



# Department of Planning and Community Development

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## PLANNING BOARD

Joseph C. Sullivan  
Mayor

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

Braintree Planning Board  
June 11, 2013  
Town Hall – Johnson Chambers

**APPROVED**

### Present:

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

Christine Stickney, Director  
Melissa SantucciRozzi, Principal Planner

Joseph Reynolds, Vice Chair took role call at 7:10  
Chair Harnais was not present to open the meeting; he arrived at 7:20 pm  
Ms. McDonald departed the meeting at 8:20 pm

Zoning Board of Appeal Petitions – June

### **ZBA (13-06)**

#### **7-11 Independence Ave/Thomas Fitzgerald**

Attorney Jack Garland, represented Thomas Fitzgerald and Scott Palmer  
Architect: Arthur Choo, Choo Architects of Quincy

Jack Garland addressed the board; he said Arthur Choo the project Architect, is present with the new plans. Copies of his responses to the Staff Report were presented to the Staff.

Mr. Choo presented the major changes and reviewed the changes (plantings) with the Board. A second elevation plan was presented to clarify unseen features noted during the May 14<sup>th</sup> Planning Board Meeting.

Mr. Reynolds asked for any public questions. After no response, he asked if the Board had any questions.

Mr. Mikami asked what numbers have changed since the last meeting.

Mr. Garland began by saying the foot print remained unchanged. The Site and architectural plan dimensions are shown on current plans.

He explained that the dumpster size was now shown on plans. Regarding the number of parking spaces, there are 2 spaces per unit, a total of 72 parking spaces. The building height is 47.50 FT, configured by an average of the varying corner grades.

Mr. Mikami said the Planning Board would prefer a written summary of the changes.

Mr. Reynolds noted Mr. Mikami's comment but asked Mr. Garland to continue.

Mr. Garland reiterated the reduction already done.

Mr. Mikami asked Mr. Garland if there are any other actions the Applicant can take to further improve the building.

Mr. Garland reiterated the same.

Mr. Mikami said there were sizeable discrepancies and substantial issues. He had no further questions.

Mr. Eng asked Mr. Garland if any soil reports were submitted.

Ms. SantucciRozzi said she has a UST Removal Report but no soil borings. She said the Applicant filed for extensions with the Massachusetts Department of Environmental Protection, as they pertain to their ongoing remediation.

Mr. Mikami said he would like to see a report.

Mr. Garland noted the report submitted to staff.

Mr. Eng stated that contamination is a priority issue; Mr. Garland said any lender will require a complete 21E.

Mr. Eng said we need more of this information. He asked Mr. Garland about the unpaid tax issue.

Mr. Garland said there has to be an agreement with the town; he further said the Applicant has had meetings with the Mayor.

Mr. Eng commented on the improved plans.

Mr. Reynolds stated that the plans are better and the building height is acceptable to him. He stressed that density is a major issue, reviewing the calculations with Staff; he said this is an extreme jump over the existing by-laws.

Mr. Reynolds said he was unclear if the Quincy portion of the parcel will be used for parking.

Mr. Garland said that dealing with Quincy will be a lengthy process – perhaps in the future, but not at this time.

Mr. Reynolds said that a recommendation on the parking cannot include the Quincy property. He further said that the Braintree by-law states that one car cannot be moved in order to move another. He cannot decide on the theoretical lift system proposed. He said it is difficult to make a decision on parking with these issues. Mr. Reynolds said it needs a careful and deliberate decision.

Mr. Reynolds again stated his concerns about the density, pointing out that the proposed project is eight times the permitted density. He is not comfortable about this.

Mr. Harnais said that under the circumstances, he feels the project is going in the right direction but there are hurdles to overcome.

Mr. Reynolds asked where the Applicant is going with this project.

Mr. Garland stepped out to confer with his clients for 2 minutes. They returned and Mr. Garland said they would like a vote tonight.

