

Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
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Joseph C. Sullivan
Mayor

PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
Linda Cusick Woodman, Clerk
James Eng, Member
Darryl Mikami, Member

APPROVED

Braintree Planning Board
April 6, 2009
Town Hall – Johnson Memorial Chambers

Present:

Robert Harnais, Chair
Joseph Reynolds, Vice Chair Melissa Santucci, Principal Planner
Linda Cusick Woodman, Clerk
James Eng
Darryl Mikami

The Chair called the meeting to order at 7:00 P.M.

Roll Call: Mr. Reynolds, Ms. Cusick Woodman, Mr. Eng, Mr. Mikami, Mr. Harnais [all present]

New Business/Old Business

Request for Minor Modification

575 Quincy Avenue/March Fourth, LLC

For details please see Ms. Santucci's staff report dated 3/16/09

Ms. Santucci informed the Planning Board that the applicant had a Special Permit and Site Plan Review to fill the drydocks and has received a Chapter 91 Waterways License from DEP for the work. The request for modification is to "alter the coastal condition ... with a sloped riprap seawall," in accordance with DEP's stipulations and conditions. The seawall has been completed.

Ms. Santucci said she could schedule a site visit if the Board members wished to visit the site.

Mr. Reynolds asked if the original installation dated from World War II.

Mr. Harnais stepped down and the Vice Chair asked for a motion.

Motion by Ms. Cusick Woodman, second by Mr. Eng to approve the request for minor modification.

Vote: 4/0

Planning Board Reorganization

Motion by Mr. Eng, second by Mr. Mikami to maintain the composition of the current Board.

Vote: 5/0

Acceptance of Planning Board Meeting Minutes

Motion by Mr. Eng, second by Mr. Reynolds to accept the minutes from the Planning Board meetings of January 20, 2009, February 7, 2009 and March 2, 2009.

Vote: 5/0

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Planning Board Appointment to Community Preservation Committee

Motion by Mr. Eng, second by Mr. Reynolds to ratify the Mayor's designation of Mr. Mikami as the Planning Board's representative to the Community Preservation Committee.

Vote: 5/0

Announcement

Ms. Cusick Woodman informed the Board that there would be an informational meeting at Town Hall on April 15, 2009 at 5:30 P.M. on "expediting permitting" [Chapter 43D]. Braintree fits the criteria for this state initiative for which Wood Road would be a targeted area.

Staff Notes

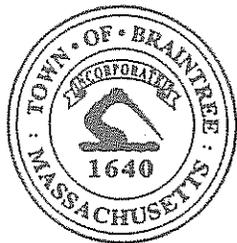
Ms. Santucci stated that the next Planning Board meeting would include the continued hearings for 20 Mill Lane and 39 Lantern Lane. For that meeting she will prepare draft Findings and Conditions for Mill Lane for the Board's consideration.

The Department has received an application for a Site Plan Review for Car Craft at 517, 521 and 525 Grove Street.

Motion by Ms. Cusick Woodman, second by Mr. Reynolds to adjourn at 9:10 P.M.

Respectfully submitted,

Linda Raiss



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Braintree Planning Board
April 6, 2009 Public Hearing @ 7:00 P.M.
Town Hall – Johnson Memorial Chambers

Present:

Robert Harnais, Chair
Joseph Reynolds, Vice Chair Melissa Santucci, Principal Planner
Linda Cusick Woodman, Clerk
James Eng
Darryl Mikami

531-533 Pond Street and Rear Pond Street/RMT Braintree, LLC and McCourt Construction
Application for Major Modification to Planning Board Decision 93-4
For details please see Ms. Santucci's staff report dated 3/10/09.

The Chair opened the continued public hearing.

Attorney Jeff Tocchio, representing the applicant, Ryan McCourt and Tom French, the applicant's engineer from Cubellis, were present.

Attorney Tocchio was asked to address the Board and provided some background on the property and the 1994 Planning Board decision which was issued to the former property owner, Ainslie Corporation, to construct a 3,750 SF addition. RMT Braintree, LLC [Mccourt] leased space from Ainslie for repair and maintenance activities and now has purchased the property. The applicant is before the Planning Board to modify two of the Conditions of Approval [1994]: Condition 18, which stipulates the kind of storage allowed in the 3,750 SF addition, storage which differs from McCourt's needs, and Condition 31 relative to outdoor storage. As well, the applicant wishes to make striping changes on site.

Mr. French addressed the Board and pointed out a change on the plans which was made to address concerns about the aisle width between the tank enclosure and the material storage area [now 24']. The applicant has also changed the location of the two 260 gallon portable fuel storage tanks.

Attorney Tocchio addressed some of the issues raised in a submission at the last meeting by Attorney David Kellem on behalf of his client, abutter Roger Aiello.

Idling of vehicles on site: The applicant will comply with state regulations and has proposed that there be no idling which would exceed five minutes. Recently there was an issue of a bus idling too long. They have addressed this with their tenant and will monitor this situation.

Powerwashing on site: The applicant will not allow power washing outdoors.

Landscaping: The applicant has not proposed any change to the existing landscaping.

