



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
December 11, 2012
Town Hall – Johnson Chambers

APPROVED

Present:

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

Christine Stickney, Director
Melissa Santucci Rozzi, Principal Planner

The Chair called the meeting to order at 7:05 P.M. and called the roll: Member Reynolds; Member Mikami; and Member Eng. Member McDonald was absent.

Zoning Board of Appeals – December

10 Gordon Road

Tom Leech, 10 Whiting Street, Hanover, Applicant

Applicant addressed the Board stating that he is seeking relief for an undersized lot of land to build a house on.

Mr. Eng commented that the lot size and the proposed house looks reasonable compared to the others on the street. He pointed out the 3 outcropping of ledge which will cause some issues but in reviewing the plans and they look good.

Mr. Mikami asked what the hardship is other than it being an undersized lot.

Mr. Leech explained that it is an unattended lot, an eyesore with ledge.

Mr. Mikami: commented that Staff notes that it has severe ledge outcroppings and a prominent front to back slope.

Mr. Leech explains that he intends to build the garage under the house so it won't be a monstrosity sticking up in the air and in the back he intends a walkout patio. It will suit the neighborhood with the same square footage as the neighborhood houses.

Mr. Mikami asked if any ledge work will be done.

Mr. Leech answered that he will do some chipping but no blasting.

Mr. Mikami asked if there have been any neighbor comments.

Mr. Leech said they're all happy about it. The land was offered to all the neighbors, including the yacht club across the street, but no one wanted it.

Mr. Eng commented that reviewing the lot size and the plans, it's reasonable; the plans look good.

Mr. Reynolds had no questions.

Mr. Harnais commented that he had no questions but it is good that someone is building on the lot.

Mr. Eng made a Motion for favorable recommendation, seconded by Mr. Reynolds
Vote: 4:0:0

[12-05]
25-29 Elm St. M&M Café, Dorsey Connolly, Applicant
Revision to Condition #36

Applicant, Dorsey Connolly addressed the Board explaining that he is petitioning for approval to change a previous Condition relating to the dumpster located behind his business at 25-29 Elm Street. In August [2012] he agreed to Conditions of the Planning Board that he would erect a fence to enclose half of the dumpster. He has since learned that doing so will encroach on the abutter's property line and cause a problem between landlords; therefore, at this time, Applicant is asking that the enclosure be omitted.

Mr. Mikami has no questions at this time.

Mr. Eng asked why if he originally agreed, why the change.

Mr. Connolly explained that he agreed before doing his homework, the space is too limited to include a fence.

Mr. Eng asked what type of dumpster it is.

Mr. Connolly said that it is of the closed type and on wheels. It is actually the landlords dumpster which was previously emptied every other week. Since he opened M&M Cafe, he's emptied the dumpster weekly and kept the area spotless.

Mr. Reynolds said he has viewed the property and stressed how tight the area is. He agrees with Mr. Connolly's request based on his observation and the fact that he is emptying it each week.

Mr. Harnais acknowledged that when Mr. Connolly first approached the Board, both landlords' were present to support him. Since then, the landlords are in dispute with each other which is adversely affecting the parking. He recognizes the issue and said that since the dumpster is not visible, he has no issue with Mr. Connolly's request.

Mr. Reynolds Motioned to grant the Change of Condition, seconded by Mr. Eng.

Vote: 4:0:0

[T.C.O. 12-051]
Commerce Drive, FX Messina Enterprises
Recommendation for Street Acceptance

Carl Johnson, attorney for FX Messina Enterprises, owner of Commerce Drive, addressed the Board requesting street acceptance for Commerce Drive. He explained that on 9/5/89, the Planning Board endorsed the Subdivision Plan for Commerce Drive. On 4/5/99, Commerce Drive Extension was endorsed by the Planning Board – file #98-20. In 2006 the Town Engineer recommended approval of Commerce Drive as a Public Way.

Mr. Johnson further explained that this application (originally filed in March) is filed under the new street acceptance procedures instituted in October. Commerce Drive is within compliance, it is a mix of residential and commercial. After requested work was completed, the Town Engineer, Bob Campbell, recommended acceptance.