Ms. SantucciRozzi explained to the Board that there are 6 recommendations up for vote. They are listed in her Staff Report and are as follows:

Variances:

**135- 701 Maximum number of stories**

Mr. Eng explained that because we are very close to what is required, he Motioned to recommend going forward with a 4-story building.

Ms. SantucciRozzi clarified that the building is not a 4-story building. It varies depending on where you are standing. From the back, it could be 5 stories, some places 4.5 stores or in the front it is 4 stories. She suggested that if the Board is comfortable with what is showing on the Architectural Plan, the motion could reference the most recent plan. There are different definitions of "story" under various regulations.

Mr. Mikami asked Ms. SantucciRozzi if it would be regarded as 4 stories without the penthouse. Ms. SantucciRozzi agreed it would be 4 stories (in the back) without the penthouse.

Mr. Eng clarified with the Applicant that he wants to go forward with the project plans as submitted. Mr. Garland said yes.

Mr. Eng Moved for a positive recommendation to accept the plans as shown with their elevations as they pertain to S. 135-701; seconded by Chairman Harnais

**Vote: 4:1:0 recommended favorable.**

**135-705 Minimum lot size for multifamily development**

Chair called for a Motion on minimum lot size.

Ms. McDonald made a Motion for a positive recommendation to accept the proposed minimum lot size at 26,779.64 SF; seconded by Mr. Harnais

**Vote: 3:2:0 recommended favorable**

**135-705 (B) Minimum open space per unit**

Mr. Reynolds called for a Motion on the proposed minimum open space/unit variance request.

Mr. Mikami Motioned for a negative recommendation; seconded by Eng

**Vote 3:2:0 unfavorable**

**135-705 (C) Minimum lot area per 2- bedroom unit**

Mr. Reynolds called for a Motion on the proposed minimum lot area per 2-bedroom unit.

Mr. Mikami Motioned for a negative determination; no Member seconded.

Ms. McDonald made an alternative Motion for a positive recommendation to accept the minimum lot area per 2-bedroom area; seconded by Mr. Eng.

**Vote 3:2:0 recommended favorable**

**135-808 (B) Location of parking spaces**

Mr. Reynolds called for a Motion for variance on 135-808(B)

Mr. Mikami made a negative recommendation for compliance with 135-808(B); no member seconded the Motion.

Ms. McDonald made an alternative Motion for positive recommendation approval for variance with the condition that the Zoning Board of Appeals seeks a legal opinion of the Braintree Town Solicitor; seconded by Mr. Harnais.

**Vote: 3:2:0 recommended favorable**

**135-809 (E) Minimum distance between driveways**

Mr. Reynolds called for a Motion to accept the variance.

Ms. McDonald made a Motion for a positive recommendation to grant the variance on 135-809 (E); seconded by Mr. Eng.

**Vote 3:2:0 recommended approval**

*Mr. Harnais chaired the meeting at this time.*

**ZBA (#13-17)**

**501 John Mahar Highway, Unit 301 /, Beth Israel Deaconess Healthcare**

John Marino, Beth Israel Deaconess Health Care

John Marino addressed the Board explaining that Beth Israel would like to place two wall signs on the third floor of 501 John Mahar Highway.

He said that South Shore Savings Bank has taken quite a bit of square footage of that space on the east and south side facing the highway.

There is potential to put 2 signs up in the same area. The submitted drawing shows the Beth Israel logo measuring 45" x 34"; the text is 24 FT long x 18" high – each sign is 48 SF; a combined total of 96 SF. He said they are proposing a lit LED sign.

The Chair called for questions.

Ms. McDonald had no questions.

Mr. Mikami asked how much of the building are they now occupying. Mr. Marino said the third floor. Mr. Mikami asked if they intend to expand, Mr. Marino said no, it will only occupy the third floor.

Mr. Harnais had no questions.

Mr. Reynolds had no questions.

The Chair called for a Motion.

