



## Department of Planning and Community Development

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Joseph C. Sullivan  
Mayor

### PLANNING BOARD

Robert Harnais, Chair  
Joseph Reynolds, Vice Chair  
James Eng, Clerk  
Darryl Mikami, Member  
Melissa B. McDonald, Member

Braintree Planning Board  
January 14, 2014  
Town Hall – Cahill Auditorium

**APPROVED**

#### Present:

Mr. Robert Harnais, Chair  
Mr. Joseph Reynolds, Vice Chair  
Mr. Darryl Mikami, Member  
Mr. James Eng, Clerk  
Ms. Melissa McDonald

Melissa SantucciRozzi, Principal Planner

Chairman Harnais called roll at 7:06 pm.

### Zoning Board of Appeal Petitions – January

#### **ZBA (14-02)** **1107 Liberty Street / Siu Wong**

Siu Wong addressed the Board and said that she is seeking a variance for lot size to sell a portion of her property.

She explained that when she recently purchased the property, she learned from a survey that a neighbor has been using a portion of their land. She said the variance is necessary to carve out and convey a parcel of approximately 1,080 SF to settle the issue. The Applicants' remaining lot will measure approximately 13,900 SF after the division.

The Board had no questions.

The Chair called for a Motion.

Mr. Reynolds made a Motion for a favorable recommendation; seconded by Mr. Mikami  
**Vote: 5:0:0**

#### **ZBA (14-03)** **236-240 Wood Road (Building #240) / Wood on Wood Road, Inc.**

Frank Marinelli, attorney for the Applicant introduced himself and Don Damon, the property owners' Agent.

Mr. Marinelli explained that there is a sign box on the property at 240 Wood Road; it has been there for years but they were unable to find a Building Permit on file. The former tenant, Baby Furniture Warehouse, used the existing sign box.

Mr. Marinelli said the Applicant wants to validate that sign. The proposed sign is 4 FT x 20 FT, the expanse of which equals 10% of the width of the building, facing the highway. The building is currently vacant. He stated that any future tenant would apply to the Building Department to obtain a permit for their particular name, logo, etc.

The building at 240 Wood Road has poor visibility from Wood Road. It is the only lot on Wood Road that has 2 buildings on it. The lot is irregularly shaped and the topography drops significantly. The back building is challenged for visibility making highway signage important for identification. The size of the sign is reasonable compared to other signs on Wood Road.

Mr. Marinelli noted that the Planning Staff reviewed the application and quoted portions of the Staff Report. The report notes the drop in elevation of the property. It further stated that relief could be granted without detrimental impact.

The Chair opened questions to the Board.

Ms. McDonald agreed that there is a hardship, she had no questions.

Mr. Mikami clarified that the application is to legalize the existing sign. That a future tenant could apply for a larger sign if they applied for a variance.

Mr. Marinelli said they only want to validate the existing sign box; if the sign is to be enlarged by a new tenant, the tenant will have to go through the Building Department.

Mr. Mikami asked how many tenants have changed.

Mr. Marinelli did not have all the details of the tenants but accounted for the former tenant of 5 years and 1 the one year vacancy.

Mr. Eng had no questions.

Mr. Reynolds agreed that this set of buildings on Wood Road is unique and is an example of why this town needs to revise the signage bylaws. Mr. Marinelli agreed with Mr. Reynolds' point.

Mr. Harnais commented that the current signage is too strict. New businesses require signage and the town should accommodate the need.

Mr. Reynolds clarified his point to include responsibility. Braintree has taken this case by case, preventing commercial signage from becoming too garish. He said we can afford to move forward with a responsible approach.

The Chair called for a Motion.

Mr. Eng made a Motion for a favorable recommendation; seconded by Ms. McDonald.

**Vote: 5:0:0**

**ZBA (14-05)**  
**69 Tenney Road / Diane Vo**

Mr. Mai Phung of Phung Porzio Studio of Architecture of 204 Adams St., Dorchester, MA, addressed the Board and explained that the Applicant is seeking approval to demolish the existing single family house on the property to construct a new 2 ½ story single family house with an attached 2-car garage.

