

**Brentwood Planning Board
Minutes
September 16th, 2021**

Members	Bruce Stevens, Chairman	Doug Finan
Present:	Jon Morgan, BOS rep	Alternate, Brian West
	Mark Kennedy	
		Town Planner, Glenn Greenwood

7:00 pm: Open Public Hearing: Chairman Stevens opened the public hearing at 7:00 pm.

Motion made by Kennedy, 2nd by Stevens, to give alternate West voting rights. All were in favor with West abstaining. Motion Carried.

7:00 pm: Site Plan Review Application: **Applicant: Skaff Cryogenics, a division of Chart D&S; Owner: Prefontaine Properties, Inc.** Property is located at 48 Industrial Drive, Brentwood, NH 03833 in the commercial/industrial zone, referenced by tax map 205.002.000. Intent is to construct an approximately 60' x 65' sq. ft., 75' in height, high bay building and a 20' x 60' sq. ft. low bay connector building expansion on the northern side of the existing Skaff Cryogenics building. The 75' high building will be utilized for the handling, erection and rehabilitation of up to 45' in height, tall cryogenic tanks. A concrete storage pad and new crane rail system is proposed to be constructed external to the high bay.

Present: Samuel Cheney, Project Engineer, & Anna Giraldi, PE of Quantum Construction Consultants, LLC for the applicant; Jay Gosselin Facilities Director of Skaff Cryogenics and Chart D&S; Aaron LaPlante of RH White Construction. No abutters were present.

Stevens commented all paperwork is in order and abutters notified from the list provided by the applicant. Motion made by Finan, 2nd by West, to invoke jurisdiction and accept the application as complete. All were in favor. Motion carried.

Cheney gave an overview. This is a 14.08-acre lot owned by Prefontaine, an owned subsidiary of Chart Industries. The zoning map shows this as a commercial/industrial zone with a portion in residential/agricultural, but the GIS map shows it all in commercial/industrial. Greenwood confirmed that it is completely commercial/industrial, the zoning map is incorrect. There was a lot line adjustment and Town vote in 2005 or 2007 to make the entire parcel within a commercial/industrial zone. Cheney continued the existing building is a 70' x 221' distribution, storage warehouse on the site for the use of rehabbing and storage of cryogenic tanks and trailers. The proposed construction is an addition to the existing facility, a 60' x 65' high bay expansion building and a 20' x 60' low bay connector building. The finished floor will match the exiting building.

The ZBA granted a variance on August 23rd, 2021, to allow the 75' high bay addition. The addition will have a mono-slope roof, steel frame, corrugated metal wall cover, with a metal roof and will match that of the existing building. On the exterior, there will be a 60' x 60' concrete storage pad for a 55' tall crane rail system affixed to the high bay addition for the rehabilitation of the 45' high tanks. The addition will provide the height needed and provide an enclosed, safe, controlled environment to work on the tanks; currently worked on outside. A garage door will be removed to provide room for the addition. A large nitrogen tank will be relocated to the other side of the building addition to allow for the crane rail system. Existing underground electrical service will be re-routed. During construction, there will be erosion control, silt fencing, a construction and concrete wash out basin and existing catch basins on site with inlet protection prior to the start of construction. At the request of the Brentwood Fire Department, in the Northwest corner there will be a new fire hydrant installed southwest of the existing facility to provide the increased fire service for the addition; about 100' away; tied into the existing

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water line and pumping station with a shut off valve installed. On the low bay, there will be a sprinkler system; not required on the high bay. The existing fire service entrance will be expanded to provide fire protection services to the new buildings. Currently there are key boxes at the existing facility. There will be bollards in front of the new fire hydrant and relocated nitrogen tank. A 20' wide concrete pad around the addition to serve as the fire lane. Onsite parking is a paved area for 14 vehicles and a gravel parking area; combined is a total of 38 spaces. Existing signage on site. Working with existing impervious coverage and room for snow storage around the site. The concrete pad will have a 1% slope on either side to facilitate sheet runoff; keep water away from all buildings. 2 new hooded catch basins to intercept surface and roof runoff. Also, a precast trench drain, to keep runoff from proposed garage door and connected to the infiltration system; storm tech SC 740 infiltration system, corrugated chambers fabricated from polypropylene and designed to handle HS20 loading, embedded in crushed stone to facilitate infiltration. Existing sewer system to be preserved and maintained as there are no additional employees. Kennedy asked if the water is only collected via the drain system? Cheney said water also sheet flows out and infiltrates in areas not covered in asphalt. Giraldi confirmed. Kennedy asked does this chambered system meet the stormwater requirements. Greenwood said TEC will be able to answer that once received.

