

**Brentwood Board of Adjustment
1 Dalton Road
Brentwood, NH 03833**

Minutes

February 11, 2013

Members present: Michael Hureau, Chairman Bob Gilbert
 Andrew Artimovich Ken Christiansen
 Doug Cowie Bruce Stevens, alternate

7:00 Open

Chairman Hureau opened the meeting and introduced members of the Board.

Motion made by Cowie, 2nd by Christiansen to do any board business after the public hearing: all were in favor.

Public Hearing:

Request for Special Exception and Variance: Property Owner Brentwood Rte 125, LLC tax map 201.016

Hureau read the legal notice and the list of abutters notified. He then read the state definition of a Special Exception and Variance.

Request:

1. Special Exception under Article 700.002.010.002 (page 66) under the criteria of Article 800.013.002.003 (D) (page 84) of the Brentwood Zoning Ordinance, to allow the erection of a structure within the Wetlands Conservation District
2. Variance from Article 300.002.001.005 (c) (page 11) of the Brentwood Zoning Ordinance, as to the requirement for at least a 50-foot deep landscaped, vegetated strip along Rte 125.

Attorney Peter Saari and Joe Coronati of Jones and Beach Engineers spoke on behalf of the applicant this evening. There were no abutters present. The Board has a letter from the Conservation Commission (on file) stating, in part, that they are not opposed to this proposal. Saari said this is a long, narrow piece of land with 5+ acres, and the problem with the land is that the upland is in the back, and to get to it one needs to cross wetland or wetland buffers all the way down to the back, so they want to move the building as far as they can to the front, which means building in the wetlands.

Coronati said the site has a lot of wetlands that are poorly drained, not very poorly drained. He referred to them as wooded wetlands. He said there is an abutting house off the rear of the site, built on Shannon Way. One of the goals is to keep the commercial use to the front of the parcel along Route 125. He said the wetlands are lower value because of the proximity to the highway. He said wildlife habitat is more likely to be to the rear of the property, and putting this in the front of the lot is consistent with other commercial sites in Brentwood. He said if this

**Brentwood Board of Adjustment
1 Dalton Road
Brentwood, NH 03833**

development was situated out back, you wouldn't see it from the highway and it would really impact the residence on Shannon Way. They are looking of a wetland impact of about 15,000 sf and there will be a deed restriction for the rear 3.75 acres so there would be no further development, ever, on the back of the site, and would remain a wooded portion of the property. Coronati said that the way the state looks at these projects is that when they fill wetlands, in exchange for that they put land in conservation. This proposal is to have a 2,220 sf donut shop, and the goal is to be on the east side of 125, right now to get coffee one has to go through 3 or 4 traffic lights, and this will provide easy access and exit on the north side. He said their biggest concern with building out back, is that the driveway would be entirely within the wetland buffer, and if it were a 22 or 24 foot drive, it will impact the wetlands and buffer.

Coronati said when there is more than 10,000 sf of wetland impact the state requires mitigation of some sort. This can be done by putting uplands in conservation. The CC would like the applicant to search for property in Brentwood. He said the other way the state allows is to calculate how much would be spent for the mitigation, and that would be put in a fund, to be put in the watershed. This would not necessarily be all done within Brentwood, so their first goal would be to find land in Brentwood.

Saari went over the criteria for the both the Special Exception and the Variance (on file). He said the purpose of the wetlands ordinance is to control and guide (rather than prohibit) wetlands use that does not have a huge impact on their functions, and this proposed use is a fair compromise of making that happen. There would be no contribution to pollution because the proposed use is benign as far as being a polluter. There would be no destruction of significant changes to the wetland because of the proposed deed restrictions. There are no unique and natural areas within the property and the flow of the small stream will be restored. Putting the development to the front of the lot is more protective of the habitat in the upland at the back of the lot, and will not interfere with any aquifer recharge area. The developed part would be separated from the wetlands portion. The proposed use is small and has low impact on wetlands. The deed restriction would enhance the wetlands aesthetic value. The proposal would not cause any damage to structure or property but would improve drainage. This is consistent with the wetlands ordinance standards.

Supporting the variance request, Saari stated that it is more beneficial to have a narrower landscape strip to allow the project to be closer to the road rather than intrude farther into the wetland. The consequences of having a 50-foot landscape strip would be more than offset by the added wetlands infringement. The tradeoff in having a narrower landscape strip is to provide better wetlands protection and denial of the variance would prevent any development, result in no protection. Any landscape strip, such as the narrower one proposed would be of greater benefit to surrounding properties. The importance of the landscape strip to the public health and safety would be more than offset by the cost of losing more wetlands to accommodate it, and is more reasonable to have a narrower landscape strip than a wide one that would result in more wetlands intrusion.

Cowie said the CC is not opposed to this, that it is the best and highest use of the land, benefits the town, and there is no harm done. There was some discussion regarding fire protection and the driveway, and Coronati said that is something they will be working on as they go forward.

**Brentwood Board of Adjustment
1 Dalton Road
Brentwood, NH 03833**

Stevens said that the setbacks were established to allow expansion of the roadway, without impacting the businesses, and there is plenty of room for a traffic lane.

Having no further discussion, the Special Exception worksheets were given to all but Stevens, as there is a full board present. Members voted unanimously in favor of granting the SE.

Worksheets were then given for the Variance, and members unanimously voted to grant the variance request.

Hureau signed the Notice of Decision, granting both the Special Exception and the Variance and copies were given to both Saari and Coronati, who thanked the Board for their time this evening.

Board Business

Motion made by Cowie, 2nd by Christiansen to approve the October 15, 2012 minutes: the motion carried with Artimovich abstaining as he was not present.

Motion made by Cowie, 2nd by Artimovich to appoint Bob Gilbert for a three year term, as his term is up this coming March. All were in favor.

Motion made by Cowie, 2nd by Gilbert to adjourn at 7:55 pm: all were in favor.

Respectfully Submitted,

Kathy St. Hilaire