



Joseph C. Sullivan
Mayor

Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
90 Pond Street – Braintree, Massachusetts 02184
Phone: 781-794-8234 Fax: 781-794-8089

APPROVED

PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng, Clerk
Darryl Mikami, Member
Michelle Lauria, Member

Braintree Planning Board
May 10, 2011
Town Hall

Present:

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

Christine Stickney, Director
Melissa Santucci, Principal Planner

The Vice Chair called the meeting to order at 7:02 P.M. and called the roll: Mr. Reynolds, Mr. Eng, Mr. Mikami and Ms. Lauria all present. Mr. Harnais arrived at 7:25 P.M.

New Business/Old Business

Zoning Board of Appeals – May

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Sections 135-402, Article 7, Section 135-701

#11-24

Mr. Paul J. Mirabito, CE, PLS, of Ross Engineering Company, Inc. was present to represent the applicant, Ms. Arlene M. Powers of 18 Old Randolph Street, Canton, MA 02021.

Mr. Mirabito addressed the Planning Board.

Mr. Mirabito gave a brief explanation of the proposed project. The applicant is seeking to subdivide the property which currently contains a 3-Family dwelling. The proposal is to divide the existing lot into 2, for which it does meet the dimensional requirements. Mr. Mirabito also stated that they wish the 3-Family dwelling to remain.

The Chair opened the discussion to the Planning Board.

Ms. Lauria wanted to know what kind of building would be on the second lot. Mr. Mirabito replied that it would be a single family home. Ms. Lauria had no further questions.

Mr. Mikami asked how lot #2 would be accessed. Mr. Mirabito said that access would be off Spruce Street.

Ms. Santucci discussed the property and it's relation to the Spruce Street extension as well as to another applicant on Jersey Avenue.

Mr. Reynolds clarified that these were 2 separate ZBA Petitions #11-24 and #11-25.

Mr. Mikami referred to the existing 3 unit multi dwelling, stating that since a 3-Family is not allowed (although currently existing), has any consideration been given to converting it to a 2-Family dwelling? Mr. Mirabito explained that the current owners have owned the property since the 1970's and that their preference was to keep it as a 3-Family dwelling. There is the ability to cut it back but they would like to keep it at 3. Mr. Mikami had no further questions.

Mr. Eng wanted to know if there was a way to go back and make the situation right. Ms. Santucci stated that improvements can be made but that there is no requirement, adding that this area of the Middle Street corridor has large non-conforming multi family dwellings. Mr. Mirabito stated that there was no structural change or change in use planned for the existing 3-Family dwelling. Mr. Eng also inquired about the access, wanting to know that if this is allowed would 42 Jersey Avenue sell the land for the roadway, citing that Spruce Street must be connected and he wanted to be sure that the Kings (applicants for ZBA Application #11-25) had no problem with that. Ms. Santucci stated that Mr. & Mrs. King were present. Mr. Eng asked them if they had no problem with this to which they replied that they did not. Mr. Eng stated that approval would leave the Kings' square footage short. He had no further questions at this time.

Mr. Reynolds asked about the other multi family dwellings in the area, wanting to know if they were all 2-Family structures. Catherine King of 42 Jersey Avenue was present and replied that there are both 2-Family and 3-Family dwellings in this area. She also stated that she believes the structure at the corner of River and Middle Streets may actually be a 4-Family unit. Mr. Reynolds stated that the Kings' support of the proposed project should be taken into consideration.

There were no further questions.

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Motion by Mr. Eng, second by Ms. Luaria to move forward with a favorable action since the 3-Family unit already exists.

Vote: 4/0

Request for Relief from Bylaw Requirements under Chapter 135, Article 7, Sections 135-701, Article 4, Section 407
#11-25

Mr. Paul J. Mirabito, CE, PLS, of Ross Engineering Company, Inc. was present to represent the applicant, Thomas J. Jr. and Catherine M. King of 42 Jersey Avenue, Braintree, MA 02184.

Mr. Mirabito addressed the Planning Board.

Mr. Mirabito gave a description of the proposed project, explaining that the applicant was seeking permission to subdivide their current property into two lots with an additional piece being created to construct a roadway to provide frontage for the lot that will front on Spruce Street. Mr. Mirabito said that the applicant was under hardship as they have resided at this location for some time and are looking to build a second house for a relative. He also informed the Planning Board that the water, sewer and drainage plans would be addressed. Mr. Mirabito discussed the other lots on Spruce Street stating that they were all small lots.

