, and don't see any way around it. He said Lariviere has the legal right to do this, and he hopes he does it in a fashion that appeases the people in the room. Lariviere said he will do this development in a responsible way. He said people need to live somewhere and what nobody in this room considers is that there was a point and time when their house was the "new house" on the street and the other people that were already in the neighborhood didn't want "that neighborhood".

Murphy said, regarding item B, the ten abutting properties that he said are the only abutters, the values come to about 3 ½ million dollars and divided by 10 comes to an average of \$347,000. He said property values are impacted by perception. He said if these 10 homes are put onto this small lot that values would go down. He said because of this, the CUP should not be granted. Hamilton said that he thinks the homes on Diane McCain where there before the other developments, and they have held their value.

Greenwood said the issue is one of abutting property values, and he said for example, when comparables are done on his house, to establish the value they are not anywhere near his house to establish the value. He said there have been changes close to his house that he doesn't like at all, but have been good for his real estate value. He said it is all subjective. Smith said these homes are not going to be "comps" that are used when values are assessed on Diane McCain Drive. He said Mill Pond Crossing has had no negative impact on surrounding property values.

Magnusson said that while he does not like this ordinance, there are a number of "tools" to work with the aesthetics and a lot of these issues that could be perceived as reasons why that maybe a lesser value or detrimental to other homes on the street, and the fact if this lot was one acre longer we wouldn't be talking about the 10 acres. He said that it does not change any of the issues the PB has to work with, as far as the layout, location, landscape, etc. He said the 10 acre or 9 acre is not

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that big of a deal. Magnusson said he is going on the record that the PB has a willing participant to work through our program, we do have a lot of things we can do as far as layout.

Voting in support of item B were Kennedy, Hamilton, Stevens, St. Hilaire, Wofchuck and Magnusson. Voting no was Hubbard. The motion carried.

*C. The proposed use complies with all other applicable sections of this article*

Stevens said that there is good evidence submitted here that the applicant is cognizant and aware of the feelings and people involved and will work with them. There will be discussion on the design, the roadway, drainage, septic landscaping, etc. Smith said they have comments from both Greenwood and Cummings, and none of them were non-compliance issues. Greenwood agreed.

Hubbard said the Board should see these things before voting on it. Stevens said the only way they can get approval is if they comply to all the applicable sections. Greenwood said the CUP is usually one of the first things the PB acts on. Greenwood said that there are review letters from himself and Cummings that say additional work needs to be done. Lariviere said his biggest concerns were items A and B because he did not want to spend a lot of money on engineering and then have it all turned down. Greenwood said the PB could postpone voting on C until the plan was submitted that complies with the WF ordinance. Lariviere agreed to do this. Stevens said they have come to an agreement on the first two, and the hearing could be continued to come up with the data for item C. Hubbard said it sounds like the PB is bending over backwards because they worked hard on A and B and C clearly does not meet the requirement and said the PB should be voting on this. He said the data was not there when it was supposed to be and Stevens said the PB told the applicant that we would work on the CUP before they did the engineering. Wofchuck said he thought the PB was being reasonable.

Motion made by Stevens, 2<sup>nd</sup> by Wofchuck to continue this hearing to November 15th at 7:00: the motion carried with Hubbard voting no. Stevens declared this hearing closed for the evening.

The Workforce Housing ordinance will be discussed at the September 20 meeting, along with the Town Center District.

**Continued Hearing: Champigny: 2 lot subdivision tax map 217. 097**

Motion made by Kennedy, 2<sup>nd</sup> by Wofchuck to grant a conditional approval for 120 days, contingent upon adding the impact fee block to the plan and receipt of a CD copy of the plan: all were in favor.

Motion to adjourn at 9:55 pm: all were in favor.

Respectfully Submitted,

Kathy St. Hilaire,  
Administrative Assistant,  
Brentwood Planning Board