

**Brentwood Planning Board
Minutes –July 17, 2014**

Members Present: Bruce Stevens, Chairman Bob Magnusson, Vice Chair
 Jane Byrne, BOS rep Rob Wofchuck
 Steve Hamilton Mark Kennedy
 Glenn Greenwood, Circuit Rider Planner

7:00 open

Minutes – Mail – Board Business

Stevens opened the meeting at 7:00 pm.

Butch and Michele Whitehouse of 130 Ole Gordon Road were in, and Butch spoke to the Board, regarding the Fralic gravel pit (tax map 218.002) that abuts their property. He said he has lived next to the pit most of his life and property owner Jim Fralic recently passed away,. A lot of the things he has seen over the years in relation to the pit operation he kept to himself in the interest of being a silent neighbor, saying things that did not meet the spirit of the regulations. Whitehouse said this seems to be an appropriate time to see what is going on with that property, and part of the reason he is before the PB is, he did not think there was anything happening at the site, and has recently seen a contractor putting gravel in the road, and he heard they were getting ready to start hauling out of the pit. The records at the Town Office show that there is a process going on where someone who wants to excavate comes to the Selectmen and files a Notice of Intent, for tax purposes. He said there had not been a Notice of Intent filed on this parcel since 2009, and the BOS signed one in March 2014 that was brought in by the heirs. He said that the PB is the enforcing board for excavation pits.

Whitehouse met with Greenwood, and this is a grand-fathered, pre-existing non –conforming use. Whitehouse said there has been no activity at the pit until recently, there was no filing of intent since 2009 to 2014, and believes the pre-existing, non-conforming use has lapsed. He said the BOS signed the Intent to Excavate without consulting with the PB, and he was told this was for tax purposes, that the BOS do not look at this from an enforcement point of view. He said there are two pits in town: the Fralic and the Magnusson pit.

He is before the PB to start the conversation, and ask the Board what their position is, as the regulator. Stevens said the PB needs to work on this over the next couple weeks, and he would like to see some restoration, if it is going to continue. Whitehouse said that he is before the Board because there hasn't been a Notice of Intent to Excavate in four years, there is a two year limitation in the zoning regulations on pre-existing, non-conforming uses; this is in the aquifer zone and a residential/agricultural zone and not a use that is allowed, and he would like the Board to “delve into this”. Whitehouse said his goals are to have the PB examine as to whether the non-conforming, pre-existing still exists, and it needs to come in to compliance, and be restored. He believes that the BOS should not have signed the Notice of Intent without consulting the PB.

Greenwood said that Brentwood's Non-Conforming ordinance is in zoning, and the Excavation regulations are regulations that the PB oversees. He said the concern for the PB is that it needs to make the determination on the non-conforming use. Stevens would like the BOS to send a letter to the heirs, saying there was an error made in issuance, and would like them to come before the PB.

Motion made by Stevens, 2nd by Wofchuck to send a letter to the BOS, asking them to send a letter to the heirs of the Fralic property, explaining the situation and asking them to contact the PB: all were in favor. The Whitehouses' thanked the Board for their time this evening.

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**New Hearing: 7:00 pm New Hearing – 6 lot subdivision (a portion on a Scenic Road):
Harbor Street Ltd, Development - tax map 218.047**

Paperwork is in order and abutters legally notified from the list provided by the applicant.

Motion made by Magnusson, 2nd by Kennedy to accept the application: all were in favor.

Bill Doucet of Doucet Survey was present and spoke on behalf of the applicant, and applicant Joseph Falzone was also present. Also present for the applicant were Jim Gove of Gove Environmental and Professional Geologist Abigail Fopiano of Epping Well & Pump. There were several abutters present for tonight's hearing.

Doucet said they are proposing a 6 lot subdivision (including the existing house). All lots are two acres or greater, each have more than 200 feet of frontage, and no new roads are being proposed, as they propose three lots on Lake Road, a scenic road, and two new lots on Ole Gordon Road (the town maintained portion). There is a Class VI section of Ole Gordon that they are not using for frontage and have no proposal to change the status. Greenwood's comments were reviewed at this time (on file). Boundary pins will be added to lot lines in excess of 400 feet. Final plans will be stamped by the wetland scientist. They have approval from the Brentwood Fire Department, (on file) and it will not be necessary to sprinkler the homes, so note 18 will be removed from the plans. SFC Engineering (fire consultant) said it was not necessary for him to review the plans, based on the proposal and the letter from the Fire Inspector Jon True of the BFD. True also asked if the PB would consider asking the BOS to consider a warrant article to upgrade the Class VI portion to a "fire access", widen it to 20 feet and plow it, for firefighting water to a lot of the houses in the Northrup, Flanders and Ole Gordon Road areas. Byrne asked that the developer upgrade the road as True mentioned, saying that in light of the fact that they do not have to install a cistern or sprinklers, that this would be a small accommodation. Stevens said the status of the road cannot change without the vote of the town or Board of Selectmen. A cover sheet that lists the abutters will be added to the plans, and an electronic PDF of the final plan provided to the PB.

The applicant has submitted information supporting a different location for the Aquifer District boundary. Greenwood said this was not necessary, as the subdivision is less than 10 lots. Brentwood's ordinances state that lots located within the aquifer protection district are subject to a higher design standard with regards to septic design, which needs to be done by a Licensed Professional Engineer. He said if the applicant is appealing the aquifer boundary recognized by the town, this will require considerable additional time for this project review. Fopiano explained the work done and how the aquifer zone is delineated and Gove spoke with the Board and the residents present and explained the soils types and the aquifer. Greenwood agreed that this is not, most

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likely, a viable groundwater resource for municipal water. Falzone said he does not wish to change the aquifer boundary as the town shows it, and will use a Professional Engineer for the septic design of all the lots. Members agreed with this decision.