Ms. Lauria pointed out that according to the analysis there had been no supporting statement provided with the application. She asked what the hardship was. Mr. Mirabito replied that there were financial and health issues. Ms. Lauria said that these are not considered hardship under the law. She had no further questions at this time.

Mr. Mikami wanted to know what would be presented to the ZBA since financial issues do not come under hardship as interpreted by law, noting that there was nothing specific to soil or topography. Mr. Mirabito referred to an inability to pass a perk test as well as the shape of the lot. Mr. Mikami summarized that there was nothing being presented as hardship under the law. Mr. Mirabito said not this evening.

Mr. Mikami also referred to the frontage on Spruce Street. He wanted to know if there had been any preliminary plans for Lot B. Mr. Mirabito replied that at this time they do not have plans for the proposed house.

Mrs. King referred to a 2-Family dwelling that had been allowed on Jersey Avenue to accommodate an expanding family that needed the additional space. Mr. Eng again referred to compliance with the laws. He said that while the ZBA may approve he feels that the Planning Board will have a hard time granting approval.

Mr. Mirabito stated that this would be an improvement to Spruce Street. He referenced the assessor's map along with existing non-conforming lots.

There was discussion of the connecting of the streets, and no access available through Hunt Avenue.

Mr. Eng pointed out that if the Planning Board went along with the proposed project the width of Lot B would be 26 feet short. He also mentioned that Lot B requires 2 variances (lot area and width) and Lot A requires 1 (lot area). Mrs. King stated that most of the lots in the area don't conform. She explained to the Planning Board that there were health concerns with her husband due to a spinal cord injury, and because of these health issues they want to stay in Braintree.

Mr. Reynolds stated that he appreciated the comments and concerns and that while the ZBA may take these into consideration, the Planning Board must stay consistent and enforce the bylaws. He asked if there were any further questions prior to opening it up to a motion.

Mr. Mirabito explained that what was being proposed is not unique to the neighborhood. He said that safety and drainage would be addressed. Further, the Kings own the land and that they would like to remain. He feels that this causes no detriment to the neighborhood.

Mr. Reynolds suggested to the Kings that regardless of the Planning Board's recommendation, they should get together the history of the other non-conforming issues in the neighborhood and present these to the ZBA.

Mr. Reynolds asked if the Planning Board had a motion based on the information that they were provided with tonight.

Mr. Eng stated that no action should be taken as that would be setting a precedent, and the Planning Board should let the ZBA decide. Ms. Lauria expressed that she does not agree with taking no action. She feels that the Planning Board is asked to a job and therefore they should make a decision.

Mr. Reynolds asked if there was a motion.

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Motion by Mr. Eng, second by Mr. Mikami to make no recommendation. Mr. Mikami concluded by saying that the Planning Board can not set a precedent and they should wait to see what the ZBA says.

Vote: 3/1

IT WAS NOTED FOR THE RECORD THAT MR. HARNAIS (CHAIR) WAS NOW PRESENT.

At this time Ms. Santucci addressed the Planning Board. She informed them that the Public Hearing scheduled for 7:30 has asked to be continued to the June Planning Board meeting so she would like the Planning Board to set the June date.

Motion by Mr. Eng, second by Mr. Reynolds to set the June Planning Board meeting for Monday, June 13, 2011 at 7:00 P.M.

Vote: 5/0

Ms. Santucci explained that the petitioner at 268 Quincy Avenue has requested a continuance. They had been denied by the ZBA and are awaiting their written decision. They are currently considering an appeal.

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Sections 135-403, 407, Article 7, Section 701
#11-22

Applicant William D. Cleggett, 35 Oak Street East, Braintree, MA 02184 was present and addressed the Planning Board. At this time, Mr. Cleggett passed out photos of the existing dwelling and neighboring properties to the Planning Board. He then explained the photos and that he was here to ask for a variance to take down his exiting garage and build a larger one that would be 2 stories high having a family room on the second floor.

Ms. Santucci confirmed that he was still planning on going up 2 stories. Mr. Cleggett stated that the proposed footprint of the project is still the same.

Ms. Lauria had no questions at this time.

