

**Brentwood Planning Board  
Minutes  
December 17, 2020**

<b>Members</b>	Bruce Stevens, Chairman	Alternate, Brian West
<b>Present:</b>	Ken Christiansen, BOS rep	
	Kevin Johnston, Vice Chair	
	Doug Finan	Town Planner, Glenn Greenwood

**Open:**

Chairman Stevens opened the public hearing at 7:00 pm. The meeting was also available via Zoom.

Motion made by Stevens, 2<sup>nd</sup> by Christiansen, to give alternate West voting rights. All were in favor. Motion carried.

**7:00 pm: Continued Site Plan Review Application:** Applicant & Owner: 3 Ponds, LLC. Property is located at 146 North Road, Brentwood, NH 03833 in the multi-family/professional/office zone, referenced by tax map: 207.022. Intent: Phase II, final phase of the “The Villages at Three Ponds,” age restricted condo development adding approximately 51 detached single-family dwelling units.

Present: Christian Smith, Engineer from Beals & Associates representing the applicant; Jon Lariviere. Attended via Zoom: Joe Falzone; Jeffrey Dirk, Traffic Engineer; and Drake Richard with Johnson Law Group. Abutters Present: Linda & George Sutton; Wayne Killum. Via Zoom: Claire Hibbard and Cheryl Bundzinski.

Smith gave an overview of the revisions. In response to Cummings comment that the wet pond was too high. AOT regulations require the bottom of those ponds to be 5 feet below the seasonal high-water table. He was correct, they were high by a foot so that has been lowered. The biggest change was relocating some of the units and creating a few additional pods, to try and eliminate what Greenwood doesn't like, the double-sided stacking row of units. Greenwood was happy about the changes considering they are working with environmental constraints on the site. Smith continued that they held a pre-application scoping session with the state wetlands bureau, and they have a 100' wetlands buffer vs. the 50' buffer to the prime wetland area so there is no disturbance within that 100' zone except where the wetlands crossing for the road is located. Falzone and Gove Environmental have initiated correspondence with the Brentwood Conservation Commission on this as well. Smith said they have also received the amended driveway permit from NHDOT.

Sutton asked about the front entrance and if lighting could be added there as it's a very dark and narrow entrance and it's hard to see the entrance on North Road. She felt it was a safety issue and also asked for as much lighting as possible. Lariviere doesn't disagree and has had conversations with the newly established Board of Directors on the condo association. He doesn't want to speak for them but he's happy to provide lighting at that intersection, but the question is where this will be a Town Road, how would that work logistically, is it a streetlight and who maintains it? Stevens said there is no requirement for lighting however, Mr. Falzone did the Robinson Street development and added some streetlights there, which were paid for and maintained by the association. Lariviere is happy to provide the light and the Board of Directors has expressed an interest and if they can possibly work it out as part of the approvals on this new phase, they won't have to come back to the Planning Board. Greenwood confirmed it would be a site plan review amendment unless it's worked out at this point. Smith said any light would have to be placed outside of the state's right of way (ROW) and in the municipal ROW. Lariviere asked if it could be a condition of approval as he didn't want to just add it without a discussion and the Board of Director's approval. Stevens said you can show it on the plan. Greenwood asked for a detail of it. Smith confirmed similar to the Robinson Street development. Lariviere said in the same vein as the street signage. Stevens confirmed with a note on the plan about not being the Town's

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responsibility. Smith said they will do a detail of it showing the location and do a cut sheet of the lights on 8.5 x 11 or 11 x 17 submitted with the final plan set.

Steven's reviewed Greenwood's 2<sup>nd</sup> review comments with Smith (on file). 1) RCCD looked at the density and approved it; 6) Not exempt from non-school impact fees, only school impact fees. Smith confirmed that they will add the impact fees on one of the recordable sheets and can get those numbers from Glenn and Andrea and make sure that is on the plan. 7) Condo docs need to be submitted and reviewed by Town Counsel. Lariviere said the documents aren't changing from what was already approved. Stevens said just the inclusion on this next phase. Lariviere said there was one recorded amendment.