He further explained that the property is an existing, non-conforming lot. The minimum square footage required is 15,000 SF; this lot is 9,587 SF.

Mr. Harnais asked if the setbacks remain the same. Mr. Phung said the new building simply replaces the demolished single family house.

Ms. McDonald asked about the size. Mr. Phung said this building will be a bit bigger than the existing; the proposed plan will be 22% building coverage which is within the 35% allowed.

Mr. Mikami questioned if the drainage easement will have an impact on the new construction; Mr. Phung said there will be no impact.

Mr. Eng asked about him paving over the drainage easement. Mr. Phung said he understood that there is a drainage easement under the driveway, that no structure can be built on it and if the pipe fails, the driveway will have to be dug up.

Mr. Reynolds questioned the footprint and pointed out that as designed, it will have no negative impact on the area.

The Chair had no questions and called for a Motion.

Mr. Eng made a Motion for a favorable recommendation; seconded by Ms. McDonald  
**Vote: 5:0:0**

**04-02 (Public Hearing)**  
**Whites Hill Estates II / O.I.B Corporation (04-02), Applicant**  
**Definitive Subdivision Plan Amendment**

Paul Marchionda, PE, Marchionda & Associates, L.P., Stoneham, MA  
Kevin Emery and Steven Caruso, Marchionda & Associates, L.P., Stoneham, MA

Chair read the Notice into the record.

Mr. Marchionda introduced himself and stated he represented O.I.B. Corporation. He presented a proposal of a 17 lot subdivision. He explained that in 2007 the front portion of the property was subdivided into 6 lots. He said he worked with the Staff for an Amendment for the prior subdivision and the current proposed subdivision of Lot #3. At the time the six (6) lot subdivision was approved, a number of waivers were granted.

He referred to a Plan showing the subdivision and said in exchange for the additional waivers needed for the road [shown as Road A on the presented Plan], the Applicant will donate about 5 acres to the Town of Braintree.

Mr. Marchionda said the two additional waivers needed include length of road and design of the storm water detention basin. He further said that there will be no impact of drainage to the neighbors.

Further, he said the Applicant was contacted by Steve O'Brien, the District Councilor who asked to have a meeting with the neighbors – he said that took place on January 9, 2014.

*Mr. Harnais interrupted saying that Counselor O'Brien was not able to attend the Planning Board meeting but a representative was present in his place.*

Mr. Marchionda said because the meeting was put together rather quickly, some of the neighbors were not aware of it. The developers agreed that they will have another neighborhood meeting between now and the next Planning Board meeting; they will work with the Councilor to make sure all the neighbors are notified.

He mentioned an independent Peer Review by Armory Engineering, hired by the Town, who pointed out a few things, he said that they intend to address them but haven't at this point. Mr. Marchionda said he wanted to address the Board and the abutters at this meeting.

Mr. Harnais announced to the public that everyone's concerns will be heard and it will be a lengthy process.

Mr. Patrick Brennan, Armory Engineering, was hired by the Town of Braintree to do a Peer Review. His report is dated December 23, 2013. Mr. Brennan highlighted some of his report as follows:

Drainage and Storm Water Management:

There is no increase in post development rate runoff. However, there will be an increase volume to design point one (toward Mayflower Road).

The Applicant's calculations did not factor in driveways and roofs – this information should be included for accurate site runoff.

The proposed stone bottom basin is contrary to the required vegetative basin and will require a waiver. The emergency spillway will require erosion protection and test holes for the expanded basin are needed as well as test pits where Road A is intended.

A basin depth requirement is 5FT – the existing and proposed basin depth will be greater which will require a waiver.

The proposed basin is located in an easement; they are required to be on separate lots, this will require a waiver.

The plan does not provide a 50FT buffer of the existing vegetation around the expanded basin, the proposed road and the dwelling at 21 Whites Drive are within 50 FT.

A maintenance plan is needed for the stormwater system, currently there is significant basin brush growth.