Mr. Mikami questioned the implication of keeping the garage as is. Mr. Cleggett replied that it is too small for his needs.

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Mr. Eng asked Mr. Cleggett what he considered to be his hardship. Mr. Cleggett said that he did not have enough room. Again Mr. Eng stressed hardship according to the bylaws. Mr. Harnais asked if the slope of the property was a hardship. Mr. Cleggett said that it was. Mr. Eng brought up flattening it out to make it more useable.

Mr. Reynolds discussed the existing conditions in the neighborhood, commenting on the topography. He had no further questions at this time.

Mr. Harnais explained hardship as it pertains to the laws.

Motion by Mr. Reynolds, second by Mr. Eng to grant approval based on the evidence provided.
Vote: 5/0

Request for Relief from Bylaw Requirements under Chapter 135, Article 7, Sections 135-701, Article 4, Section 135-403, 407
#11-23

Applicant, Brian Knapp, 14 Howard Court, Braintree, MA 02184 was not present to address the Planning Board.

Motion by Mr. Reynolds, second by Mr. Mikami for an unfavorable motion due to the non-appearance of the applicant.
Vote: 5/0

At this time Christine Stickney, Director, Planning and Community Development Department addressed the Planning Board, giving a brief description of the budget meeting with the Town Council. She had presented information on the Sheraton project and other Planning Board work. Ms. Stickney informed the Planning Board that there had been a 9% increase and that the requested reclassification of planners had not been upgraded.

Informational Presentation Regarding Revised Temple Building
49-59 Hayward Street/Tian Ann Temple [#08-15]

Edward Lau the President of the Temple was present and addressed the Planning Board.

The Chair wanted to know if there was to be a vote at this late date. Ms. Santucci informed him that there was no grading change, just alterations to the proposed building.

The Chair expressed that he was a bit concerned since the neighbors were questioning what was going on. He wanted to know if there was an avenue to keep the neighbors informed and to let them know what was going on. Ms. Santucci suggested that perhaps the Temple could send out a letter to the neighbors. The Chair stressed that he wanted better communication with the neighbors.

Mr. Lau stated that they were grateful to the town and for its support, and perhaps they could send out a 'greeting card' notification to the neighbors. Mr. Lau described the proposal, explaining that the past proposal just was not practical for their needs.

Mr. Reynolds asked for some clarification of the building. Mr. Lau explained that it was the building located at 49 Hayward Street. The Chair wanted to be sure that they contact Tom Bowes of the Town Council.

Mr. Mikami wanted to know if the design was very different. Mr. Lau said that it was very similar in height and how it looks from Hayward Street. The roof will be ceramic tile and the exterior will look more like concrete than siding. There will also be more windows. The plan will include putting the wires underground and improved landscaping with more trees. They are also planning on landscaping the parking lot and adding a small playground for the children, keeping in mind the wetland protection.

Mr. Mikami inquired about the buffer for the neighbors. Ms. Santucci replied that it had been completed.

Mr. Eng sited that these are changes that the public did not know about. He wanted to know if there is a requirement to file for such changes in order to keep the neighbors informed. Ms. Santucci explained that regarding grading yes, however religious institutions are different, and the town handles permitting with them differently. Mr. Eng asked if there was a regulation to notify. Ms. Stickney answered there was not.

The Chair expressed concern over the system. He pointed out that the Councilor did not know of the change. The people in the area had been involved early on with the discussion regarding the project, but now they do not know what is going on at the property. The Chair sees a need for a change in the system saying that the Town Councilor felt 'blind sided' by this, stressing that there needs to be an avenue for information. He again stated that there has to be better communication.

Mr. Eng brought up the safety issue with the parishioners having to cross the street when they utilize parking at the Ross School. He brought up how fast the traffic is in that area and that children are crossing the street. He wanted to know if the installation of a

crosswalk had been considered. Ms. Stickney mentioned that Ross School is a walking school. She also referred to the safe routes initiative for fiscal year 2012.

Ms. Lauria felt that this was a valid point and wondered if they could apply to the town. The Chair brought up the possibility of one of the parishioners doing crossing duty?

Mr. Reynolds inquired if there were any schematics to be shown to the Planning Board. The Chair, Mr. Reynolds and Mr. Eng reviewed the new plans.