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

**Vote: 5:0:0 favorable recommendation.**

**ZBA (# 13-18)**

**86 Alfred Road / Naseem Khan**

Ms. Stickney explained that the Applicant was not able to attend the meeting. She said he is seeking a permit/variance to construct a second story addition over an existing structure involving a 2 FT overhang in the front of the property. She further explained that this is simply a renewal of a variance which was previously approved by the Zoning Board several years ago but the Applicant was delayed due to financing.

There were no questions from the Board, the Chair called for a Motion.

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

**Vote: 5:0:0 favorable recommendation**

**ZBA (# 13-16)**

**40 McCue Drive / Susan Siegler**

Ms. Stickney gave the Board some background on the issue. Ms. Siegler is the second owner of the property. The first owner sought two requests from the Zoning Board of Appeals for a carport off the side of the house. The original owner never recorded the ZBA Decisions at the Registry of Deeds but built the carport.

In 1992 they sought additional relief to enclose it for a garage. Now, Ms. Siegler wants to add a second story on top of the garage.

Ms. Siegler is left with no relief for what exists now. The site has a hardship, there is a northerly side ledge outcropping requiring most of the development to go to the southerly side of the property. (Ms. Siegler provided photos.) Ms. Siegler is faced with a Zoning violation.

Mr. Harnais asked if they could ask for relief dated back to the original requests to clean up all the issues.

Ms. Stickney explained that the Planning Board recommendation should be clear that it includes relief for the existing structure and the proposed second story so the entire situation can be cleaned up.

Ms. Siegler explained that the non-confirming addition (built too close to the property line) was approved. Additionally, there are errors on record made by the lawyer involved in the sale of the property, so there is no correct recorded documentation. Ms. Siegler said they want to put an addition on top of the existing footprint of the house.

Mr. Harnais asked if the Board had any questions.

Ms. McDonald and Mr. Mikami had no questions.

Mr. Eng asked if the applicant intends to clean up all the title/recording errors. Ms. Siegler answered yes, she wasn't sure of how to go about it but she plans on doing that.

Mr. Reynolds asked for clarification of last paragraph of the recommendation on the Staff Report.

Ms. Stickney summarized, emphasizing the need to include the existing structure together with proposed second story addition.

Chair called for a favorable recommendation to the Zoning Board for approval of the existing non-confirming garage (as it exists currently) and the proposed second story addition.

Mr. Reynolds Motioned for a favorable recommendation to approve the existing garage and the proposed addition; seconded by Eng.

**Vote: 5:0:0 favorable recommendation**

**7:45 P.M.**

**(12-09) (Continued Public Hearing)**

**370 Shaw Street / William and Linda Jablonski**  
**Site Plan Review / Multiple Dwellings (135 - 710)**

Mr. Harnais read the Public Notice.

Mr. Jablonski addressed the Board saying that he hoped he was there for a vote.

The Chair first called for a Motion to enter any further correspondence into the record.

Mr. Mikami Motioned to accept any further correspondence; seconded by Mr. Eng

Ms. SantucciRozzi stated that Mr. Eng is not voting on this application.

**Vote: 4:0:0**

Ms. SantucciRozzi explained that she has worked with Mr. Jablonski over the past few weeks. He has reviewed the Conditions. She asked him to bring the two final house plans he would like to incorporate into the record set of drawings. There are a couple of revisions added to the Site Plan. One is a detail revision to match the Department of Environment Protection specifications for the porous pavement. Also added will be a Trench Drain at the end of the driveway, a decorative street light and either a gravel worm or hay bales in addition to the silt fence for the erosion control.

Ms. McDonald had no questions and commented that the plans look great.

Mr. Mikami asked Mr. Jablonski when the work will start. Mr. Jablonski said work will begin after financing is worked out.

Mr. Eng asked about the granite curbing. Mr. Jablonski said although he does not want to, he will put it in. He expressed his opposition, saying it is arbitrary and likened it to a slate roof.

Mr. Harnais insisted that granite curbing is not arbitrary- the berm does not last, all applicants are required to use granite in their projects, it's not arbitrary. He acknowledged the granite is expensive but explained the berm does not last in the weather conditions of New England.