Killum commented on the apron as you have to almost stop and take a 90 degree turn in. Stevens said that plans were submitted to NHDOT and approved, including the future development. Smith and Greenwood confirmed that NHDOT granted an additional approval based upon this plan. Smith added they didn't require any amendments to the deceleration lane (on file). George Sutton said the apron is tight and if it could be flared out, it would be safer. It's a tight and challenging entrance and exit. Smith responded that they can't do a thing within the state's ROW without their approval to do so. Stevens said the state, Division 6, does review it for safety issues regarding the road, speed, number of units and approves a plan. North Road is a state road. Smith confirmed that Vanasse and Associates had submitted the plans, drainage, and traffic analysis for the additional units to NHDOT. Greenwood said the state is notorious for overdeveloping entryway and this is the first time he's heard someone say that a state approved driveway is inadequate because NHDOT, especially Jim Hewitt, is known for designing very conservatively. Stevens suggested Sutton take a copy of the NHDOT letter and call Hewitt; they are approachable. Greenwood asked about Cummings letter and Smith said all Cummings comments had been met.

Via Zoom, abutter Bundzinski commented that she and Claire were the first ones to move into the development and everyone they've spoken too is thrilled to be there. It's warm, welcoming and tastefully done and they've had a positive experience and the larger it is, the more people they get to socialize with.

The Board reviewed the conditions of approval.

1. Satisfy any outstanding comments from Greenwood and Town Engineer.
2. Satisfy Epping Planning Board SPR is needed for the septic system in Epping. Smith explained the septic system is in Epping, sized for this last phase. A minor site review is needed in Epping and they will be in there in February.
3. Re-number units to match physical street address—to be coordinated with the fire department.
4. Receipt of state permits.
5. Receipt of legal documents.
6. Setting of the construction bond, approved by the Town Engineer.
7. Receipt of landscape bond, to be separate from construction bond, and approved by Town Engineer.
8. Receipt of \$2,000 to be put into escrow for inspections, recording fees, etc.
9. Add a note to the plan for the impact fees for the 51 units (\$3,618 per unit). Note to be put on a recordable sheet. *Impact fee amount on plans is \$3,618.00.*
10. Prepare a separate plan for the lighting, with a plan view of the entrance where a light will be located and a detail of the pole/luminaire with a note about it not being the Town's responsibility.

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Motion made by Christiansen, 2<sup>nd</sup> by West, to grant a 120-day conditional approval for the 3 Ponds Phase II of 51 units in the 55+ community, with the conditions noted above, to **April 16, 2021**.

Board member Johnston recused himself.

**7:00 pm: Affidavit of Amendment to a Previously Recorded Site Plan Application:** Applicant/Owner: Kevin Johnston/25 Pine Road LLC. Property is located at 195 Route 125, Brentwood, NH in the commercial/industrial zone, referenced by tax map 216.042.000. Intent is to attach a 30' x 89' outdoor walk-in refrigerator to the existing building.

Present: Applicant Kevin Johnston of 25 Pine Road, LLC. No abutters were present.

Motion made by Christiansen, 2<sup>nd</sup> by Finan, to invoke jurisdiction to accept the application. All were in favor. Motion carried.

Greenwood said it's a simple proposal, but it was too large to do as an expedited site review. They are adding a 30 x 89' walk-in refrigerator to an existing building with an existing paved surface.

Motion made by Finan, 2<sup>nd</sup> by Christiansen, to approve the application for an affidavit of amendment to a previously recorded site plan for a 30' x 89' outdoor walk-in refrigerator to be attached to the existing building. All were in favor. Motion carried. Greenwood will prepare an addendum for recording at the Registry to be attached to the recorded plan.

Johnston re-joined the Board for the remainder of the meeting. This is the first public hearing on the proposed zoning amendments.

**7:00 pm:** Consideration of amending the Brentwood Zoning Ordinance and Land Use Document. See legal notice: 1) Amend the Use Table for the Town Center Zone District 1, 300.002.004.003 by changing **D. Agricultural /Forestry Uses, 1**, Commercial Farming, to become a use permitted by special exception. 2) Amend section **900.004.004.002, Accessory Housing** to ensure compliance with State of NH Requirements for unit size. 3) Amend the **Wetlands Protection Ordinance 700.002**, to require that buffer area standards be based up the functional value of each wetland as determined by a certified wetlands scientist. Also amend Subdivision Regulations Sections 7.2.1, 7.4.7, 7.4.8, 8.3, Addendum B, Add section 8.27, Addendum A-section E, Add section 9.4 that relate to 1) number of copies of plats 2) per RSA 676:3 written response of disapproval within 5 business days 3) conditional approval good for two calendar years 4) number of copies of plats and pdf version 5) Addendum B lot line application 6) 8.27 location of proposed driveways detailed on plan 7) Road acceptance - add asphalt binder course and road signage 8) 9.4 post office requirements for mail boxes. Amend Site Plan Regulations Sections 8.4.7, 8.4.8, 9.2 that relate to 1) per RSA 676:3 written response of disapproval within 5 business days 2) conditional approval good for two calendar years 3) number of copies of plats. Full copies of the proposed text are available for review at the Planning Office.