Mr. Mikami had no questions.
Mr. Eng had no questions.
Mr. Reynolds had no questions

Ms. Stickney commented for clarification, that it is a commercial subdivision even though it provides access to the two residential projects of Turtle Crossing. The request is not for acceptance all the way through to Liberty Street; it's just Commerce Drive which ends just beyond the Postal Annex and the cemetery. Included in the record are comments from Thomas Whelan, DPW Superintendent who reports that the people who live at Turtle Crossing have been parking commercial vehicles in the half-finished cul-de-sac at the end of Commerce Drive. They have expressed that they want to continue parking there. If the Planning Board recommends favorable acceptance, one of the conditions will be that there be no parking in the layout of Commerce Drive.

Mr. Johnson accepts the condition.

Mr. Harnais has no questions and calls for a motion.

A Motion for favorable recommendation to the Council for Acceptance of the Way, conditional on no parking within the public layout; is made by Mr. Reynolds, seconded by Mr. Eng
Vote: 4:0:0

[12-10]
280 Ivory Street, Harvard Vanguard Medical Associates, Inc.
Special Permit and Site Plan Review - Facility Parking
Attorney Carl Johnson, III, Attorney for the Applicant

Mr. Johnson addressed the Board and stated that because Mr. Eng was not present at the last meeting and Member McDonald is absent from the meeting, there is not a quorum and would prefer to continue the hearing to January.

Ms. Santucci Rozzi confirmed the Continuation date of January 8th at 8:00 pm and that all the revised plans and conditions have been submitted.

Mr. Reynolds Motioned to Continue at the January 8th meeting, seconded by Mr. Mikami.
Vote: 4:0:0

Mr. Reynolds Motioned to grant an Extension, seconded by Mr. Mikami
Vote: 4:0:0

12-04 (Public Hearing)

20 Pond Street – MSMM, LLC; Special Permit and Site Plan Review

Nursing Home Conversion

Attorney Carl Johnson, III, representing the Applicant
Kim Eric Hazarvartian, Transportation Engineer, TEPP LLC
Steve Habeeb, Architect, Habeeb & Associates Architects, Inc.
Rob St. John, Director of Land Planning, Messina Enterprises

Chair reads the Public Notice.

Attorney Carl Johnson, attorney for the Applicant addressed the Planning Board regarding some of their comments. He introduced Steve Habeeb who highlighted the visual “before and after” difference between photographs and the revised plan, promoting the improvement.

Mr. Johnson mentioned the Staff concern of the lack of a public walkway. He explained they are working toward a solution with Staff.

Rob St. John addressed the walkway issue explaining that installing a sidewalk is a challenge. There is an existing 6’ grade differential from the sidewalk on Pond Street to the rear of the building. Existing, there is between 3-4’ of width from the edge of the building to a concrete window well. One proposal is to dismantle the existing 5’ [width] front scape and use the stone which will match the church wall, to build a 5’ wide sidewalk. The walkway will follow to the rear to a point where steps are necessary to raise 3’ to ground level at the rear.

Mr. Johnson suggested revising Condition #77 and #78 by combining into one Condition for future condo conversion. He assures the Board that the maintenance will run with the title and incorporate into the Master Deed.

Ms. Santucci Rozzi warned that the language needs to be very clear.
Mr. Johnson commented on the draft Conditions.

Mr. Harnais objected to changes to the Conditions.

Mr. Harnais opens the meeting to public questions.

Ms. Elizabeth Rooney, an abutter at 19 Pond Street, said the changes make the project look bigger, rather than “friendlier” as Mr. Habeeb referred to it earlier. She questioned the owner’s ability to rent and the level of rent it would be able to charge due to the location.

No further public comments were made.

Mr. Mikami acknowledges Ms. Rooney, his and others' concerns about the appearance of the building. He addressed Mr. Habeeb that the appearance is not that different than previously presented with the exception of the size of the windows.

Mr. Habeeb confirmed that the size of the window type and trim was changed to be more residential in appearance.