Mr. Reynolds had no questions.

Mr. Harnais had no questions and called for a Motion to close the Public Hearing.

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

Mr. Reynolds Motioned to recommend approval of the project with the Conditions as stated and the plans as presented; seconded by Mr. Mikami.

**Vote: 4:0:0 recommended approval**

*(Ms. McDonald left the meeting at 8:20 pm.)*

**8:05 P.M.**

**(13-01) (Continued Public Hearing)**

**35 Rocsam Park Road / Franmar Properties of New England  
Special Permit (135-609) and Site Plan Review**

Paul Mirabito of Ross Engineering, for the Applicant

Chairman Harnais read the notice.

Mr. Mirabito addressed the Board explaining the subject site is 1.94 acres in size. The current owner recently purchased the bus company and intends to operate the existing bus business. The Applicant proposes some additions to the building to accommodate to service the busses.

He is proposing to enlarge a wash-bay and a work-bay to accommodate the new longer busses. Additionally, they would like to square off the existing building to enlarge some office space. Mr. Mirabito referenced previously submitted plans, saying that also proposed is landscaping along the street and an existing island. Regarding storm water, there is no increase to the impervious surface; the existing slabs will be replaced by roof area which is clean water.

Some of the pavement at the entrance of the wash-bay will be saw cut as well as replacing some areas in poor condition. It will be a mix of standard and pervious pavement that will be installed with a drain pipe under, draining water to an existing catch basin located on Rocsam Park Drive.

A variance was granted in 1997 to locate the additions close to the property line. Mr. Mirabito mentioned the Staff Comments regarding a Special Permit issued in 1997, some of the work approved on the As-Built are no longer there, one item are trees that are missing in the landscaping. These items included in the 1997 plan will be included in the proposed project.

Mr. Mikami asked for a clarification, saying that the items that are missing from the Special Permit, (landscaping) can be construed as violations.

Mr. Mirabito answered that the old landscaping is about 15 years old and what is being proposed is simply part of this project.

Mr. Mikami also pointed out that the parking needs to be cleaned up, vehicles are parking (haphazardly) in areas that they shouldn't. He asked that Mr. Mirabito speak with his client about this, Mr. Mirabito agreed.

Mr. Mikami asked if there have been other issues with large vehicles and noise.

Mr. Maribito said no, the area is located among similar businesses, a school bus company and a limousine company. At 7 am the drivers park their cars and take the busses into Boston to the universities. They are back by 4:30 pm, they drive the busses into the wash-bay, then park them and they go home.

Mr. Mikami said he assumed the busses that are parked overnight are registered in Braintree. Mr. Maribito said he assumes so. Mr. Mikami asked Mr. Mirabito to check this, Mr. Mirabito agreed.

Mr. Mikami also asked about any groundwater issues in the wash-bay.

Ms. SantucciRozzi said she observed an internal wash-bay and saw the beat-up pavement. In response, Mr. Mirabito pointed out the existing water/oil separator system that the wash bay water goes directly into.

Mr. Mikami asked if there are plans to replace the system. Mr. Mirabito said no, it is fairly new and will stay in place.

Mr. Reynolds clarified with Mr. Mirabito that the oil/water separator was installed in 1997. He also asked if it received regular maintenance. Stating, there was likely a Maintenance Schedule as part of the Conditions.

Mr. Mirabito said he thought they were required to file a report every 6 months, that the Town should have them.

Mr. Reynolds said a watershed special permit is something he would be looking for. He explained that there have been similar projects in the area that took measures to handle the runoff by adding water filtration and systems, drainage runoff and other mitigation measures that have been very efficient particularly considering the proximity to the drinking water supply in the tri-town communities. Mr. Reynolds further said that he will be very interested in seeing the follow-up of the proposed system.

Harnais referring to a site photo submitted, asked Mr. Mirabito if the berms would be replaced.