Parking Plan: There is a note on the plan “professional office/office” which the applicant understands may be used to support only a “use-by-right” activity on site.

Dumpster: The dumpster is solely for McCourt’s business.

National Pollution Discharge Elimination System[NPDES]: The applicant has no problem with the Planning Board including a condition to address this and will follow up if required.

The Chair then asked for comment from those in attendance.

Attorney David Kellem, representing direct abutters Roger and Darlene Aiello [also present], addressed the Board. He brought a number of presentation boards: two aerial photographs of the area which show the stream that crosses the subject property and others with enlarged photos of the subject property taken over a number of years. He noted the residential character of the neighborhood abutting the subject property to the north [single-family homes on Regis Road and two multi-family homes belonging to his client]. Mr. Aiello has developable residential land abutting the McCourts’ property and his interest in their request for a modification [of the Special Permit and Site Plan Review] is an economic one: how the modification will impact the future residential use of his property. The many photographs depict the changes which have taken place from 1994 to the time RMT purchased the property. Earlier the Ainslie Corporation used the building for storage, a low impact and quiet operation. In addition to their own commercial activities on site, the McCourts have leased space to a bus company [subject of the idling complaint]. He noted that the Zoning Bylaw requires a 100’ buffer between residential and commercial property. That 100’ would extend 30’ into the McCourts’ building.

Attorney Kellem asked if the larger trucks were the type of vehicle to be parked along the property line in the 9’ x 20’ vehicle spaces. [He also mentioned the powerwashing, which had already been addressed by Attorney Tocchio.]

Attorney Kellem emphasized, again, that the Aiellos’ property is residential in character. The photographs show that in the late 1990s and early 2000s there was no fence along the property line and the abutting property was clear of equipment and large vehicles. This all changed – from storage to vehicle maintenance - when the McCourt operation relocated to Pond Street. The activity inside the building has a huge effect on what goes on outside, with large vehicles constantly entering and exiting the maintenance facility.

He would like to know what material is to be stored in the southeast corner of the property and how it would enter and exit the area. He also questioned the labeling of the area to be used for “oversized” parking [four spots only 20’ wide]. How will the applicant be able to use the area and continue to maintain the traffic aisle? Access is exceedingly narrow. He had the same questions for the areas labeled “small equipment” and “trailer parking.” The equipment which will be stored next to the “marsh” will impact the Resource Area as the site drainage flows from east to west to the brook and the wetlands.

Attorney Kellem emphasized that the plan is not manageable or realistic in terms of access and egress. His main point was that the use [a garage] is not allowed in the 100’ buffer zone. A property owner cannot have a self-created hardship. The site is loaded with zoning problems and the activities on site have been in violation of the Bylaw for four years. The applicant owed over \$34,000 in fines and entered into negotiations with the Town. The settlement resulted in payment of \$15,500 in fines, an agreement about off-site improvements and an agreement that the applicant would garage all the company’s vehicles in Braintree. How many vehicles would that be? And how will that impact the residential area? The proposal for storage of about 600 gallons of fuel leads to the question of what will be “fueled” on site. The McCourts’ business is one of the largest construction companies in New England. Is the fuel for only the McCourts’ business?

John Wells, a 24-year resident of 86 Regis Road, addressed the Board. During his remarks he repeatedly stated that he does not have anything against the McCourt operation *per se*, but he is extremely concerned about all the industrial-type activities in this sensitive area which drains to a stream which itself flows into the Town’s drinking water supply at Richardi Reservoir.

He has communicated with department staff and expressed appreciation for the prompt responses to his inquiries, which mainly concern storm water management as addressed in the Town’s Bylaw, in state regulations of activities which may impact wetlands and in the federal EPA regulations. Many of the Town and state regulations can be interpreted in a number of ways, but the federal legislation governing storm water is very clear. He is concerned about the runoff from the 120 trucks parked at the McCourt facility when there is a rainstorm and polluting of the water supply. He brought an aerial photograph and pointed out how the flow of untreated water reaches the Reservoir. [His declaration that all the land surrounding the McCourt property drains to a 20’ “sump” behind the McCourt property was challenged by Mr. French who stated that all the property to the south and east of the property drains southeasterly toward the Reservoir and not through the McCourt property.]

Mr. Wells added the following:

- One aspect of the Site Plan Review process is to ensure implementation of DEP’s Stormwater Management Standards.
- The fuel storage tanks are 15’ from the wetlands.
- There are fourteen companies in Braintree that have a storm water plan.
- The runoff from the McCourt property, which services 120 vehicles and has fuel stations, goes to the municipal storm water drains.
- The Bylaws are not in compliance with state or federal regulations.

Joseph Vannelli, 102 Regis Road, expressed his concern with quality-of-life issues [noise, fumes, traffic] which are impacting the residential abutters. There is powerwashing of the heavy equipment on the McCourt property and this goes into the wetlands behind his house.

Charles Kokoros, District 1 Councilor from Solar Avenue, informed the Board that a number of the elderly residents in the area of Pond Street near the McCourt property have spoken with him about conditions in the area. The neighbors have concerns about traffic, access from and egress on to Pond Street. He added that the commercial activities abut a very residential neighborhood.

