

Brentwood Board of Adjustment Minutes February 27, 2023

Members Present: Chairman Doug Cowie, ~~Vice Chair Ken Christiansen~~, Frank Albert, Regan Elliot, Russ Kelly – Selectboard Rep, ~~Kathy St. Hilaire (alternate)~~

Cowie opened the meeting at 7:00 pm and explained the procedures to those present.

Public Hearing: Variance Request: Applicant/Owner: Wayne & Kari Morrill. Applicant requests variance from Article III, Section 300.002.006.005 page 20 of the zoning ordinances to permit a lot in the residential zone that has less than the 200-foot frontage requirement. Property is located on South Road, Brentwood, NH 03833, referenced by tax map 224.006.001.

Applicant Wayne Morrill is present this evening to speak with the Board.

Abutters present included John Recesso, 371 South Road, Richard Murphy 358 South Road, Martineau 366 South Road and Terri Parker 382 South Road, abutter Kevin Murphy, 376 South Road sent a letter via Recesso that he wanted read at the meeting.

It is being proposed that the 5.1 acre subject lot, 224.006.001, be divided into 2 lots, 1 lot would be conventional, 200' of frontage and approximately 3 acres, the other would have 176.95' of frontage and approximately 2 acres.

In order to do a subdivision, the Planning Board requires that you are able to show a 40x80 building on each lot, Morrill has provided that for the Board. Morrill brought several plans showing how this 5.1 acre lot came to be, showing the different variations along South Road.

Morrill went through the 5 criteria they have provided to support granting the variance.

1. *Granting the variance would not be contrary to the public interest:* Morrill states the lots in the vicinity of the above-referenced project are used for residential purposes. The proposed lot would conform to zoning with the exception of frontage. The lot adjacent to this lot has 100' of frontage and lots on the Southerly side of South Road from the subject lot to Ladd Road are all less than the two acre requirement.
2. *If the variance were granted, the spirit of the ordinance would be observed because:* The subject lot meets all requirements for a buildable lot with the exception of frontage. Wetlands were delineated by Gove Environmental and buffers to wetlands shown. There is sufficient area on the subject lot to place a 40'x80' structure and 4,000 S.F. septic reserve area that complies with town regulations.
3. *Granting the variance would do substantial justice because:* The existing 5+ acre site lot was originally left this size for a gentleman farm use of the property. The property is divided by a wetland that creates two buildable areas, allowing this relief would allow a residence structure on both parcels.
4. *If the variance were granted, the values of the surrounding properties would not be diminished:* The surrounding properties are used for residential uses, the property would meet all requirements with the exception of frontage. The lot adjacent to subject lot to the west has 100 feet of frontage and is 0.3 acres in size, all other lots along the south side of South Road to Ladd Lane are less than the two acre requirement.
5. *Unnecessary Hardship: A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:*

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- i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:* The existing 5+ acre site has 376.94 feet of frontage, the lot is divided by a wetland that creates two distinct building areas. There is buildable area on each side of the wetland to allow for a structure and 4K septic reserve area.
And
- ii. *The proposed use is a reasonable one because:* The proposed lot would conform to town regulations with the exception of frontage, the lot has an area for structure and 4K septic reserve area. The existing lot is divided by a wetland that creates two building areas.

Kelly asked about the location of the Tanya Lane subdivision, Morrill explains that it is so new it is not on the current tax maps. Albert asked about the location of the lot compared to the Tanya Lane development, Morrill showed where the Tanya Lane development is and explains that it is a cluster development with 17 acres of undevelopable open space. Elliot asked for clarification, it is the subdividing of the lot that creates the problem. Morrill agrees, explains that it is a 5.1 acre parcel with 376.95' of frontage. Cowie thanked Morrill for providing the extra visuals this evening, it greatly cleared up what Morrill is trying to accomplish.

Chairman Cowie opened the meeting up for public comment.

Terri Parker, 382 South Road, was present, she states she is 3 houses up from the subject lot and believes this variance will negatively impact both her family and the community at large for a number of reasons. Parker states she moved to her home for the rural look of South Road, so that her children would have room to play in the woods, and she liked the proximity of the neighbors being comfortably away and the privacy/landscape around her. She wants her family and friends to be able to enjoy their backyard without feeling as though neighbors are looking in their backyard. Parker also cites recent development, increased traffic, quality of roads, a small Fire Department and lack of Police presence as reasons she is not for this variance.