Cheney continued a new nitrogen gas line under the concrete storage pad to connect to the relocation point. Lighting will be wall packs; wall mounted. Use same as existing lighting and also mounted on the crane system. Low level lighting about 20' high. Gosselin confirmed security lighting only, no pole lights. No employees are working at night. Morgan asked about increased truck traffic. Gosselin said not really. The addition is for being able to drain and test the tanks vertically. Safer than doing it horizontally and having employees running up and down ladders.

Cheney and the Board discussed the peer review comments.
Greenwood's comments (on file).

1. *The property is entirely located within the Commercial Industrial zoning district.*
2. *The property is located in the Aquifer Protection District, so a conditional use permit is required for the addition.*
3. *Because the impervious surface for the site exceeds 30% the site requires compliance with the Town's stormwater management ordinance.*
4. *Note 6 on sheet C2 states that the allowable impervious surface is 30 % of the property size. This is incorrect, in the Aquifer Protection District if the transmissivity of the site is less than 500 feet squared per day the maximum allowable impervious surface is 65%. **Change note on the plan from 30% to 65%.***
5. *The plan needs an error of closure note as required by section 9.1.12 of the site plan review regulations. Plan notes already on the plan may provide this information, but they seem to be in Greek. **Doucet Survey to clarify notes.***
6. *The plan should detail the exterior lighting on the existing building and the new addition.*
7. *There are required fifty-foot vegetated buffers for side lines that abut residential use. **Greenwood said the lots on the west, southwest (Sanborn), lots that are in rural/residential require 50' setback vegetated buffers. Board discussed elevation changes and it was suggested that individually, Board members do a site visit to assess; see what vegetation, if any, would be needed and/or would survive. Board members should see it and then go on record to say whether it's needed or not due to terrain. Stevens asked if the high bay building could be painted in a non-reflective paint. LaPlante said the siding is prefab, metal clad siding and is available in an array of colors; green was mentioned as a possibility.***
8. *The applicant needs to provide the Planning Board electronic versions of the final approved plan. **Will do.***

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9. *The Zoning Board of Adjustment granted a height variance for this project. This information should be added to sheet C2. **Cheney will add to a recordable sheet, C2, Cover Sheet or both.***
10. *The plan set provides two different addresses for the property. Amusingly so does the Town Tax Card (figure it out). **Board discussed using 48 Pine Rd as the address.** Morgan asked what the 911 address was. On Monday, September 20th, it was confirmed that the street and 911 address are both listed as 48 Industrial Drive. Per email to PB Chair, **change address to 48 Industrial Drive** on plans to match 911 listing.*
11. *The applicant has provided proposed building elevations, but our regulations require these elevations to describe the surface treatment of the structure. When I look at the building elevations it appears they are going to be finished in shiplap. I expect I am wrong about this. **Cheney reiterated its corrugated metal.***
12. *The aerial photo shows many structures being stored in the 25-foot property line setback. These items should be removed from those areas. **Cheney said the tanks can be relocated out of the area.***
13. *The existing parking lot bleeds into the setback area as well. This corner should be removed. **Greenwood said 2 parking spaces are in the setback area. Gosselin will block those 2 off so they can't be used.***

Cheney and the Board reviewed non-redundant TEC comments (on file):