Mr. Mikami asked if what was shown is what they would go with. Mr. Habeeb answered yes.

Mr. Mikami emphasized that it still looks like a brick building – he mentioned the use of the fiberboard and asks about exterior doors for egress.

Mr. Habeeb explained there are 3 interior doors one on each floor, that are fire code approved that lead to exit doors.

Mr. Eng questioned Mr. Habeeb if the sketches as presented by Mr. St. John, is not ADA compliant.

Mr. St. John clarified the walkway is not ADA compliant. Mr. Eng asked if this was due to the property line. Mr. St. John stated there is 5 feet to the property line on the Church driveway – this was reviewed with the Building Inspector who raised objections to the ADA issue also.

Mr. Eng asked how much green space will there be after the project is built? Mr. Eng suggested that as part of this project, they would consider the use of Furlong Park by the project's tenants, located across the street. Perhaps the applicant would consider sprucing up the park for the residents.

Mr. Johnson objected stating that the park doesn't need sprucing up and further; it is maintained by groups like the Garden Club who also maintain the center island on Pond Street.

Mr. Reynolds returns to the ADA compliance issue questioning if there is any way possible to make these changes.

Mr. St. John clarifies the grade of the walkway prevents compliance.

Mr. Reynolds points out the importance of a disabled person to have independent accessibility to the park and the surrounding area.

Mr. St John states that the drive doesn't meet the 1/12 grade ADA compliance.

Mr. Reynolds expressed that he wants to physically view the property relating the walkway.

Mr. St. John stated that all other options were considered and this is the only alternative.

Patricia Rooney, also an abutter at 19 Pond Street, commented on wheelchair access. She has actually attempted to push a wheelchair up and down the existing grade. She stated that you would

have to be an Olympian to accomplish this or go around the Church. Getting around on your own in a wheelchair is very difficult on this driveway.

Mr. Harnais stated that the revisions are an overall improvement from where it started. He reiterates his opinion about the affordable housing units and that there shall be one on each floor.

Mr. Johnson asked that the issue of acceptance be continued to the next meeting that has a full quorum. He also suggested a partial decision for Condition #77, and recognized the Board has 90 days to file a decision.

Ms. Santucci Rozzi stated that she needs to slightly revise some of the findings based on the walkway and some details on the engineering plans have to be tightened up.

Mr. Harnais called for a Motion to accept the correspondence 7/16/2012 through 12/5/12.

Mr. Reynolds Motioned to accept the correspondence, seconded by Mr. Eng.

Vote: 4:0:0

Mr. Reynolds explained that he is not comfortable agreeing with Attorney Johnsons recommendation regarding the 90 day period.

Ms. Santucci Rozzi suggested, the board can vote any changes in the Conditions that they are comfortable with this evening. Tthe Board can also have a site visit pending an agreement. Further clarifying the point that if something changes post Hearing and the Applicant has to come back to discuss it, it will need to be renoticed.

Mr. Reynolds stressed that handicap access is an important issue – once done, it cannot be reversed. The developer does not know what kind of conditions and the needs of a handicap person in the future. Mr. Reynolds explained that he wants to feel comfortable and there are too many “what ifs”. He can make himself available by Friday (12/14/12) for a site visit. He is unclear what the options are available to the Planning Board tonight to vote on the conditions.

Mr. Johnson explained that because of the small number of units for this project, they have not provided for a handicap unit for the building because they are not required to. If the Board feels uncomfortable with an agreement, to the extent possible, the applicant can provide further engineering, but he wants a voting quorum.

Mr. Reynolds was concerned that if he voted tonight on Conditions, he didn't want to box himself in.

Mr. Harnais proposed to have a special meeting on January 15th [2013].

Ms. Santucci Rozzi stated that the building has been empty for 15 years; she doesn't see why a special meeting is necessary - the next [full quorum] meeting date is February 11th.

Mr. Eng commented that if someone with a handicap wanted an accessible unit, there isn't one there and he's unsure of any rules related to that?