Request for Reduction of Bond-Grove Heights [#06-15]
Requested by Al Endriunas Agent for the Applicant, Grove Heights, LLC.

Mr. Al Endriunas of Endriunas Bros. 678 Depot Street, Easton, MA 02334, was present and addressed the Planning Board.

There is a request to extend the time for completion to July 15, and a request in reduction of the bond for work completed. Ms. Santucci has visited the site and has consulted with the town engineer. The Planning Staff is in support of these requests.

Ms. Lauria had no questions at this time.

Mr. Mikami expressed that he was just curious because when they had gone through this before it had seemed like adequate time for completion. Mr. Endriunas stated that he wanted the house work completed and that there had been a delay in the curb being delivered. The topcoating of the road should be completed prior to the next Planning Board meeting. There has been heavy equipment there and he did not want to do the finish work before that time.

Mr. Eng asked how confident Mr. Endriunas was that the work would be completed by the July 15 extension. Mr. Endriunas replied that he was very confident. Mr. Eng stated that he just wanted to be sure that he would not be coming back for another extension.

Mr. Reynolds inquired what was the incentive to meet the July 15 date? Mr. Endriunas replied that the bond was being held.

Motion by Mr. Eng, second by Ms. Lauria to move for the release of funds and the extension to July 15, 2011.

Vote: 5/0

Incomplete Public Improvements and Declaration of Default
Priscilla Avenue Definitive Subdivision [#99-12]

Ms. Santucci explained to the Planning Board the May deadline and that she had heard from Mr. Kane stating that he was unaware of that deadline. The Planning Staff is looking for direction from the Planning Board at this time.

Mr. Charles T. Woodward of Professional Land Survey Associates, 27 Central Street #25R, East Bridgewater, MA 02333, was present and addressed the Planning Board.

Mr. Woodward explained that he had been retained by Mr. Kane, of Aspinwall Corporation, 25 Adams Street, Braintree, MA 02184, to finish the work. Mr. Woodward stated that he would like to go through all the paperwork and feels that the 2 month extension (to Monday, July 11, 2011) is more than enough time.

Ms. Lauria had no questions or comments at this time.

Mr. Mikami stated that 11 years to complete the project was a long time. He also questioned how default proceedings get started. Ms. Santucci replied that they are advertised noticing the requirements.

Mr. Woodward requested that they be given a short time to review, meet with the Planning Staff and to give reports.

Mr. Eng wanted to know how much work was left. Ms. Santucci replied that there was not much, noting the correspondence in the files regarding sump pumps, as-builts, landscaping etc.

Mr. Reynolds wanted to know if there would be a cost to the town of starting the proceedings now versus later. Ms. Santucci replied that it would just be advertising. Mr. Reynolds also wanted to know how confident they were that the work could be completed in the allotted time. Mr. Woodward said that he wanted to meet with Ms. Santucci and the town engineer. If there was not a lot of construction than 2 months is more than enough time. Mr. Reynolds asked the Planning Staff if there is anything that may be a 'surprise' that would require further action by the Planning Board. Ms. Santucci felt that based on what was previously approved she did not believe so. Mr. Reynolds wanted to know if Mr. Woodward had seen the site plan. He replied that he had but he was just hearing about the sump pumps now.

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Mr. Michael V. DiTocco, of 40 Priscilla Avenue, Braintree, MA 02184 was present and addressed the Planning Board. He mentioned the sump pumps not being connected and the lack of street lights.

Ms. Christine M. Neelon, of 45 Priscilla Avenue, Braintree, MA 02184 was present and addressed the Planning Board. She stated that the major issue was drainage. She also wanted to know if the work that Mr. Kane completed would be reviewed by the town. Ms. Santucci stated that what is on the plan needs to be corrected. The directives from the other departments are Mr. Kane's responsibility as well. The Chair stated that yes the work would be subject to review by the town.

Mr. DiTocco wanted to know if there would be fees involved to get the road accepted. Mr. Kane stated that they would take on those fees. Mr. Woodward added that this was part of the package they were taking on.

Mr. Reynolds said that his recommendation was for the applicant to review the files to be sure what the job entails. The Chair added that he would like an update in June.

Motion by Mr. Reynolds, second by Ms. Lauria to grant the 2 month extension for completion of work with an update to be provided in June.