Water and Sewer Utility – there are some discrepancies on the plans regarding cover over the water main.

Electric and Utility Design – Details for street lights have not been provided

Lot Layout and Geometry - The existing basin is in an easement – this does not comply with the Subdivision Rules and Regulations. The proposed Road A would require extensive excavation – cuts of up to 16FT below grade.

Lot 1 driveway is within 50 FT of the intersection of proposed Road A which does not comply with the Subdivision Rules and Regulations.

Erosion Controls – silt sacks should be installed at catch basins and remain until the area stabilizes.

Grading and Earth Removal – Without test pits, there is no way to know if there will be potential ground water issues to construct Road A.

The Waivers pertaining to the first 200 FT of Road A are reasonable.

The feasibility is questionable to construct both roads since the limit is 400FT, one proposed road is about 1250FT if constructed as shown, and Road A will be 1700FT at the end of the cul-de-sac.

Regarding the Waiver for the side slopes in the basin, he suggested to include a Condition to monitor the erosion for a few years.

Lot 17 is proposed to be accessed by a right-of-way that goes up to the Town water tank. He suggested that documentation be provided that indicates they have the right to use the access for that lot and that it provides legal frontage for that lot. If they do have access and it does have legal frontage, it will need improvements for emergency vehicles.

Chair called for public questions.

**George Estano, 244 Liberty Street**

Commented about the detention drainage and asked who will own the drainage property. It's not maintained now and he is concerned if it will be in the future. He had a second comment concerning access via the right-of-way by the water tower. He urged the Planning Board to check the history of the project.

*Mr. Harnais assured Mr. Estano and the public that the Planning Board is in the process of educating themselves about the project and it will be a long process.*

**Thomas Witt, 197 Liberty St**

He wanted to record his objection because of increased traffic. He feels an estimated 34 more cars will negatively impact the neighborhood traffic.

**Holly MacMillan, 162 Liberty Street**

She said she objects to any proposal to build anything behind her house. She said the wildlife will be impacted; she would like to preserve green space. She added her concerns about additional water directed to the bottom of the slope she lives on; any increased excavation will create a more severe condition.

**Frank Bocchino, 87 Mayflower Road**

Expressed his opposition to a repeat of same problems as when the project was proposed 15 years earlier. He cited concerns of truck traffic, drainage, a detention pond and emphasized that the proposed project will impact the school area.

**George Keegan, 66 Mayflower Road**

Commented that this is a repeated plan, it was brought before the town and the state in the past. His main concern is the 100 year water tower, there is no guarantee it will not fall down with the blasting. He also noted excessive truckloads of ledge material and the blasting necessary to remove the ledge; removing topsoil will affect neighboring drainage.

**Erin Wilson, 198 Liberty Street**

She is an abutter that was impacted during Phase I by continuous drilling that lasted for about 8 months. She said she endured \$6,000 of damage to her ceiling and walls. She noted that although the developer promised to remedy the problems, neither he nor his insurance company reimbursed them for the damage.

She said they were reimbursed \$375 to have their house power washed but they had to have their house power washed 18 times during construction. Additionally, their fence was damaged, their rock wall was removed without notice and their lawn was damaged from trucks; eventually, it was repaired by O.I.B.

She highlighted many ongoing problems and the intrusive disruption of use of their property. After her experience, she urged the town to protect the residents.

**Danielle Clifford, 15 Claremont Street**

She expressed her concerns about the impact on schools. She estimates the addition of approximately 30-40 more children in the school.

**Russ Neary, 22 Lincoln Street**

Mr. Neary said that in 1978, Mr. Poulos, who originally owned the property, tried to take the right-of-way across from his house. Adverse possession prevented him from utilizing the right-of-way. However, he is concerned about a property that was recently sold to a developer who he believes will attempt this again. He urged the Planning Board to consider the neighbors and Condition the project to protect them. Additionally, he wanted to know why he wasn't notified of this Planning Board meeting.

