

Brentwood Planning Board

Minutes

December 5, 2019

Members Present:

Bruce Stevens, Chairman	Doug Finan, Alternate
Ken Christiansen, BOS rep	Brian West, Alternate
Kevin Johnston, Vice Chair	
Steve Hamilton	Town Planner Glenn Greenwood
Mark Kennedy	

Open

Chairman Stevens opened the meeting at 7:00 pm. *First televised meeting.*

Motion made by Johnston, 2nd by Hamilton, to give alternates Finan and West voting rights. All were in favor. Motion carried.

7:00 pm – Design Review Application: Applicant & Owner: Mastriano Group, LLC. Property is located at 180 Rte. 125, in the com/ind zone, referenced by tax map 216.028.000. Intent is to build two (2) 4,000 sq. ft. commercial buildings.

Present: Tim Lavallo of James Lavallo Associates representing Mastriano Group; Mr. Mastriano.

Stevens said abutters have been notified. No abutters were present.

Lavallo gave an overview. There are two existing buildings there now; one is a dog grooming business. The site is located next to the ice cream stand and shares that entrance. The plans show two conceptual options to create two commercial condo units behind the two existing buildings. One plan shows the buildings at a 90-degree angle to each other with parking in the front of the two buildings (*probably the best option*). The other shows them side by side. The buildings would be created for allowed uses, similar to Gigante Park; light commercial; not a storage facility. There is an existing site plan for this property. I had the term amended on the plan but it changes too much so that will come off. Greenwood concurred that this proposal changes the existing site plan too much to do an amendment to site plan and a new site plan application would be required.

Greenwood asked if the Northern building would still remain a residence? Lavallo replied there's a tenant in there so there is no intent to change that in this proposal. Greenwood confirmed that residential and commercial in that zone is permitted and asked is there only one septic on site? Lavallo confirmed a redesign for the septic would be required but wasn't sure if it will be one new septic system for the two new buildings or one new septic for all four buildings. No test pits have been done yet. It's all uplands, no wetlands. Stevens suggested that Lavallo speak with the Fire Department to discuss egress and life safety etc. before they get too far into site plan design process. Lavallo agreed.

Lavallo said the lot is 2.77 acres. As drawn currently, possibly 5 units a piece. Kennedy asked about the driveway. Greenwood said they will need to apply to NHDOT for a change to this site and DOT will determine if they need a new driveway permit or if just a change to the existing is sufficient.

Motion made by Johnston, 2nd by Finan, to close the design review portion of the meeting. All were in favor. Motion carried.

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7:00 pm: Planning Board Work Session with Danna Truslow from Truslow Resource Consulting, LLC and resident Bill Brown to further discuss the water sampling and monitoring program; nitrate testing concerns and to see if any changes in the sampling program are warranted.

Present: Danna Truslow of Truslow Resource Consulting, LLC; Resident Bill Brown; Conservation Commission member Rob Wofchuck; Edie Shipley, Conservation Commission Chair.

Wofchuck gave an overview. At the last PB meeting some questions were raised regarding the water sampling program so the Conservation Commission had a meeting with Danna Truslow and Bill Brown on December 4th to discuss. Danna summarized it well in her memo; (*on file*) that we have 4 years of water sampling data. Let's take a step back; evaluate what we have and re-affirm our goals for the program. Follow up on what we've done, next steps; add a work group/task force/sub-committee to concentrate on this and come back to the PB and CC.

Stevens thanked Danna for her work and the fact that four years ago Brentwood had no knowledge of its water quality and there were good results from the program.

Truslow said now that we have this data, what do we do with it. We can introduce best management practices, changes to stream crossings; more suggestions in the memo (*Truslow memo on file*). The surface water is impacted by stormwater and is not just measured by nitrogen, there are other impacts such as e-coli, road salt, phosphorus, DO (dissolved oxygen - nutrients and hydrologic conditions). The nitrate is at or slightly above ideal conditions where it has been identified but there's several exceedances of bacteria, especially e-coli, in several locations. Outreach and education could be done. There was a lot of discussion about how this information could be used in modeling in challenging or substantiating changes to stormwater or MS4 regulations in Town and the water quality sampling is a part of that but the modeling is more complicated so there would have to be more data collected but if a small workshop group is put together, that could be discussed.

Stevens asked Truslow to explain the DES model that initiated this. Truslow replied NHDES created a model that estimated the nitrate/nitrogen loads from all over the Great Bay watershed and it was based on land use and assumptions with various numbers of septic systems, acreage of fields that are fertilized, playing fields etc. A very grainy level to define it but it's based on assumptions. Each watershed and each Town had a different contribution/who's contributing the greatest loads. That was done based on land use and not on actual collected data for nitrogen or any component of nitrogen. It was based on runoff and certain contributors so to defend something like that you could either do your own model or a more technical approach and have data to back it up. The goal is how do you decrease the loads.