SITE PLAN

4. *It appears the site is within the Aquifer Protection District as shown on the Aquifer Protection Zone Map, and therefore requires a Stormwater Management Plan per section 700.003.004.002 of the Zoning Ordinance. Has this been provided? **Greenwood said it's a zoning ordinance and it has to be provided. Cheney said it can be provided.***
6. *Please label the common land mentioned in General Note 5 on sheet C1.0. **Cheney said we can call out the 25' setbacks and darken those lines.***
7. *Please label Industrial Drive on locus maps throughout the plan set.*
8. *Please show the exterior dimensions of existing and proposed buildings.*
9. *Please provide more detail for the treatment of the storage trailers on sheet C1.1. They are called out as protect & maintain but are shown in the same location as the proposed concrete fire lane. **Gosselin will relocate prior to construction. Stevens added it would be part of a conditional approval they be moved.***
10. *Please show the width of the proposed access road. **Cheney will add dimensions.***
11. *Please provide additional information on the subsurface infiltration system that is being proposed, including a detail of the proposed manifold with invert elevations and how it will tie into the HDPE drainpipe and Stormtech chamber. **Will do.***
12. *Please provide information regarding the proposed lighting to be constructed on the new building additions/site as stated in section 9.15.4 of the Site Plan Review Regulations. **Cheney asked if a photometric would be needed? Greenwood said usually but, in this instance, due to the location and distance from residential, a cut sheet to review down cast wall packs and indicate locations. Cheney can call them out on site plans with details and cut sheets.***

Cheney and the Board reviewed the comments from SFC. (on file). *Applicable Codes and Standards: ❖ NFPA 1, 2015 Edition – Fire Code: 1. SFC recommends that fire apparatus access plans including the dimensions of the Brentwood Fire Department's specific apparatus be provided to ensure that the required turning radius is provided (NFPA 1 §18.1.3.1). NOTE: This comment does not warrant a resubmittal if the fire department has already approved the proposed plans.*

2. *Plans do not include information regarding the construction type or fire flow provided for the buildings. The plans only specify that the building will be provided with a sprinkler system. Per NFPA 1*

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Section 18.4.5.3.1, the fire flow is determined from the table provided in the code which is dependent on the construction type. Section 6.9 of the Brentwood Zoning Regulations states that “any new nonresidential development may be required to provide a credible (not subject to drought or drainage) water source for fire protection commensurate with the proposed hazards associated with the development as determined by the Brentwood Fire Department. The submittal does not include information regarding water supply for fire department operations, only that a new hydrant and sprinkler system are to be provided. SFC recommends this information be included. Cheney to coordinate with the Fire Department. Stevens said to add the general note on the plan “building to conform to all NFPA requirements.” Look at what that note says in the regs and add to plans.

CONDITIONAL USE PERMIT: The applicant verbally requested a Conditional Use Permit. The Board went through the Aquifer Protection District Conditional Use Permit Criteria, page 91 in the Zoning. **Section 700.003.004.006.002** *The Planning Board may grant a Conditional Use Permit for those uses listed above only after written findings of fact are made that all of the following conditions are met:*

A. The proposed use will not detrimentally affect 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; Board agreed - yes. Greenwood said the applicant’s response should include that their methods for handling of materials in the tanks, nitrogen, is handled properly and isn’t customarily spilt on the surface of the land and there is no potential for the businesses activity to contaminate groundwater. Gosselin agreed and added liquid nitrogen boils at atmospheric temperature and turns back into a gas. The atmosphere contains 80% nitrogen.

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) Board agreed – yes. Greenwood added the aquifer protection ordinance allows a much greater impervious surface coverage on the lot than they are proposing. It allows 65% and they are doing 30%.

C. The proposed use will discharge no wastewater on site in excess of one thousand (1,000) gallons per day, and will not involve on-site storage or disposal of regulated substances as herein defined; No increase to existing septic. Board agreed – yes.

D. A hydro-geologic study shall be submitted as required in Section 700.003.003.001 of this Article. (3/1998) Greenwood said it’s not required; no subdivision, no removal of 20,000 gallons per day or more, and the septic is under the flow limits. Board agreed – yes, that no hydro-geologic study was necessary.

E. Other site-specific conditions as determined by the Planning Board. (3/2016) Not applicable. Board agreed – yes, there was nothing to add.

Motion made by West, 2nd by Finan, to grant the conditional use permit for Skaff Cryogenics. All were in favor. Motion carried.

Motion made by Kennedy, 2nd by West, to continue the site plan review hearing for Skaff Cryogenics to **October 21, 2021, at 7:00 pm at the Town Office.** All were in favor. Motion carried.

7:00 pm: Planning Board to meet with Mr. Carl Rullo, Bruce Gilday, wetland’s consultant and Neil Bilodeau of NHDES Wetlands Bureau to discuss wetlands remediation at tax map 209.010; property is located at 324 Rte. 125, Brentwood, NH 03833.