Present: Lise McNaughton

1) Town Center Zone Table: Commercial Farming Section D. Agricultural/Forestry uses – changed X (not permitted) to S (allowed by Special Exception):

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Motion made by Finan, 2<sup>nd</sup> by Johnston, to carry the proposed Agricultural Uses in the Town Center Zone Table to be allowed by special exception forward to the ballot for Town vote. All were in favor. Motion carried.

2) Greenwood reviewed the proposed change to the Accessory Dwelling Unit (ADU) ordinance. The purpose is to make sure the ordinance doesn't conflict with the state. *The section in BOLD is proposed and the crossed-out language will be removed.*

*900.004.004.002 The maximum living area of the accessory (or secondary) dwelling unit shall not exceed 1/3 of the assessed square foot area of the living area of the primary dwelling to a maximum living area of 1500 square feet and shall be limited to a maximum of 2 bedrooms. **If 1/3 of the size of the primary dwelling unit is less than 750 square feet, the ADU for that dwelling unit may be 750 square feet in size.** ~~No accessory dwelling unit shall have less than 500 square feet of living space. This allowance is less than the Town's standard dwelling unit size of 720 square feet because the accessory unit is not a stand-alone dwelling unit but instead a secondary unit to the primary residence.~~ Any structural addition to the primary residence constructed for the purpose of adding an accessory dwelling unit must be enclosed finished space. (3/2009, 3/2020).*

Motion made by Christiansen, 2<sup>nd</sup> by Finan, to carry the proposed ADU amendment forward to the ballot for Town vote. All were in favor. Motion carried.

3) Greenwood discussed the amendment to the wetlands. The goal is to install a process where the buffer for wetlands is predicated upon the functional valuation of the wetland. If the wetland performs a number of functions, the buffer will get larger. If the function of the wetland is not high, some only provide flood retention, then the buffer could be less than our standard ones are now. The thought is most wetlands provide more than one function, our present 50' would probably be larger, like 80', in a number of instances, dependent upon the wetland's performance. The goal is having more science associated with this type of buffer than the standard 50' or 100' and it still would never exceed 100'. The State of NH requires no buffer to any wetland. For the record, this does increase the cost of preparing the wetlands functional valuation information on an application.

Motion made by Finan, 2<sup>nd</sup> by West, to carry the proposed amendment on wetlands forward to the ballot for Town vote. All were in favor. Motion carried.

Bickum said the ZBA wanted to change their meeting night from the 2<sup>nd</sup> Monday of the month to the 4<sup>th</sup> Monday of the month, but it requires a zoning amendment to remove the second Monday language and would require another public hearing for this amendment. 800.005 Meetings: Meetings of the Board of Adjustment shall be held upon ~~the second Monday of each month or upon~~ the call of the Chairman. All meetings shall be open to the public.

Motion made by Finan, 2<sup>nd</sup> by West, to notice and hold a public hearing on January 21<sup>st</sup>, 2021 to propose the amendment to the zoning ordinance for 800.005 Meetings of the Board of Adjustment. All were in favor. Motion carried.

Bickum reviewed the final versions of the proposed subdivision and site plan regulation changes, including any associated changes to applications that would need to be updated (on file). For the Lot Line application (Addendum B); remove fees and add note "see current application for fee structure" and change 20 days to 21 days; change 5 to 7 copies and 2-11 x 17 (on file).

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Motion made by Johnston, 2<sup>nd</sup> by Finan, to adopt the revised subdivision and site plan regulations and update any applications affected. All were in favor. Motion carried.

**Board Business**

The Board signed the manifest.

**CA Extension:** The Board voted on a conditional approval extension request for D&H, Kenerson–388 Rte. 125 tax map; 208.016, which expires 12/18/2020. A 2-month extension was requested by the applicant’s engineer to February 18, 2021.

Motion made by West, 2<sup>nd</sup> by Finan, to extend the conditional approval for 388 Rte. 125, D&H Realty for 2 months to **February 18, 2021**. All were in favor. Motion carried.

**Affidavit:** The Board reviewed and signed the affidavit of amendment for Mark Carpenter of GenTent, owner is NKG Realty Trust, LLC for the 1,050 addition for a fulfillment facility at 99 Pine Road; tax map 205.018 to be recorded and affixed to site plan D-30919, granted at the December 3<sup>rd</sup>, 2020 Planning Board meeting.