*Ms. SantucciRozzi clarified that the subdivision control law requires notice to direct abutters. Mr. Harnais offered Mr. Neary that the District Councilor is very pro-active and he suggested that all parties that are interested should contact him, he will be in touch with all those concerned, whether you are a direct abutter or not.*

**Paul Logan, 165 Pilgrim Road**

Mr. Logan, a 40 year resident explained that Pilgrim Road gets a lot of runoff from the hill. This freezes up because it has never been "crowned" properly. His concern is that additional drainage will compound the freezing issue.

**Marina Ristuccia McHugh, 31 Lincoln Street**

Ms. McHugh expressed her 20 year experience with the proposed roadway extension. She explained that in 1995, a 25 lot subdivision was proposed with a road length of 2,777. There were open meetings for years with experts. The Planning board denied the Application. O.I.B. then took it to Land Court where Judge Shire approved 5 of the 8 waivers and remanded three back to the Planning board. One was for the length of the roadway. After 2 more public hearings, the Town again denied the Application. In Judge Shires' Decision, she upheld the Planning Board's right to deny that length of roadway.

Once again, she is concerned, if the road length is allowed, it will set precedence for all other subdivisions. The only difference with this proposal is the land donation. If the land is accepted, she urges it be used for open space under the jurisdiction of the Conservation Committee.

She added it is concerning to all at the hearing that neither the contractor nor his insurance, compensated homeowners for project damage they caused.

*Mr. Harnais assured her that setting precedence has always been a concern of the Planning Board. Regarding the donation of land, the Town is not going to sell Waivers for land, the first duty of the Board is to decide on the subdivision and decide if it is good for the town.*

**Scott Mofford, 186 Liberty Street**

Mr. Mofford expressed his concerns for the Morrison School. His property is bordered by "a mountain of ledge" and blasting concerns him. He mentioned the wildlife and that open space will be compromised. He does not feel it would be good for the town.

**Scott Dingee, 35 Claremont Street**

Mr. Dingee agreed with previous comments and he asked how the process will go forward.

*Mr. Harnais explained about the process and how the application will proceed. He assured the public that it will be a long process, at this point the Board is not fully informed, so it will take a long time.*

Mr. Dingee stated that this project was not permitted in the last 20 years for a reason and he hoped this Planning Board will come to the same conclusion.

*Mr. Harnais acknowledged Mr. Dingees' position and said that the Developer has the right to apply. That in the course of this process, if a project is rejected, the developer has to wait a period of time before it can be presented again; in this instance, they waited an appropriate time period.*

**Robert Kearns, 200 Pilgrim Road**

Mr. Kearns expressed his objection to the proposed project, citing wildlife; blasting and runoff from the hill that affects Mayflower and Pilgrim Roads. He noted that the impervious surfaces from driveways and houses are not currently factored into the project detention basin calculations.

Mr. Kearns asked to know more about the detention basin pipe to Mayflower Road.

*Ms. SantucciRozzi responded to Mr. Kearns by saying the runoff is not piped, it is over land flow.*

Mr. Kearns said that he agreed with the independent Engineer (Patrick Brennen of Armory Engineering) who questioned the feasibility of the proposed ledge blasting for Road A.

**John Feeney, 76 Pilgrim Road**

Mr. Feeney added to the runoff issues saying the runoff affects areas as far as Weymouth Landing contributing to flooding in the Landing.

**Chris Mazza, 26 Willard Street**

Mr. Mazza asked how this project measures up to similar projects in town.

*Mr. Harnais could not provide an answer and explained that the Board has to educate themselves about the particulars of the project and the plans.*

Mr. Mazza expressed his concern not only about this first phase of development, but future development of the other 10+ acres. He requested the Board find a solution for each issue presented from the neighbors affected by this project. He urged the Board to take a global look at the project suggesting they involve engineers, planners, architects and perhaps a student contest to contribute concepts and design ideas.

*Mr. Harnais informed him that the courts would have an issue with the Planning Board turning down a project based on the possibility of what may happen down the road.*

Mr. Mazza said he was unfamiliar with the legal ramifications but challenged the Board to view this project globally.