Present: Bruce Gilday with BAG Land Consultants. *Mr. Bilodeau couldn’t attend and there was no response from Mr. Rullo.*

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Stevens said there have been wetland incursions on that site and the Town had asked the state to investigate. The state also feels there have been infractions. The state has one set of regulations, but the Town has another.

Gilday introduced himself. 32 years ago, he started his environmental consulting business. He has a background in civil engineering, he's a certified wetland scientist, soils scientist, and does stormwater inspections of construction sites. Mr. Rullo hired him to take a look at the infraction. Neil Bilodeau, with the state is in agreement that there's been an infraction. The material comes right to the edge and the owner admits that he's done wrong and wants to correct it. First, Gilday has to determine where the original wetland line is by making a determination from field probes immediately adjacent to the fill but in the natural, undisturbed soils. Gilday is in the process now of determining where and how much is fill. Then he will come up with a restoration and remediation plan to get that fill out that's illegally in there and put it in a suitable upland area away from the area and stabilize that for a natural transition area. *Gilday gave the Board handouts.* The triangles on the handout (on file) are wetland flags. 2nd sheet shows them overlaid with an aerial to determine the quantity of fill or the disturbance area in square feet. He thinks it's about 12,800 sq. ft. of impact, over a ¼ acre. The state came up with 8,000-9,000 sq. ft. of impact. It's still indeterminate but will be between 8k and 12k sq. ft. of impact. A beaver dam backs up the water and as the contours go up, there was a sandy hill that was excavated and that's flat now. Morgan asked about 3 containers on the photo in the handout. Gilday said those 3 containers are not in a wetland fill area (*North side*). Gilday said Rullo hasn't impacted wetlands there. He borrowed fill and then filled this area over here (*South*).

Stevens said Greenwood was instrumental in creating a functional values wetland ordinance for the setbacks and the Town regulations are more stringent. Greenwood said the state deals only with the wetland itself, but the Town is concerned about what happens in the buffer to the wetland as well and would like to see it incorporated into the restoration. Gilday said the state goes up to the line, but Towns want buffers. Greenwood said because there is still an impact to the wetland. Gilday agreed. Stevens said the state is going to come after him, but the Town's concern is that we may need to take legal action against Mr. Rullo to force him to comply with Brentwood's regs.

Gilday said he has been working on this and Mr. Rullo is taking this seriously. Rullo signed for a certified letter yesterday but couldn't make it. Greenwood said he called him over a week ago and never got a response. Gilday said he will work with Glenn and Neil (*from state*). If Rullo says he won't do what Gilday tells him to do, then Gilday walks.

Stevens said it's great to have Gilday here tonight to explain the remediation. The concern is the Brentwood ordinance. He's not worried about the state portion but reiterated that they want Mr. Rullo to comply with the Brentwood wetland setbacks ordinance and that legal action may be necessary. Would this require a separate plan for Brentwood or can Gilday incorporate both in the plan? How is Rullo going to respond to the Brentwood ordinance and come up with a plan to comply? Gilday asked to come back to the Board on October 21st to keep the Board abreast of it. Morgan asked what the timeline was? Gilday said remediation is done in low flow season, so not in the spring or fall with heavy rains. It's done when the ground is frozen or in August. Once there's an approved plan, Gilday recommends having a monitoring agent, like himself, on the site. If not daily while the fill is coming out, then at least weekly inspections after the fill is out to make sure there is no deterioration of his stabilization method, whether that's erosion control mats or loam and seed. Gilday doesn't want to do a hardscape but wants to propose to Rullo a living wall, it's costly but it's silt soxx combined with gabions, that can come down steeper and it's all green. It doesn't heat up and reflect; birds can nest there because little saplings go into the live retaining wall. Gilday handed out the functional value assessment

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of what he's found out there (on file). Federal Highway Methodology is used; check off key elements present on the site and if it reaches a certain amount, then it becomes a principal function; nutrient removal, wildlife habitat. With AOT, qualified biologists now have to go out and do a wildlife assessment as of July 2020. Stevens said but that's for 100,000 sq. ft. Gilday is having his biologist look at this site as well; it's proceeding slowly. Stevens agreed. Morgan asked when he started. Gilday replied he started the wetlands remediation in May. Rullo is using Lavallo Associates out of Hampstead to pick up the flags and create the site plan of the existing conditions to be incorporated but because it's taking so long, Gilday has spoken with Neil Bilodeau, who wants some sequencing and designs. Gilday can do that using GPS and then incorporate his information with the land surveyor when Lavallo's done.