Stevens said Brentwood has a lot of open and agricultural land and the model interpreted a large load of nitrogen contribution basing it on fertilizer application when in fact, there isn't a lot of fertilizer being used commercially on the open land. This prompted the water sampling program. EPA was coming down on towns like Exeter who've spent 60+ million dollars, the ramifications for Brentwood could be severe if regulations were adopted to have these small Towns mitigate that. Hamilton asked where is the nitrogen problem in Brentwood? Truslow replied the highest concentrations are Dudley Brook, Little River and Haigh Road, where Exeter River crosses; it's at or above ideal conditions. Less than .1 milligram per liter is acceptable. We've had .2 milligrams per liter. Pickpocket Road had nitrates detected at .6 milligrams once, so that was unusually high. The Exeter advisory committee also has

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water sampling data. Hamilton asked if there was any way to trace the causes and what can be done about it.

Wofchuck said when the modeling came out, Great Bay was declared impaired by the Federal Clean Water Act for having too much nitrogen. That prompted the necessity of Towns in the watershed, including Brentwood, to voluntarily fix it or are forced by Federal regulators to make us fix it. There are Federal guidelines for Great Bay. Where is the nitrogen coming from? Everywhere. Hamilton asked for Brentwood, what are the solutions? Wofchuck said Brentwood put in the storm water ordinance years ago. Rain gardens to infiltrate; it's really stormwater runoff, septic's leaching. We're not under MS4, we're exempt from storm water systems but rain gardens were put in at the library, Swasey school, highway shed and the PB; when developments come in, ask them to put in rain gardens. The problem is now there's 1,000 new houses; more impervious pavement. A lot also comes from the atmosphere; rain flushes it into the water. Challenging the DES model would be exorbitantly expensive but Brentwood will have to do it's share to reduce nitrogen loading into Great Bay. Danna has listed some ways; education, soak up the rain, homeowner education on low impact landscaping, improving road crossings and culverts. The PB has a big role in that when development comes in, being more restrictive with requirements.

Brown said when I talk about percentages, it's percentages as delivered to the bay. 39% of the nitrogen sources is air pollution that falls on the land and makes it way into the groundwater and makes its way into the bay. A practical solution for Brentwood is storm water management; when air pollution falls in the forest, 90% of it is removed and doesn't make it to the bay. If it falls on pavement, 100% makes its way to the bay. Different landings have different abilities to absorb it so storm water management is a key aspect for the air pollution. 2nd largest source is septic systems; 36%. Possibly think about treatment systems in the future for larger developments. Air pollution and septic is about 75% of the problem. 25% is a mixture of farm animals, wild animals, pets, agriculture, and fertilizer (*golf courses were also mentioned*).

It was suggested to create a task force/sub-committee/work group to:

- Establish Goals, Next Steps & an Action Plan
- Lawn fertilizer is elective. Public Education: How to manage lawns.
- Promoting Best Management Practices for agriculture.
- Manage future development – enhance development standards.
- Low cost or no cost methods
- Documentation
- Great Bay issue and Brentwood's own water quality issues; identify potential pollutants/issues.

Brown continued its awhile before EPA comes to town but they are aggressively going after the larger towns, which have spent \$200-300 million. EPA eventually wants 30-40% non-point source reductions, which are unattainable. Great Bay has a limitation of .3 milligrams per liter, there's also low DO. Larger communities are fighting with EPA for these assumptions. The Town had been pro-active but there is 4 years of water sampling data. This is a good time to step back, see what can we do for initiatives; low cost, no cost options. The water sampling done to date should make Brentwood a low priority for the EPA for now.

Truslow mentioned the PFAS from Rockingham County Complex are also something to watch.

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Wofchuck reiterated establish a sub-committee with two members from each board (*4 from each board would be a quorum*) No decisions being made, just work on this first and tackle the goals, decide if more money should be spent, come up with a model. Use some low cost, no cost methods. It's important to show the regulators that we have been doing our share to clean up Great Bay. Documentation; our job is to show them what we've done and how we've reduced it.

Greenwood asked so what is the status of the surface water monitoring program? Is it to cease or to incorporate additional constituents or information to sample for or is it deemed no longer necessary?

Stevens said both boards have the money in their budget but sampling doesn't start until Spring so maybe the first discussions of the sub-committee or working group would be to ask what modifications would be necessary if it was to be continued. I don't think we know at this point. Wofchuck suggested tackling that in a small group and come back with a recommendation; we have 5 months to make a decision. What are the goals? Is it worthwhile to spend more money on this? Let the group tackle this and come back in a few months.

Truslow added the variation is dependent upon the amount of precipitation year to year. You have the 4-year data and you also have a lot of development going on now. Take a pause, maybe do it every 2 years instead of annually. Truslow thinks it is worthwhile to continue it so any changes can be monitored and addressed. If it remains the same, you're holding the line.

Hamilton was in favor of a small work group. Stevens said the PB has a meeting on the 19th and any interested members can come forth at the next meeting and state their interest to be involved in the work group. Maybe in January get it going? Johnston agreed.