Mr. Maribito said that some of the berms in the area where we will be working will be removed and replaced, he said he wasn't sure where the photo was taken but he will discuss this with Ms. SantucciRozzi.

Mr. Harnais mentioned the granite curbing noting that the berms do not survive.

Mr. Eng had no questions.

Mr. Harnais asked if this matter should be tabled.

Ms. SantucciRozzi explained that she will sit down with Mr. Mirabito and view the site to determine a parking plan. Those are the things she and he talked about previously.

Mr. Harnais called for a Motion to table the matter till July 9, 2013 at 8:00 pm.

Mr. Eng made the Motion; seconded by Mr. Reynolds

**Vote: 4:0:0**

**65 & 79 Town Street / Paula A. Orinofsky / Approval Not Required Plan**

Paula A. Orinofsky

Paula Orinofsky addressed the Board and explained she was there to take the next step in reallocating some land from 79 Town Street to 65 Town Street.

She said on May 21, 2013 she received approval from the Zoning Board to move the property lines. The actual division of land is shown on the plan itself.

She was asked by the Planning Staff for more information on the plan. She received it close to the meeting time and brought the Plan and Mylar with her but the Planning Board did not see it prior to the meeting.

Mr. Mikami, recalling an issue with some of the division line numbers in a prior meeting, asked if all the numbers tie together now. Ms. Orinofsky answered, yes, they do.

Mr. Eng asked if the six items that should have been on the Mylar are correct. Ms. Orinofsky said she believe they are and she will review them with Ms. SantucciRozzi to verify.

Mr. Reynolds had no further questions to those already asked.

Mr. Harnais called for a Motion to approve, pending the review and approval of the Planning Staff.

Mr. Eng made the Motion to approve, pending Mylar review; seconded by Mr. Mikami.

**Vote: 4:0:0**

**(10-03)**  
**Elmlawn Road Extension / Elmlawn, LLC**  
**Request for As-Built Approval**

Since the parties were not present, the Chair called for a Motion to table the matter to the next meeting.

Mr. Eng made a Motion to table the Request for As-Built Approval until the next scheduled meeting, on July 9, 2013; seconded by Mr. Reynolds.

**Vote: 4:0:0**

**Notification to Registry of Deeds and Land Court of Planning Board Membership**

Since the Notification required signature of all Planning Board members, the Chair called for a Motion to table this matter to the next meeting.

Mr. Reynolds made a Motion to table the Notification to Registry of Deeds and Land Court of Planning Board Membership on July 9, 2013; seconded by Mr. Eng.

**Vote: 4:0:0**

**8:35 P.M.**

**13-02 (Public Hearing)**

**Quincy Ave., Patten Ave., Lancaster Rd., Columbia Ter., Cliff Rd. / Daniel J. Quirk**  
**Application for a Grading Permit**

Frank Marinelli, attorney for the Applicant

Jim Burke, Project Engineer, DeCelle Burke and Associates Engineering

Mr. Harnais read the Public Notice.

Frank Marinelli on behalf of Daniel J. Quirk, addressed the Board. He began with some background about some of the parcels that were purchased in 2002.

Proposed is grading effecting more than 5,000 SF, necessitating a grading permit. Referring to a previously submitted Plan, he explained that Mr. Quirk has owned several of the properties since 2002. He purchased

over 12 acres bound on the easterly side of Quincy Avenue and southerly side of Hill Avenue. This area is entirely business zoned. Some of the abutting residential properties would not be permitted today; they are long standing, non-conforming uses. The land is zoned for Highway Business and a use-by-right are business related.

Currently, the Applicant is not submitting a use-by- right application because at this time they do not have a particular use. They understand that submitting a proposal for a use-by-right requires going before the Board for a Public Hearing concerning the site plan review process.

This Application concerns 11 parcels containing approximately 10 acres. Proposed is approximately 14,000 CY to be filled with a net cut of approximately 28,000 CY out of the nearly 11 acres. He presented a plan showing the profile of the grade leveling.