**Wilson Way:** The Board recommended the road acceptance & bond release for Wilson Way, Rivers Edge-Tax Map 212.034. All the punch list items were addressed, the deeds were approved by Mitchell, culverts were cleaned out and a 25-mph sign was installed per road agent 10/21/2021.

Motion made by Christiansen, 2<sup>nd</sup> by West, that the BOS accept the road, Wilson Way, as a Town Road. All were in favor. Motion carried.

Motion made Johnston, 2<sup>nd</sup> by Finan, to authorize the release of the bond for Rivers Edge/Wilson way, currently a letter of credit in the amount of \$35,471.37, upon the BOS accepting the road. All were in favor. Motion carried.

The Chairman signed the prepared letters to the BOS for the road acceptance and the bond (letter of credit) release letter for the bank.

**The Board discussed updates on 335 Rte. 125.** The BOS have sent a letter to bring the site into compliance, asking for a new site plan, within 90 days after which fines will be imposed or superior court (letter dated 12/15/2020).

Present: Matt Senior with 335 Rte. 125.

Bickum said Roberts had dropped off this plan with a numbering of the units (tenants) and Mr. Senior had dropped off the “key” listing the tenants in the corresponding units with their contact information. Stevens said the approved plan is from around 1986. This is what the Town had approved, and the two addendums relate to the front office portion. This really entails an approval for all the back buildings and those are listed as wood storage. When things get beyond the scope of what was approved, we notify the property owner to consider the changes but there has to be another approval process to allow those uses. Greenwood has put together a letter and that will be sent to Roberts.

Greenwood said this tenant list and labeling the units would work well as a basis for a plan, but a new plan has to be done by a licensed land surveyor and then that would be reviewed by the Conservation Commission, Fire Department, Police Department through a public process like tonight. Senior was

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concerned about the impact on the small businesses out there, welding, insulation, landscaping, etc. Stevens said the types of businesses are allowed but there are life safety and fire protection concerns. Senior has been cleaning things up there and this would open this up to fire, police, etc. who might require \$20,000 in sprinkler systems etc. Stevens said the Planning Board has let this slide for a long time and is part of the issue. In 2016 John True, Fire Engineer at the time, visited the site and it needed basic fire protection and it wasn't done (on file). Fire extinguishers out of date, not visible, etc. They have minimum safety requirements. Someone was living in that motorhome out there and if that caught fire and someone died, that's a liability on the Town. There are also unregistered vehicles, junk vehicles and other compliance issues out there. We need an engineered, surveyed plan.

Stevens read a letter from Greenwood that will be sent to Dave Roberts via certified mail (on file) regarding compliance issues and applying for a new site plan review within 90 days. Stevens said this property isn't saleable the way it is now.

**The Board reviewed a letter to the Planning Board from Steve Cummings** re: 3 Ponds project – Phase I and II and discussed that the transition of engineers would take place as discussed on December 3<sup>rd</sup> and to send Cummings Greenwood's letter, copying TEC, explaining the transition and the expectations (on file).

Stevens informed the Board that Greenwood had contacted SFC after the last meeting and instead of a work session with the fire engineer, Greenwood set up a Zoom meeting with Jeff Murphy (SFC), Stevens and himself. SFC will take a ride through 335 Rte. 125 and review the codes and talk with the Fire Chief and let him know what the Planning Boards concerns are and the Fire Department's ability to do inspections unless invited on the property. Murphy showed Greenwood and Stevens the RSA saying the Fire Marshall can do an inspection or if the Fire Chief has a concern he's empowered to go on site. Murphy will visit the site and if he sees an NFPA problem, he will take it to the states Fire Marshall or the Fire Department. Greenwood said that Murphy said the fire codes in our zoning are out of date and Murphy can send updates on those. The Planning Board can change those with a public hearing in January or February.

**Board members terms expiring in 2021** – Mark Kennedy, Steve Hamilton, Alt. Brian West – have from Jan 20-29 to sign up with the Town Clerk for the ballot. Alternates are approved by the PB for another 3-year term.

**Approval of Minutes:** December 3, 2020

Motion made by Finan, 2<sup>nd</sup> by West, to approve the minutes from December 3<sup>rd</sup>, 2020 as presented. All were in favor. Motion carried.

Motion made by West, 2<sup>nd</sup> by Finan, to adjourn at approximately 8:45 p.m. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum,  
Administrative Assistant,  
Brentwood Planning Board