7:00 pm: Consideration of amending the Brentwood Zoning and Land Use Document as it pertains to the following: (1) Cluster Development; adding a reference to give the PB approval options when reviewing plan designs that incorporate multiple access points onto a Class V road. (2) Change the formula for ADU living area - not to exceed 1/3 of the assessed square footage of the primary dwelling (remove both dwellings) and add enclosed finished space for any ADU structural addition. (3) Septic bed bottom; change 4 ft. to 2 ft. per state regs. (4) To amend the ZBA noticing period from 30 days to 45 days in sections 800.007.001 & 800.007.002 in our ordinance per RSA 676:7, II. Full copies of the text are available in the Planning Board office. The Public is welcome to attend.

1st Public hearing for the Board to review the 5 proposed zoning amendments:

1. Change the Cluster Development Ordinance – Add **(100)** and add the last line starting with **In instances**...to section 3 of 300.002.007.005 to reflect the ability for the PB to have flexibility in reviewing cluster residential designs. **Section 300.002.007.005, A 3 to read:** No construction shall be permitted within the buffer zone, other than a primary access road which shall be allowed to cross the buffer zone at the point of access to the pre-existing Class V or better road servicing the development. Along both sides of this primary access road reserve strips of twenty-five (25) feet must be maintained for the first one hundred **(100)** feet of said primary access road. **In instances where the proposed cluster residential development incorporates a design that includes several access points to the abutting Class V road these may be approved by the planning board if the board determines that the neighborhood and proposal are best served by this alternate plan for access.** Greenwood to revise and add #5 to this regarding access and storm water in the buffer.

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2. Change the ADU regulations to clarify the structural requirements of an ADU by removing both units and adding finished space & removing apartment. **900.004.004.002** The 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 ~~of the entire dwelling (both units)~~ to a maximum living area of 1500 square feet and shall be limited to a maximum of 2 bedrooms. No accessory dwelling unit shall have less than 525 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)

900.004.004.004 The accessory dwelling unit ~~apartment~~ shall be designed so that the appearance of the building remains that of a one-family dwelling. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit, this door need not remain unlocked.

Greenwood said he had conferred with the Building Inspector and the adjusted language makes it clearer and that the intent is for the ADU to be more integrated with the original main structure and should overcome issues with artificial connections. Board voted to accept #2, ADU revisions as presented (see motion below).

3. Septic bed bottom – change 4 feet to 2 feet: 400.005.003 The bottom of the proposed wastewater treatment facility shall be a minimum of ~~four~~ **two (2)** feet above any seasonal high-water table.

Board discussed. With recent issue with nitrates etc. there was some concern about changing this. Kennedy brought Truslow back in and Truslow recommended leaving it at 4' but noted that it was site specific. Greenwood spoke with Mike Comeau who had advocated for the 2'. Greenwood suggested putting language in the ordinance about test pits and the leaving it up to the on-site inspector to make the call of whether it needs to be 2' vs. 4' based on the soil conditions. Greenwood suggested inviting Mike Comeau in from RCCD to discuss. Greenwood clarified that the BOS have granted waivers for replacement systems from the 4' to the 2' bed bottom, which they can do for replacement systems. Stevens asked for clarification.

4. HB 136 - An act increasing the maximum period for the zoning board of adjustment to hold a public hearing. Effective July 9, 2019 which reads. *Amend RSA 676:7, II to read as follows: The public hearing shall be held within ~~30~~ 45 days of the receipt of the notice of appeal.* Replace ~~30~~ days with **45** days under **800.007 Hearing notice** in sections 800.007.001 Mail: and 800.007.002 Public Notice. Board voted to approve #4 (see motion below).

5. Cluster Residential District 300.002.007: Amend Article III, section 300.002.007.005 External and Internal Design Standards, paragraph 3 by adding a new final sentence to read: **In addition to a primary access road, related drainage and storm water management treatment devices may be constructed within the mandatory buffer area.** Greenwood suggested changing primary access road and say something like in addition to the approved access to the site. Greenwood will re-word #5 on access roads and add it to #1 so the cluster development would address both items within it.

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Motion made by Kennedy, 2nd by Finan, to advance zoning amendments #2 and #4 to advance them for Town meeting vote. All were in favor. Motion carried.

Board Business

- The Board signed the manifest which also included a reimbursement of unused escrow funds to Scott Boudreau for the completed Rousseau Subdivision-amount of \$1,970.00.

Brickhouse Motors Update. Greenwood had sent a letter to the State. The State had contacted him and he did a site visit yesterday (*Dec. 4th*) and there is a truck and motor home parked below. The motor home is registered and that is okay. The truck was to be removed by Thanksgiving per the owner but it's still there. He said as long as the pickup truck is there, they are still not in compliance and emailed that sentiment to the State on Dec. 4th.

Motion made by Hamilton, 2nd by West, to authorize Greenwood to keep tabs on the site over the next week and if it still remains in non-compliance, to have Greenwood contact the State and have their dealer license revoked.

Approval of Minutes:

Motion made by Hamilton, 2nd by Finan, to approve the minutes of November 21, 2019 as presented. All were in favor with West abstaining. Motion carried.

Motion made by Stevens, 2nd by Hamilton, to adjourn at approximately 8:30 pm. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum
Administrative Assistant,
Brentwood Planning Board