Vote: 5/0

Approval of Minutes for 3/29/2011

Motion by Mr. Reynolds, second by Ms. Lauria to approve the Planning Board minutes for the meeting dated Tuesday, 3/29/2011.

Vote: 5/0

Motion by Mr. Eng, second by Ms. Lauria to adjourn at 9:25 P.M.

Vote: 5/0

NOTE: ENDORSEMENT BY MR. ENG (CLERK) OF PREVIOUSLY APPROVED ANR PLANS.



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Braintree Planning Board
May 10, 2011 – Public Hearing @ 8:10 P.M.
Town Hall

Present:

Mr. Harnais, Chair
Mr. Reynolds, Vice Chair
Mr. Eng, Clerk
Mr. Mikami, Member
Ms. Lauria, Member

Christine Stickney, Director
Melissa Santucci, Principal Planner

357A Washington Street/Matthew F. Ryan
Application: Special Permit and Site Plan Review
#11-03

The Chair read the legal notice regarding the Public Hearing, Planning Department File #11-03, application for Special Permit and Site Plan Review. Applicant: Matthew F. Ryan, 35 Des Moines Road #207, Quincy, MA 02169.

Mr. Ryan was present and addressed the Planning Board. Mr. Ryan gave a description of the proposed project, which is to open Ruthie's Sweets. This will be an ice cream store that will also have a small selection of candy items for sale. This is to go in an existing empty structure. He plans on using the exterior as is with some signage work. Mr. Ryan will work with the Planning Department. He also explained the interior work which includes upgrades to the electrical and plumbing systems. Parking was also discussed. Mr. Ryan will also work with other departments to meet the necessary requirements.

The Chair opened the hearing to the public. There were no comments.

The Chair opened the hearing to the Planning Board.

Ms. Lauria had no questions at this time.

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May 10, 2011 Public Hearing @ 8:10 P.M.

Mr. Mikami asked Ms. Santucci about the dumpster. Ms. Santucci advised that it should be enclosed. She explained that it would be small and against the building or arrangements would be made for him to share an existing dumpster with another establishment. Mr. Ryan is aware of the requirements. Mr. Mikami questioned the hours of the food establishment. Mr. Ryan said he plans on the hours being 11:00 A.M. to 11:00 P.M. during the peak season, possibly with a change in the winter months. Mr. Mikami had no further questions.

Mr. Eng expressed his concern over the parking. Mr. Ryan feels that this is not really a concern due to the hours the business will be the busiest. Mr. Eng stressed that adequate parking would be essential to the success of the business and did not want to see the establishment fail due to lack of business caused by inadequate parking.

Ms. Stickney informed the Planning Board that she had met with Mayor Sullivan and this is the type of business that the town is looking for. There may be future discussions regarding the use of stickers for parking but at this time they do not anticipate a problem with parking.

Mr. Reynolds stated that he agreed with the Planning Staff that this is the type of use that the town is looking for. The increase in walking traffic in the area would be good. He did discuss the issues with adequate parking. Mr. Reynolds requested that Mr. Ryan give another review of what he proposed to do with the site. Mr. Ryan described the interior upgrades and the freezers. Mr. Reynolds wanted to know how many seats Mr. Ryan was planning on having. Mr. Ryan said 10. Mr. Reynolds again mentioned the town façade program, and had no further questions at this time.

Motion by Mr. Eng, second by Mr. Reynolds to accept the correspondence list dated April 21, 2011 through May 6, 2011.

Vote: 5/0

Motion by Mr. Eng, second by Ms. Lauria to close the Public Hearing at 8:20.

Vote: 5/0

Motion by Mr. Reynolds, second by Mr. Eng to grant the SP/SPR.

Vote: 5/0



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APPROVED

Braintree Planning Board
May 10, 2011 – Public Hearing @ 7:30 P.M.
Town Hall

Present:

Mr. Harnais, Chair
Mr. Reynolds, Vice Chair
Mr. Eng, Clerk
Mr. Mikami, Member
Ms. Lauria, Member

Christine Stickney, Director
Melissa Santucci, Principal Planner

268 Quincy Avenue/David LaLama of RDD Development
Application: Special Permit and Site Plan Review
#11-01

*NOTE: The Applicant has requested that this matter be continued to the Planning Board's June Meeting.
Meeting set for Monday, June 13, 2011*