In December of 2012, Mr. Quirk acquired the former Flibbott's Auto Salvage Yard. The Braintree Health Department requested the septic tanks should be removed, that was done this past week. Further efforts have been made to clean the area. The intent is to create a flat pad ready area in the highway business zoned district.

Mr. Marinelli read from Jim Burke's report (Sec. 1.2), "the applicant proposes to re-grade the property to allow for ease of transition into a final use. The final use is intended to be similar to the original use of the property when it was maintained as a parking lot."

Mr. Marinelli explained that decades ago, it was a parking lot for the Fore River Shipyard. The Quirk entities acquired the Fore River Shipyard in 2003 plus some properties on Hill Avenue. Also in 2002-2003, Quirk acquired a Class I Storage License for Quirk Chevrolet to use the parcels for automobile storage.

Commercial, residential and industrial use will require vehicular movement and parking. Grading will provide a manageable site to traverse with both pedestrian workers and future vehicles. The approach is to the re-grade the lots to a manageable slope while maximizing the potential final use.

Currently, there are no storm water controls. They intend to create (3) three storm water swales on the downgrade edge of the property along Hill Avenue that will improve the water quality treatment. Water detention time and water quality treatment will be beneficial with respect to the site in relation to the ocean.

In addition, there is also a Class III License (referenced in the Staff Report) which was acquired in the Flibotts' sale that allowed for the purchase and sale of salvage. The Applicant maintained that license simply to complete whatever was necessary to wrap up the business.

He said that Ms. SantucciRozzi requested that Plot #52 on Assessor' Map 3047, be added to the Application since it was just purchased on July 9, 2013.

He explained that there are not many utilities on the site. Town water that is located in part of the property will have to be upgraded to service more area. Columbia Terrace has sewer in it but the surface is degraded and barely passable, they intend to level this area by filling in to generate a 10% slope. The drainage has been upgraded with reductions in flow to Quincy Avenue, Patten Avenue and to Clean Harbors; the majority of the flow is directed toward Hill Avenue.

Mr. Burke pointed out on the Plan, where the detention basins are. The (3) three 3 basins will be 20 FT wide x 4 FT deep. He said they intend to create a swale along the entire ridge of Hill Avenue. He said they plan to work with the Planning Board to assemble a Construction Management Plan that will indicate how that will be controlled on site and into the future.

Harnais opens questions to the public.

Mr. Philip Smith an abutter at 11 Patten Avenue, addressed the Board. He explained that he lives in the same house he grew up in; it's been in his family for over 60 years. The neighborhood used to be all houses. He said this project greatly impacts his property. Explaining his concerns that when the grading begins, a large hill right next to his property will cause damage to his foundation and property. He said that last year, he and his family experienced some hammering that was done which was disturbing.

Mr. Smith indicated on the Plan, just where the hammering was. He said he is concerned about damage to his foundation if further hammering is done even closer to his property. He asked how the grading will be done and the effect it will have on his property.

Jim Burke said that they have not determined whether they will blast or hammer yet. Further, that today, they prefer to blast because it's quicker and less aggressive.

Mr. Smith discussed the many other houses that were built on these properties which used to be streets with water and some with gas. The houses are long since gone but he believes there are water lines there from the previous houses. He indicated on the plan where there was a town street, he asked if this was town property or a private way and what became of the property. Ms. SantucciRozzi said that she can research the "ancient ways" issue.

Mr. Smith also stated his concern about lighting. His house is currently well lit by the Shipyard and property across the street. He fears that additional lighting will just flood the house.

Mr. Marinelli and Mr. Burke addressed Mr. Smith's concerns saying that there will be a pre-blast survey to document any damage that may occur. Mr. Marinelli further explained that the final uses for lighting, drainage etc., will be determined at a different Public Hearing.

Mr. Harnais added that the Board is also concerned about blasting near to Citgo. Mr. Burke said they are talking with Citgo now.