**David Newton, 34 Lincoln Street**

He expressed his concern about the blasting close to the water tower which is on ledge. He hopes that there will be significant studies before blasting and excavating will be approved.

*Mr. Harnais explained that the Board has much to learn, he said he wants to continue this meeting.*

**George Collins, 79 Bellevue Road**

Mr. Collins said he is a registered Civil Engineer and a Hydrologist. He grew up in Braintree and he was there to represent his parents, Herb & Clair Collins who reside at 208 Liberty Street.

He said the application is an Amendment to the Decision of 2005. He suggested it be presented as a new project because it is different. The project is not an allowable by right. The length of the cul-de-sac is excessive concerning water separation and recharge and it should be maintained for emergency services.

He believes the volume of runoff will increase. He cited the existing detention basin is inadequate; the runoff ultimately funnels into the Monatiquot River which should be scrutinized closely.

He said the ledge cuts will be deeper than presented and into the groundwater levels. The intentions of the previous Waivers did not have this scope in mind. It is his opinion that this project is detrimental to neighborhood.

Mr. Mazza further commented about the appointment of the current Planning Board, that although they are volunteers, they do not have the history the past Board did.

*Mr. Harnais said he would take a vote to continue the meeting. He added that this Board has been established for 6 years and he is proud of the work they do, they always try to do what is right.*

**Tina Depace, 96 Mayflower Road**

Ms. Depace asked when and how they will hear about the next meeting.

*Mr. Harnais said the date and time of the upcoming meeting is always announced at the end of each meeting, and the schedule is also posted on the Town website, on link from the Planning Department page.*

*Before the meeting closed, Mr. Mikami made a public record statement, that years ago, his family made a contribution to Colonial Civic Association; clarifying further that he never participated in any meetings or the business of that Association.*

The Chair called for a motion.

Mr. Reynolds made a Motion to table the matter to February 11, 2014 at 8:30 pm; seconded by Mr. Eng.

**Vote: 5:0:0**

*Mr. Harnais recused himself from the matter regarding 575 Quincy Avenue*

**13-08 (Public Hearing)**

**575 Quincy Avenue / March Fourth LLC and Quirk Auto Dealerships (13-08)**

**Site Plan Review**

Frank Marinelli, Attorney for Applicant

Jim Burke, P.E. of DeCelle Associates, Quincy

Acting Chair, Joseph Reynolds, read the Legal Notice into the record.

Frank Marinelli, Attorney for the Applicant, addressed the Board and explained the improvements over the past 10 years and detailed the purchase of the Quirk property, the former Quincy shipyard. The shipyard parking lots are now used to store Quirk's vehicle inventory. The main gate at East Howard Street in Quincy is used for cars entering and exiting the site.

The Fore River railroad goes through the property that creates a delay at the main gate which is a use by right. The Applicant wants to put two (2) guard houses on Hill Avenue, both gated.

The proposed project will not only avoid the train disruption at the main entry, but it will facilitate a better flow of the car operation on Quincy Avenue.

Chair opened questions to the public.

Lucia Quailey Smith and husband, Phil Smith – residents at 11 Patten Avenue

Ms. Smith said, although it was a terrible experience, they survived the blasting. She asked to know the plan for use of Columbia Terrace and in particular, the traffic impact to their home.

Further, she said Patten Avenue is in poor shape; asking if the developer intends to improve Columbia Terrace and Patten Avenue, considering the project wear and tear and the business use; she asked if these two roads will be repaved.

Mr. Marinelli pointed out that they have been sensitive to the neighborhood inconvenience. He confirmed that Columbia Terrace is a public way and they will continue to work in a responsible way.

Ms. Smith commented that she is not happy with the grading appearance, there is nothing green, they lowered the grade around their [the Smiths] property by 2FT. They intend to meet with Quirk to discuss fencing or possibly a retaining wall.

Ms. McDonald wanted a visual reference on the Plan of Columbia Terrace and Patten Avenue. Mr. Marinelli showed this area; she asked where the truck pattern would be and if a traffic study was done.