Mr. Habeeb: It can easily be accommodated with modifications. The doors in the units as well as elevator access are provided. The units have not been specifically outfitted for a handicap person but could be with additional items such as sinks and stoves.

He further said that "We can't reasonably expect a handicapped person to apply for a unit at this building when you don't already have a unit prepared. Modifications will have to be done. While we have the time as Ms. Santucci Rozzi has covered, we should take a look at the contingencies.

Mr. Reynolds agreed with Mr. Habeeb that the units could be retrofitted, but their ability to access the building and get around the neighborhood. The key point is getting to the building.

Mr. Habeeb responds by saying the existing grade is what they have to contend with.

Mr. Reynolds refers to the opportunity to walk the site as due diligence.

Mr. Johnson reiterated that because of the number of the units, they are not required to put a handicap unit. If one wanted to go through making the accommodations, they can do it.

Mr. Johnson referred to Ms. Rooney's comment that you'd have to be a very fit individual to make that grade. The topography is what it is.

Mr. Harnais defers to Mr. Reynolds concerns because it is a serious issue.

Mr. Reynolds makes a Motion to Continue to February 12, 2013 at 7:30 pm, seconded by Mr. Eng.
Vote: 4:0:0

(T.C.O. 12-049 Public Hearing)

107 Hancock Street – Hancock Realty Trust (Patavina Family) Rezone

Carl Johnson, Attorney for the Petitioner

Thomas Patavina, Manager of 107 Hancock LLC

The Chair reads the Public Notice.

Mr. Johnson explained that the Petitioner, (now) 107 Hancock LLC, Thomas Patavina, Manager; wants to rezone a portion of the [mixed zoned] property from Resident B to General Business.

He referenced the parcel as being Lot 68 on the Assessors Map, containing 30,166 s.f.. +/- . The purpose of the rezone request is to create a uniformly zoned parcel containing 1.011 acres +/- in the General Business zone.

He reviewed and presented a site plan showing the rezoning area. The parcel is located in the South Braintree Square area, across from Braintree Lumber. Mr. Johnson presented a history of the lot

and the surrounding area from the 1950's to present. He stresses the improvement with rezoning to General Business. He referenced the Staff Report of which he is in agreement.

Chair asks if there are any public questions or comments, there are five people who comment:

1) Abutter, **Lordanou Liubomire - 16 Frederick Road** – thinks it's an exaggeration. The subject property ends about 10 ft from his house and although there are no plans there now, in future years, anything could go in there. Years ago, there was a landscaping company next to his house. He described it as living through hell. It was noisy in the morning and late in the evening. He is opposed to the rezoning, allowing it would reopen the door to that possibility again.

2) Abutter, **John Divincenzo – 10 Frederick Road**, agreed with his neighbor, Mr. Liubomire, saying that it is mainly residential. It borders a couple of businesses on Hancock, but Frederick is all residential. Already, there is a business bordering one side of his property – adding another business will increase noise and traffic on an already busy one-way street (Frederick) which has been neglected (hasn't been paved in decades). It's a popular cut-through so it will only increase traffic and decreases the property values on Frederick Road.

3) Abutter, **Michael Cotter, 24-26 Frederick Road** – Mr. Cotter owns a 2-family which he previously lived in for 6 years. He opposes the proposed rezoning due to the traffic increase. With the current traffic, he is surprised that there haven't been more accidents. An increase in traffic is a safety issue and will devalue the properties on the street.

4) Abutter, **Tatiana Liubomier, 16 Frederick Road** – States that Frederick is a fairly small street, each house has children. We already have problems with traffic even though it's one-way. She wants her children and the other children to be safe. She is opposed to any unsafe traffic increase.

Ms. Santucci Rozzi stated the rezone is subject to site plan review.

Mr. Mikami asked Mr. Johnson if the overgrown vegetation will remain.

Mr. Johnson disputed that Frederick Road is essentially residential. It is a mix of 1 & 2 family units but it is a Residential B area. Mr. Johnson explained that by the Mayor's request, they cleaned the business zoned portion. He refers to a photo of the area highlighting an access path previously used, between Hancock Market to the Nursing Home.