John Recesso, 371 South Road, states houses are popping up like "mushrooms" on South Road and states that traffic has increased and that pedestrian traffic, (walkers, joggers, strollers, bikes, etc) has also increased in his opinion. Recesso states that up until 1962 when a lot of the houses on South Road were built Brentwood only required 100' of frontage. A 25' decrease in 200' of frontage is "quite a bit." Recesso mentions that a developer previously wanted to put a road through this lot (Tanya Lane) before it was subdivided off, but states the developer was unable to do this because of the wetlands. Recesso states that although the lot meets all other requirements it does not meet frontage requirements, therefore, he urges the Board not to grant this variance and to listen to the constituents, especially the neighboring constituents.

Recesso read a letter on behalf of abutter Kevin Murphy, 376 South Road, directly abutting the subject lot. Kevin Murphy states in his letter that he believes the variance would negatively affect his family and the community for several reasons, the rural look of South Road, privacy, and proximity of neighbors. A copy of the letter was not provided to the Zoning Board of Adjustment.

Florent Martineau, 366 South Road, spoke briefly, he likes the peace and quiet, he thinks the variance and all of the building on South Road adds too much noise and traffic.

Recesso states again that he is very against this variance of frontage on South Road. He states that Mr. Morrill worked for the developer of Tanya Lane and that this was not part of the original plan; the

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original plan for that development included these 5.1 acres and is where the road to the development was intended to be but could not due to the wetlands. He does not believe a house can fit in the buildable area of the lot that will be short of frontage, states that the rules and regulations of the Town require 200' of frontage. Chairman Cowie states that he understands the regulations and it is the Board's job to look at those regulations and what they are allowed to do to adjust them to work with people so that they can accomplish their dreams, states the Board is here to be fair to everyone. Recesso, "wait, so you're saying you can trivially adjust things based on what someone's dream is?" Recesso interrupted Cowie several times during this exchange.

Morrill states he is not here to talk about Tanya Lane. He has already done the septic designs. There are open and wooded areas on the parcels that will remain.

Richard Murphy, 358 South Road, is also opposed to this project because of the frontage and it takes away from the character. Murphy added that he believes this will set a bad precedent for others.

Cowie asks if there are any other comments from the public, there was not.

Cowie states that yes this is a variation, however, there are multiple lots on South Road that do not have 200' of frontage and/or 2 acres, therefore, it is not wildly out of the median.

Kelly asked if the Board had granted a similar variance since he has joined the Board, Cowie and Benedix agreed that this was done last year on a 125 commercial property that had less than the required 300'. Kelly states that he is sensitive to the fact that there is a lot going on in this area. Kelly asked about "unnecessary hardship," does it pertain to the applicant/owner? Cowie clarifies it is for anyone on the street. Kelly reminds the public that the time for public comment is over and asks they not interrupt the Board. Kelly summarizes, "you have this lot, you could basically use the frontage in a way that could have the additional accommodation... without needing to subdivide, but we are being asked to judge specifically on the subdivision." Cowie reminds the Board they can impose contingencies or regulations on this that it has to qualify for well, septic and a single family dwelling and meet all other town requirements without any other exceptions.

Albert asked about attached or detached ADUs, it was explained that Brentwood does not allow for detached ADUs and the applicant is not interested in an attached ADU. Morrill states that as long as you have a 2 acre lot with 200' of frontage and the lot loading capability you can attach an ADU by Brentwood's regulations; if the provisions in this town did not say it had to be attached, I would not be here this evening. This town does not allow for detached ADUs and according to the Town Planner, Glenn Greenwood, whom Morrill met with 2.15.23, that would set more of a precedent in town that asking for this relief. Morrill states that he chose to follow the recommendation of Greenwood and go through this process.

Recesso raised his hand to comment again, Cowie reminded him that public comment was over.

The Board went over the 5 criteria and felt this was not deleterious to the public interest for any discernible reason. There are variations all along South Road, this is not a big variation and very different from many of the other lots on this street. Recesso commented that 25' off of 200 is almost 25%.

Recesso, started to walk out and turned back and pointed at the Board and stated, "You better watch your back!" Kelly asked that he leave as he was out of line.

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The Board had took a 10 minute recess after this outburst, reconvened to vote.

Albert motions to vote, Elliot seconds. Albert – aye, Elliot – aye, Kelly – nay, Cowie – aye, motion carries.

Board Business.

Motion made by Albert, 2nd by Kelly to approve the minutes of April 25, 2022: the motion carried.

Motion made by Kelly, 2nd by Albert to adjourn at 8:00: all were in favor.

Respectfully Submitted,

Jillian Benedix
Administrative Assistant