Mr. Marinelli said no, they didn't think the vehicle trips would trigger a traffic study, but if needed, they would engage an engineer per the Draft Conditions.

Ms. McDonald asked if they have potentially three entrances/exits, will any be designated just for entry or just for exiting. Mr. Marinelli said no, the intent is to level out the delivery to avoid traffic delays.

Mr. Mikami asked about the two exits and said he envisions cars and car carriers stacked on Hill Avenue and Patten Avenue.

Mr. Marinelli said the two exits assist in avoiding the railroad back up and allow a second location to dispatch car delivery. He explained that the carriers are not climbing Columbia Terrace. They will not stack up because there is plenty of room on the property to accommodate several car carriers.

Mr. Mikami acknowledged how this will make the Quirk operation more efficient but stated his concern for additional disruption to Hill Avenue, Patten Avenue, Columbia Terrace and Quincy Avenue.

Mr. Marinelli explained why this is a solution to traffic impact rather than a problem because it permits an exit during the railroad disruption and allows ample storage of car carrier stacking inside the property rather than on the street. Further, if a traffic study is required in the future, the Applicant will fully cooperate.

Jim Burke, P.E. reiterated why the design will prevent any stacking issue, it has been designed for flow.

Mr. Eng stated his understanding of the design. He questioned the traffic in relation to the rail crossing. Mr. Burke pointed out the direction and plan and he explained the need for two (2) access points on Hill Avenue.

Mr. Burke said the car carriers will not go down Columbia Terrace; Columbia is planned for individual car movement, not likely to be used for a carrier. Mr. Marinelli reiterated that cars (individually) will drive down Columbia Terrace.

Mr. Reynolds clarified that Mr. Marinelli reviewed the staff report and the Conditions; in particular, Condition 36 concerning Traffic and Access. Mr. Marinelli said that these were reviewed, they are acceptable and if further discussion is necessary with the Town Engineer, they will cooperate.

Ms. SantucciRozzi said the Applicants response dated 1/10/14 satisfied all of the Comments. There were some comments from Mr. Campbell that were received after the Staff Report and Conditions were prepared. Those items can be incorporated if they warrant additional Conditions. The Staff will work with the Town Engineer and the Applicant following the Planning Board vote.

Mr. Reynolds asked about Condition 36 (Traffic in Excess). Mr. Marinelli said this Condition is acceptable. He asked Ms. SantucciRozzi about any further questions or conditions.

Mr. Mikami asked if a start date is planned. Mr. Burke said theoretically, May 1<sup>st</sup> is a target date.

Ms. SantucciRozzi added that the grading permit on the hill is still open. The site contractor, Mr. Pompeo and Mr. Burke, provided a plan to the Planning Department that noted some road damage they caused. The Planning Staff and the Engineering Department reviewed and recommended the inclusion of additional areas. Those areas have been prepped and are in better condition than what was previously there. Patten was not identified to be paved and it has not been paved. She said there have been no other complaints.

Mr. Smith explained that the tractor trailer trucks used Patten Avenue to get to the other side of their property. They used Patten Avenue to go back and forth across it which contributed to the damage on Patten Avenue and he hoped that the Applicant would repave the road.

Mrs. Smith said she has photos of blasting mats being unloaded across from their property and many other trucks parked there including a rock crusher. Mr. Smith recalls that the rock crusher was supposed to be housed elsewhere on site; Ms. SantucciRozzi said she will check into it.

There were no further questions from Board.

Mr. Reynolds acknowledged that Mr. Marinelli is aware of the standard cleanup plan per the Conditions.

Mr. Reynolds called for a motion to accept the correspondence.

Ms. McDonald made a Motion to accept the Correspondence dated 1/7/14 – 1/14/14; seconded by Mr. Eng.

**Vote: 4:0:0**

Mr. Eng made a Motion to close the Public Hearing; seconded by Ms. McDonald.

**Vote: 4:0:0**

Mr. Eng made a Motion to approve the Site Plan Review with the Conditions dated January 14, 2014; seconded by Ms. McDonald.