Attorney Tocchio took the opportunity to respond to some of the issues raised, indicating that there will be absolutely no intensification of the use of the McCourt property. The effort being expended is to modify the Special Permit and Site Plan Review in order to get the site in compliance and to bring "orderliness" to the property. McCourt is addressing concerns relative to their commercial operation by striping spaces and designating storage areas. He noted, as he had at the initial public hearing, that the applicant does not need the 120 parking spaces required by zoning, which they have attempted to locate as far from the residential abutters as possible. The use of the word "oversize" on the plan was simply to denote large equipment. Their designating areas on the plan for various uses was to define what would be stored/parked where on the property. And, he stated clearly that the owner would not violate any permits granted. Any speculation to the contrary is not appropriate. No variances are needed as there will be no permanent outdoor storage allowed.

The Chair asked Attorney Tocchio to respond in writing to the concerns raised by the abutter's attorney instead of attempting to address them at this meeting.

Chairman Harnais then proceeded to address both attorneys and their clients. He informed those in attendance that he had observed the property on a number of occasions since the last meeting. He feels that the applicant could make an increased effort to address the condition of their property, such as replacing the chain link fence. The McCourts should not wait for complaints, but attempt to take care of issues on an on-going basis. [At this point Mr. McCourt indicated that he had been aware of only one complaint about his operation – that snow had been dumped on the Aiello property. He discovered that that complaint was justified and instructed his employee to avoid dumping the snow on the abutter's land.]

Mr. Vanelli asked if the fines were related to the Planning Board. [no]

Mr. Harnais continued by describing his impression that the animosity between the applicant and Abutter Aiello started long ago and has grown. He urged the "players" to work together: the applicant should make an effort to clean up the property and the abutter must recognize that changes occur as cities grow. The Planning Board relies on the good intentions of all, both applicants and abutters.

Mr. Eng stated that he is well aware of the history of this property as serious issues arose during his tenure as Conservation Commission Chair. He has a number of questions to put to the applicant himself and he would like the applicant to respond to the list of questions submitted by Attorney Kellem on behalf of the Aiellos before he presents his own questions. He added that he

understands the concerns raised by Mr. Wells and Attorney Kellem, especially about water and air quality and noise, but the McCourts must be allowed to use their property as it is zoned.

Mr. Reynolds stated that he was a member of the Planning Board when the 1994 Special Permit and Site Plan Review was issued. At this time there is an exceptionally large amount of information to digest. He indicated that answers to the questions raised during the public hearing are necessary in order for him to cast a well-informed vote. He also needs more information on traffic, the definition of storage, the number and types of vehicles on site, the applicant's suggestions for a parking management plan on the northern property boundary, and storm water runoff. He would like both the applicant and abutters to summarize their issues, especially about the storage question.

Ms. Cusick Woodman also had questions and concerns: the 120 parking spaces, the fact the fire lane is not depicted, how the tenants dispose of their trash if the dumpster is only for the McCourt's operation, if the gas tanks have been approved by the Fire Department, possible systems to clean up the runoff before it enters the wetlands, the salt going into the river [Mr. McCourt stated they use only "sand sand."], and the materials to be stored in the open. She also asked if the buses owned by the tenant have bathrooms and, if so, how they dispose of the waste. She added that the amount of equipment stored on site has increased and the air quality has worsened and now the applicant is requesting the lifting of certain conditions.

Mr. Mikami noted that this is a classic situation where "industry meets neighbors." He asked what Mr. Aiello would like to see on the McCourts' property and if the McCourts were the neighbors [to such an operation as they run], what they would like to see on the site.

Mr. Eng asked if there were an oil/water separator on the property because such a mechanism would trap sediments. Mr. McCourt indicated that he had proposed one when he had submitted an earlier Notice of Intent filing to the Conservation Commission. The neighbors objected to this project. [Attorney Kellem informed the Board that he was not aware of the McCourts' proposal of a water/oil separator.]

Chairman Harnais repeated his advice that the parties respect each other and attempt to reduce the animosity which would help the Planning Board address the issues at hand. He mentioned the analogy of a square peg in a round hole. If you want it to fit, you need to shave the peg not attempt to shove it in.

Ms. Santucci said for the continued hearing the Board would be looking for responses to Attorney Kellem's questions and a plan with radii. She would like to perform a site visit with the applicant's engineer to observe conditions and asked if the Board wished the applicant to submit a traffic memorandum [Mr. Reynolds stated that would not be necessary, but that he is concerned about any complaints – and responses – to the Fire and Police Departments and the Code Compliance Officer.].

Mr. Kokoros said that the complaints he had heard from elderly residents were about vehicles on Pond Street backing into the site and impacting the flow of traffic on Pond Street. Large vehicles have difficulty accessing the site.

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Public Hearing @ 7:00 P.M.

Motion by Mr. Reynolds, second by Ms. Cusick Woodman to continue the hearing to May 19, 2009 at 7:30 P.M. [The deadline for submission of materials to be reviewed by staff is 5/6/09.]
Vote: 5/0

Respectfully submitted,

Linda Raiss