Stevens reiterated it would be nice to work the remediation for the state and for the Town into one plan. Gilday said Brentwood would trump the state and the state should go along, under the Brentwood umbrella. Greenwood told Gilday that the wetland ordinance starts on page 75, section 700.002. Gilday will educate himself on it. Morgan mentioned the cease and desist letter with \$275 per day fines. Stevens would rather have Rullo put his money into the remediation than to have Brentwood take him to court; but where's the beef? Gilday said Neil has said he can start designs now and he will do that, educate himself on Brentwood's ordinances and incorporate those and suggest to Neil Bilodeau that they should go with the Town's stricter ordinance. Gilday can call Greenwood on Wednesdays with any questions. Gilday will plan on coming back to update the Board on October 21st at 7pm.

Board Business:

- The Board signed the manifest and a card for Johnston.
- Morgan gave an update on the economic development discussion with the BOS who were in favor it as well. More research will be needed; possibly form a committee.
- Board discussed sites in non-compliance: 1) Rullo Jr (red dumpsters-wetlands impact). Greenwood didn't think a site plan amendment was necessary for Carl Rullo Jr. The use hasn't changed, and the wetland violations are being addressed. 2) Rullo Sr. (414 Rte. 125 - site work and removing tree line. He is working with Fieldstone and should be coming in for an amended site plan soon. Greenwood updated the Board on the letters he wrote to 3) Brentwood Fence and 4) Brentwood Surplus letting them know they are exceeding the storage that is allowed on the approved site plans and to give them an opportunity to clean up the sites or come in for an amended site plan. 5) Sampson; Stevens said legal counsel had said there are grounds to pursue. Board discussed the status. Morgan said a cease and desist was sent, U-Haul sign is back and there are more cars out front. Bickum to remind Morgan to follow up with the BOS regarding the two violations. \$275 per day, \$550 per day fine if not cleaned up within 30 days and police officer to deliver. Morgan to follow up with BOS re: legal/Walter Mitchell on at least two violations:
 1. No site plan and expansion of use
 2. Junkyard
- The Planning Board reviewed Greenwood's memo (on file) on the standard process, the framework for code violations that come in and the steps that are taken now to address. A violation comes in, someone should look at it. If it's a Planning Board issue, it's the PB or post PB, it should be the Building Inspector. The first thing is talk to the property owner and see if it can be resolved first. If that doesn't work, the violation is brought to the BOS, with what the issue is, and they can look at their options such as additional mediation. The PB can revoke site plans. Morgan mentioned a BOS member that said they could pull their CO (*certificate of occupancy*) in conjunction with a cease and desist and more follow through was discussed. West asked about time constraints. Greenwood said it's site specific and the BOS determine that.

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Morgan is in support of enforcement, especially in terms of economic development. Greenwood said he should add to the memo that the BOS could pull the CO.

- Regarding the continued hearing for Brentwood Park, LLC on Oct. 7th, Greenwood said that Kip is not interested in doing the walk-through for 335 Rte. 125. There is a list of electrical inspectors from Kip that Glenn can review. Stevens said or Dave Roberts could hire his own person and we could hire a peer reviewer. Greenwood will talk to Roberts and maybe the option is that the PB hires the electrician at Robert's expense and if there isn't time, he could ask for another continuance instead of coming in on October 7th. Stevens said and no more than 2, unregistered junk cars.
- Stevens reminded members to individually view the Skaff site for the October 21st continued hearing.
- A possible PB work session on Zoning Amendments for October 21st.
- Bickum usually orders 4 Land Use Books in late September. Due to increased interest, will plan on ordering 8-10 instead for some Board members; estimated at \$8-10 each.

Approval of Minutes: September 2nd, 2021

Motion made by Morgan, 2nd by Kennedy, to approve the minutes from September 2nd, 2021, as presented. All were in favor. Motion carried.

Motion made by Morgan, 2nd by West, to adjourn at approximately 9:10 p.m. All were in favor. Motion carried.

Respectfully submitted,

Andrea Bickum,
Administrative Assistant,
Brentwood Planning Board