**Vote: 4:0:0**

*Ms. McDonald recused herself from the matter regarding 85 Oregon Avenue*

**85 Oregon Avenue / Oxbow Associates on behalf of Owner, Quan Tran (09-06)**  
**Request for As-Built Approval**

Quan Tran, Owner

Erynn Marshall of Oxbow Associates, Inc., Acton and Boxborough, MA

Erin Marshall introduced herself to the Board and stated that her office requested the As-built Approval on behalf of Quan Tran, owner of 85 Oregon Avenue. She asked the Board to explain the survivorship of Condition #18. She said she also wants to understand why the Applicant is required to provide 18 cubic yards of compensatory flood storage on lot 6 at 80 Oregon Avenue. She said a Letter of Completion indicating compliance and As-Built Plans provided by Kelly Engineering were submitted to the Planning Department that indicated the flood storage was satisfied.

Additionally, 2.5 cubic yards of flood storage was dug on Mr. Tran's property to compensate for an oversight. Condition #18 puts Mr. Tran in a position of responsibility in perpetuity for a Condition on someone else's property.

Ms. SantucciRozzi explained that 85 Oregon Avenue originally received a grading permit from the Planning Board. When the work was done, the current property owner (Mr. Tran) realized it was steeper than he wanted. He placed a substantial amount of fill in the back yard requiring a Special Permit for work in the floodplain. At that point, because of a high wall in the rear of the lot preventing any compensatory storage, it forced the storage for lot 4 to be located on lot 6. For this reason, Staff is suggesting the Condition be survived because the storage must be maintained in perpetuity on #80 Oregon Avenue.

Ms. Marshall said she understands but does not understand how Mr. Tran can be held responsible for something that occurs on someone else's lot. She said it seems reasonable since these are two separate lots, that the responsibility be divided accordingly.

Ms. SantucciRozzi said that it was Conditioned in the event that lot 6 doesn't get As-Built approval. The situation was created by Mr. Tran and any future owner needs to be aware that storage is on someone else's property.

Mr. Mikami recalls the adjustments from a previous meeting, so he agreed that if Mr. Tran caused the situation, he needs to solve it; he supported Staff comments.

Mr. Eng asked who did the filling of the flood plain. Mr. Tran said that the McGraths, the subdivision builder, did the fill before he bought the property.

Mr. Eng asked if the filling was done before or after Mr. Tran bought the property. Mr. Tran said before he bought. He said McGrath did the filling; he had no knowledge of it.

Mr. Eng said in a situation like this, the seller should have disclosed this information. Mr. Tran said he found out when he applied for the sunroom permit. He said he has an open permit that he has to close and that's why he is going through this process, to do things properly.

Mr. Eng said he agrees with Staff, the responsibility should go with the Conditions of the property.

Mr. Reynolds asked if Mr. Tran or any family member have been before the Planning Board previously. Mr. Tran said his wife was here before. Mr. Reynolds asked Mr. Tran whether McGrath or his wife filed the application. It was learned that Mr. Tran's wife applied for this floodplain Special Permit.

Melissa SantucciRozzi reminded the Board of the Surety posted by Zampine Farm; she suggested the Board release the Surety.

Chair Harnais called for a Motion to release the \$1500.00 Surety and approve the As-Built Plans contingent upon the surviving Conditions.

Mr. Reynolds made a Motion to release the \$1500.00 Surety and approve the As-Built Plans contingent on the surviving Conditions.

**Vote: 4:0:0**

#### **Approval of Minutes November, 2013**

Chair Harnais called for a Motion to accept the Minutes of November and December, 2013.

Mr. Reynolds made a Motion to accept the Minutes of November and December, 2013; seconded by Mr. Mikami.

**Vote: 5:0:0**

Mr. Harnais called for a Motion to adjourn the meeting.

Mr. Reynolds made a Motion to adjourn; seconded by Mr. Eng.

**Vote: 5:0:0**

The meeting adjourned at 10:43 p.m.

Respectfully Submitted by,  
Elizabeth Schaffer