Doucet said they have applied to the state for their subdivision approvals, and also said that the benchmark is mentioned on note 9 of the plan set.

Abutter Jean Clough expressed concern about construction traffic, that Ole Gordon Road (the class V portion) has only been paved once in 26 years and is bad. The resident from 4 Flanders Dr is concerned about logging trucks, and Eric Trump asked about tree buffering. Tim Mason of Cabernet Builders spoke to the Board, explaining that he will be buying all the lots and building the homes. He said he likes to leave as many trees as possible, but ultimately the home buyer may decide how many trees they wish to leave. With regards to truck traffic, since there is no road construction involved, there will be mostly pick-up trucks going in and out.

Town Engineer Steve Cummings comments (on file) were reviewed at this time. Doucet will take care of comments mentioned by Cummings. With regards to note 2 of Cummings Drainage Design Comments: Note 19 will be enhanced to include that No building permit shall be issued, and make reference to “the parcel” as all the lots are being sold to one builder. Greenwood will work with Doucet on the proper language of this note. They will try to determine the driveway location for the lots on Lake Road (Scenic Road) and have the town engineer review, as he issues the driveway permits.

Wofchuck talked about the Stormwater Management saying a plan showing the existing vegetation and proposed project disturbances is required as part of the plan. Doucet said that note 2 of Cummings letter addresses that and states that a note to enhance Note 19 of the plan should be added requiring the applicant to supply a plan prior to tree clearing and lot development showing the disturbed areas for the dwelling, septic, etc, and the placement of erosion control devices. Wofchuck’s concern is that that needs to be determined as part of the subdivision approval. Doucet said with this type of subdivision, they do not know what will be built, and said that both the applicant’s engineer, Christian Smith of Beals Associates and Cummings agree that there will not be stormwater issues. Wofchuck suggested that the builder will have to provide a plan for each lot, and Doucet said that is what Cummings recommended. Stevens said the Nicolova development had some requirements for specific lots that were monitored by the town engineer. Stevens read a note from Cummings that said he feels that the drainage information provided is adequate for the subdivision as long as they are incorporated in the plans. No new roads are being created and it is intuitive that all of the runoff stays basically the same and flows to the set area on the site to the south. Byrne said a separate note should be added that no building permit shall be issued until a stormwater plan for each is issued. Greenwood and Doucet will work together for the language of this note. The town engineer will inspect the sites.

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The three waiver requests were discussed at this time. Their first request was to waive the requirement to show a plan at a scale lot less than 1'=50'. Greenwood said this is not necessary at this does not apply to subdivisions, but rather site plans.

Waiver request from Section 6.9.a-e Fire suppression for a residential development: The basis for this request is the review and approval of this application by Lieutenant Jon True, BFD Fire inspector.

Motion made by Magnusson, 2nd by Kennedy to grant the waiver request: all were in favor.

Waiver request from Section 9.8 Erosion control:

Motion made by Wofchuck, 2nd by Magnusson to grant the request, with the modifications of note 19 to add the word Engineer after Professional and change the rain amount to .5: all were in favor. Greenwood will work with Doucet on the language of the note to be put on the plan.

Doucet said they need to determine the driveway locations on Lake Road. Greenwood said the property owner has the right to remove trees within their property, but trees within the town ROW need permission from the town. Cummings issues the driveway permits. Doucet will meet with Cummings prior to a site walk, to be able to show the proposed d/w locations.

Greenwood said a conditional approval can be granted for the subdivision portion of the hearing, and the Scenic Road portion of the hearing can be continued.

Motion made by Kennedy, 2nd by Hamilton to grant a conditional approval to November 20, 2014, contingent upon the following:

1. Satisfy Greenwoods comments
2. Satisfy Cummings comments- working with Greenwood on the language of note 19 to be on the plan, and new note 20
3. Receipt of state permits
4. Receipt of \$2,000 for escrow for inspections, etc (may already have)

All were in favor.

Motion made by Kennedy, 2nd by Byrne to continue the Scenic Road portion to August 7, at 7:00 pm: all were in favor.

The site walk will be held on Monday, August 4 at 5:00 at the Reid's driveway. Wofchuck asked it was possible to get a worksheet with the GPS coordinates of the boundary markers, and Doucet will send one to the PB office. If the site walk is cancelled, Eric Trump will be called, and asked to notify abutters.

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Doucet and Falzone thanked the Board for their time this evening.

Board Business Continued

Greenwood gave a copy of Kingston’s RFP that will be e mailed to members to review for discussion at the August 7 meeting.

Motion made by Kennedy, 2nd by Hamilton to approve the June 19 minutes: all were in favor.

Motion made by Byrne, 2nd by Kennedy to grant an extension of the conditional approval to the Bouchard-Callahan site plan, to October 16: all were in favor.

Motion made by Byrne, 2nd by Hamilton to grant an extension of the conditional approval to Brentwood Route 125, LLC to October 16: all were in favor.

Motion made by Byrne, 2nd by Hamilton to adjourn at 9:25: all were in favor.

Respectfully Submitted,

Kathy St. Hilaire
Administrative Assistant,
Brentwood Planning Board