

Brentwood Planning Board Meeting Minutes 12/15/22

Present: Kristin Aldred- Chairperson

Bruce Stevens- Vice Chair

Jon Morgan-SB rep

Brian West

Doug Finan

Stefanie Kizza

Mark Kennedy

Ned Matson

Paul Kleinman

Kate Locke-Parks

Town Planner: Glenn Greenwood

Meeting held at Brentwood Town Hall

Open Public Hearing

Aldred opened the meeting.

7:00 pm: Public Hearing for Proposed Zoning Amendment: The Planning Board will consider a zoning amendment proposal to extend the commercial/industrial district on Route 125 to the rear boundaries on all properties that are presently split zoned, a number of parcels will revert to full residential.

Robert Lavalley and Jeanne MacDonald, Crawley Falls Rd, residents received a notice in the mail regarding proposed zoning changes by the Brentwood Planning Board, they are here this evening to find out more about what the Planning Board is recommending, and how it will affect their property. It was explained that their parcel is presently split zoned, this change would make their property, 223.007, fully commercial/industrial. Mr. Lavalley would like to know when this change would take effect. Greenwood explained that this zoning change needs to be voted on in March, if it passes it will take effect that day. Greenwood clarified that in Brentwood you can have a residence on commercial property, so this will not negatively impact these residents. Lavalley and MacDonald were agreeable to this recommendation. Jeanne and Norman Garside, North Rd, also received a notice in the mail and are present. Greenwood explained that their property, 208.017, is predominantly commercial, and this change would make it all commercial with no other major changes. Jeanne Garside stated they have a small farm with cows and wants to make sure this will not have to change with the zoning changes. Greenwood assured her that this change will not affect her ability to own cows.

Carl Rullo Sr. sent an email via Chris Guida, his representative, in support of the recommended changes, Aldred read the email into record.

The Board will give other property owners time to join the meeting and moved on to discussing other recommended changes, will vote on recommending changes later this evening.

The Board discussed recommended changes to the Conditional Use Permit section of the aquifer protection ordinance, article VII section 700, to refine the criteria associated with the conditional use permit. The public hearing for this change is January 5, 2023, the Board will only be discussing the recommended change this evening.

Current CUP Language:

- a. The proposed use will not detrimentally affect the quality of the groundwater contained in the aquifer by directly contributing to pollutions or by increasing the long-term susceptibility of the aquifer to potential pollutants.
- b. The proposed use will not cause a significant reduction in either the short or long-term volume of water contained in the aquifer or in the storage capacity of the aquifer; **(3/1998)**

Proposed Change:

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The proposed use will not, **as supported by the preponderance of evidence developed during planning board project review**, cause detriment to the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants in **ways different than would be expected of development undertaken in accordance with existing regulatory requirements**.

- a. **The proposed use will not cause an unacceptable ~~a significant~~ reduction in either the short or long-term volume of water contained in the aquifer or in the storage capacity of the aquifer. Evidence provided within the planning board project review will inform the decision to find project impacts to be unacceptable.**

Kleinman states that from a legal standpoint “preponderance” is “tipping of the scales ever so slightly in favor”. Kennedy and Matson suggest not using the word preponderance and not replacing it with another word or phrase. The Board considered several other words/phrases, beyond a reasonable doubt, overwhelming, majority, substantial basis, etc. The Board also considered the type of evidence, scientific evidence, expert evidence, scientific expert evidence. Morgan does not like the statement “ways different than would be expected of development undertaken in accordance with existing regulatory requirements”. Morgan states that he likes and is proud of the fact that Brentwood is stricter in their protection of the aquifer and wetlands than the state is, he does not like qualifying “increasing the long-term susceptibility of the aquifer to potential pollutants...”

Stevens motions to recommend the wording change “as supported by the evidence developed during Planning Board project review,” Matson seconds, Kleinman is opposed, all others in favor, motion carries.

The Board considered the second half of CUP criteria A. Morgan states he understands the objective with this statement, but feels it is not as absolute as “will not cause detriment.” Aldred asks why we have this CUP criteria if we already have ordinances that protect the groundwater/aquifer. Greenwood explains that the purpose of the Conditional Use Permit is to allow the Board to look at some uses closer because of the intrinsic ability for pollution. We have established in our ordinances certain kinds of land use that we think create greater risk, because of those risks we have Conditional Use Permits and then we have these standards that we are applying in these heightened areas of concern. Aldred clarifies that this is a second layer of protection, Greenwood agrees. Kizza adds that there is something about these projects that has caused them to go over the threshold, this is not an automatic denial but requires more discussion and allows experts to perform further studies and/or make suggestions on how to minimize any groundwater/aquifer impacts. Kizza suggests “the proposed use will not, as supported by the evidence developed during Planning Board project review, cause detriment to the quality of the groundwater contained in the aquifer.” Morgan states he is more comfortable with that language, his concern is when experts are not able to clearly answer yes or no.

Greenwood states that if the wording of the CUP is so inflexible as to say, “will not cause detriment to the quality of the groundwater”, an expert cannot answer no, because even a standard septic system causes detriment to the groundwater. Kizza explains that the language of our CUP reads as “are you adding any pollution or impact”, experts cannot say no because there will be an impact, but the amount of impact is acceptable for people to continue using the groundwater.

Kizza motions to recommend the wording, “cause detriment to the quality of the groundwater contained in the aquifer by directly contributing to unacceptable levels of pollution,” Stevens seconds, Kleinman abstains, all others in favor.

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Proposed Change after work session:

- a. The proposed use will not, as supported by the evidence developed during Planning Board project review, cause detriment to the quality of the groundwater contained in the aquifer by directly contributing to unacceptable levels of pollution.

Aldred recommends that B read exactly the same as A but refer to the “short or long-term volume of water contained in the aquifer or in the storage capacity of the aquifer”. Greenwood agrees.

The proposed use will not, as supported by the evidence developed during Planning Board project review, cause unacceptable reduction in either the short or long-term volume of water contained in the aquifer or in the storage capacity of the aquifer.

Morgan motions to suggest these changes, Stevens seconded, Kleinman abstains, all others in favor.

The Board went back to vote on the recommended changes to the commercial zone, no other property owners had questions or comments. Greenwood will work on a short explanation of the changes. These changes will appear on a warrant article for Town Meeting in March.

Finan motions to recommend these changes to the commercial zone, Morgan seconds, all in favor, motion carries.

Aldred updated the Board on the Energy Committee. The committee met last week to discuss signing a non-binding agreement to set up the Town to aggregate electric utilities in the Town of Brentwood. The general idea is to join other towns and gain more buying power, approximately 25 towns presently. All residents would revert to Brentwood as their electric supplier, at any time anyone can opt out, the idea is to ultimately save residents money. Brentwood only participates if residents benefit. Morgan explains that the Select Board passed, 4-1 to sign a Joint Powers Agreement which allows Brentwood, without signing the aggregation agreement, to participate officially in the discussions of the cooperative.

The manifest was signed.

The minutes of December 1, 2022 were reviewed.

Stevens motions to accept the minutes as presented, Finan seconds, all in favor.

Aldred signed the Notice of Decision regarding FZMH. LLC, 178 Rt 125, that was conditionally approved on December 1, 2022.

Matson motions to adjourn, Finan seconds, all in favor.

Respectfully Submitted,
Jillian Benedix
Administrative Assistant
Brentwood Planning Board