Mr. Mikami reminded Mr. Johnson that the specific question is the growth. [Mr. Johnson interjected that the Board has control of that.] Mr. Mikami asked if this an above average amount of open space not likely to be developed.

Mr. Johnson stated that this applicant is the historical owner of the property and presently has no intention to develop it. There is an opportunity for the Board to address any potential issues. Currently, one of the speakers here maintains and uses a portion of this property. The Board could address those as issues.

Mr. Mikami asked Mr. Johnson about open space and questioned the "Trust" issue.

Mr. Johnson explained that the sale of this parcel is part of an Estate Plan but no development is planned.

Mr. Mikami is concerned for the neighbors regarding future development and asked how many parking spaces this spot would accommodate.

Mr. Johnson estimated, depending on the building size, approximately 66 spaces, and acknowledged they have to meet the current requirements for general business district.

Mr. Mikami stated that this would be a sizeable development.

Mr. Eng addressed Mr. Johnson stating that making it green is a positive step and asks if there is someone (present) to represent the applicant to confirm that they will go along with making this a green space if we agree.

Mr. Johnson doesn't believe you can condition on what is before the Board on a rezone, explaining that would be a development issue – and stated that he thought the Board was sensitive to the opportunity.

Mr. Eng pointed out to Mr. Johnson one of the homeowners that is present, is concerned that something is going to be built, something very close to the back of their homes. If [Mr. Johnson] lived there, he would be at the meeting too with the same issue.

Mr. Johnson repeated that what is here is an “opportunity”; the Board cannot put a condition on the issue of a rezoning.

Mr. Santucci Rozzi commented that this area of the parcel limits a building mass due to its width and regular buffers.

There is some back and forth discussion regarding the portion of the lot that protrudes to the right side of the lot and whether that portion could be excluded from the rezoning to General Business.

Mr. Johnson explained that there would be no street access to it and it cannot be conditionally rezoned.

Mr. Harnais asked the current zoning for the protruding section of the lot.

Mr. Johnson answered “Residential B” and referenced the past zoning changes when the lot was configured differently.

Mr. Harnais suggested rezoning only a part of the parcel.

Mr. Johnson referenced the historical configuration of zoning of the parcel offering a reason as to why it has mixed zoning.

Mr. Harnais mentioned the concerns of the neighbors.

Mr. Santucci Rozzi suggested that if the area becomes a part of and is zoned general business, the Planning Board can condition vegetation and ongoing maintenance. There are pros and cons to both points.

Mr. Eng has no further questions.

Mr. Reynolds believes if the parcel is rezoned, the Planning Board will no longer have authority to control access. The nature of the zoning here is different, expressing that he is challenged.

Mr. Johnson agreed to submit a revised plan and a meets and bounds of the area to be rezoned which means the recommendation would come with an amendment to the Town Council Order. He agreed to the January 8th Continuance.

Mr. Eng Motioned that the applicant resubmit the plans in accordance to the Planning Board concerns; seconded by Mr. Reynolds.

Vote: 4:0:0

Mr. Harnais clarifies the Continuance to January 8th at 8:15 pm.

12-11 (Public Hearing)

90 Church Street, G.B. New England 2, LLC, Site Plan Review

Frank Marinelli, Attorney for Gershman Brown Crowley Inc. (GBC)

Doug Murray, Vice President of Gershman Brown Crowley Inc. (GBC)

Jason Plourd, Traffic Engineer, GPI – Greenman-Pedersen, Inc.

Brice Hillman, Architect, BKA Architects

Brian Dunden, Project Engineer, RJ O'Connell & Assoc., Inc.

Greg and Michael Shea, (Plimit Realty Trust), property owners

Joe Driscoll, Attorney for owners

Chair read the Public Notice.

Attorney Frank Marinelli introduced himself and all those present for the matter.

Mr. Marinelli explained that recently, he and GBC worked with the Hingham Planning Board to demolish the Webber-Dodge site at the Hingham Ship Yard and replaced it with a similar CVS Pharmacy as proposed here.

He further explained that GBC, the Shea Family and CVS have completed the rezoning of the small parcel on the south of the site and are now ready for the Site Plan Review.

Mr. Marinelli presented the before photos of the automotive use and renderings of the proposed CVS Pharmacy.

The proposed site will offer about 23% open space and generous landscaping (400 plantings) as shown on the proposed conditions. The intent is to join with the neighboring general business

zoned property enhancing some of the hardscaping. The village design is brick, gabled and clapboard like materials that transition well with the residential district in the general area.

Additional improvements are planned, in addition to landscaping, such as lighting, a better drainage system and three conforming curb cuts; improving the intersection. The proposed 75 parking spaces conform to Zoning By-laws. At the suggestion of Staff, 5 spaces will be reserved for green space at the northerly end of the site.

Mr. Marinelli further explained that this is a gateway to Braintree, it is a signature site and CVS wants to make sure that this is done in an esthetic way. The owner, Greg Shea, lives next to the property and has a continuing interest that the project is done in the way it is proposed.

A CVS drive-through is very modest serving only pharmacy patrons. Regarding the traffic, Police and Fire Departments submitted favorable reports; the Site Plan review comments have been favorable for this project.

Mr. Marinelli reviewed the project history stating the first Application was filed in July (2012) with a neighborhood meeting on August 9th. The project was put before the Planning Board in September to rezone the non-conforming Residence C lot. Also in September, they met with residents of Independence Manor and the project was before the Town Council Subcommittee in October. On November 7th the full Town Council voted the rezone. This is the final process in a fruitful number of hearings and meetings. The project has been endorsed by the Mayor and all of the Boards that this project has been before.

Mr. Harnais called for public questions, no one had questions.

Mr. Mikami asked about traffic issues. He referred to Page 11 of the Traffic Report, in which it reports 85% of the autos travel at an observed speed of 48 mph (in excess of the 30 mph speed limit).

Jason Plourd addressed the Board and explained that he studied the different speed patterns and reasons for their occurrence. There is an increased speed of approximately 40 miles per hour in vehicles traveling northbound from the Elm Street direction, heading toward the highway onramp. He further explained that the Department of Transportation will also be involved in further study and explore ways to implement solutions to reduce the speed. He points out the positive factors that a pharmacy offers the neighborhood vs. a car dealership. They will be filing for an indirect access permit with the Department of Transportation. They are proposing a crosswalk on Church Street between Bushnell and Pleasant Streets.

Mr. Mikami commented on the proposed crosswalk, traffic backup, proposed curb cuts, traffic patterns and about the effect of increased in traffic.

Mr. Eng asked if the curb cut locations could be changed due to the speeds. Brian Dunden explained how the traffic will flow due to the location of the curb cuts. When proposing a change such as this, of primary consideration is that all visual movement is seen by all travelers.

Mr. Mikami commented favorably about the greenery, building style and the improvement to the area.

Mr. Marinelli brought up the staff inquiry about reducing the pediment height. He explained that the overall height is within the 35' height requirement at the Residential B district and is sensitive to the neighborhood.

Brice Kelman, explained the material suggested is brick (real brick), siding, applied eaves and the pediment leading your eye to the entrance.

Mr. Reynolds revisits the curb cut locations and asks if their placement could help slow traffic?

Mr. Plourd responds by explaining that typically, a turning vehicle will slow the traffic behind it.

Mr. Reynolds also asked about snow storage is planned.

Brian Dunden explained they have designated an area in the northern corner of the lot for snow storage while maintaining the required number of parking spaces.

Mr. Reynolds stated that he would like to consider the drainage further but is comfortable moving forward with the conditions.

A Motion is made by Mr. Reynolds to continue the hearing to February 12, at 8:00 p.m., seconded by Mr. Eng.

Vote: 4:0:0

With no further business, Mr. Eng Motions to Adjourn the meeting at 10:10 p.m; seconded by Mr. Reynolds Vote: 4:0:0

Respectfully submitted,

Elizabeth Schaffer