Mr. Smith asked Mr. Burke how long will this process will take for the project. Mr. Burke said they have approximately 43,000 cubic yards to cut, he estimates about 3-4 months. He further clarified, this will be 3 - 4 months of hammering but there will be breaks in between.

Mr. Smith asked if there will be any building demolished, Mr. Burke pointed to #60 on the Plan and acknowledged this one is planned to be demolished.

A second abutter, Mr. Donovan of Mike's Auto Body, located at 503 Quincy Avenue, Braintree; addressed the Board. Mr. Donovan explained his concerns of safety and water runoff from a 22 FT drop onto his property. He further said that people passing through the trees may not realize the drop and have a serious accident.

Mr. Burke addressed Mr. Donovan saying he wished they could have met before the meeting to discuss this. They can work with him to reduce the grade and get together to find the best solution. Mr. Burke suggests they arrange a meeting to discuss his concerns and solutions.

Mr. Harnais suggests a fence and Mr. Marinelli said that Jim's point is to evaluate Mr. Donovan's property. Mr. Burke said that there are options that will reduce the dangerous grade and implement appropriate safety measures.

Mr. Donovan is also concerned with the water runoff – he doesn't want this project to cause water to flow into his basement. Mr. Harnais assured Mr. Donovan that his concerns will be addressed.

Mr. Harnais asked if there were any more questions, no questions were asked.

Mr. Harnais asked for a Motion to accept and enter the correspondence dated May 22, 2013 through June 10, 2013.

Mr. Reynolds made the Motion; seconded by Mr. Eng

**Vote 4:0:0**

Mr. Harnais then opened questions to the Board.

Mr. Mikami asked about the storm water and drainage measures being implemented now. Since these are not the final plan, why these measures being implemented.

Mr. Burke explained that it is for the purpose of marketing the site. If it is pad ready, it has more value for future development and can use licenses he has carried for years.

Mr. Mikami asked for more explanation regarding the use of the licenses.

Mr. Marinelli addressed Mr. Mikami saying that when the 2002 purchases occurred, we went to the Board of Selectmen, that acted as a licensing board at that time; the Quirk Chevrolet parcel encompassed 420-450 Quincy Avenue; 12 – 131 Howard St and other properties and private properties that were described as Patten Avenue and surrounding parcels. Since then, in 2012, Quirk acquired Flibott's Auto Salvage properties and he indicated the area on the Plan for the Board. The Flibott's acquisition had a Class III Auto Salvage License associated with the property sale. Mr. Marinelli stated that they do not expect to be utilizing the property for salvage use or auto parts sales.

Mr. Mikami again questioned the possibility of salvage use. Mr. Marinelli confirmed there would be no salvage use, it's not part of the future plans, and the intent is a path to improvement. The only use would be selling any leftover auto parts to wind up what Flibott's was were doing in order to clean the site. Further, he said that the Flibott's headquarters will be demolished.

Mr. Mikami asked about the possibility of Quirk giving up the Class III license, saying it would demonstrate something as opposed to retaining it. Mr. Marinelli said certainly, it may be part of a future site plan review.

Mr. Mikami then asked if the site would be a dealership, what would be the primary entrance and egress. Mr. Burke indicated a location on Quincy Avenue across from Quirk Chevrolet.

Mr. Eng said Mr. Burke's storm water management is calculated for a 2 year, 10 year and 100 year storm, he asked what the storage area is rated for. Mr. Burke ran through some of the numbers and pointed out an increase in peak heading toward Hill Avenue and that perk tests are planned.

Mr. Eng emphasized his concern that this is being built sufficiently to handle and store a 100 year storm. Mr. Burke assured him that it would.

Addressing Mr. Marinelli, Mr. Eng further asked about the future intent of the property. Mr. Marinelli explained it is licensed for vehicle storage associated with Quirk Chevrolet across the street; since it is an auto business (a use-by-right), it could be any type of a highway business, such as retail, restaurant, or office. At present, there is no plan.

Mr. Marinelli further stated that Quirk's business is Class 1 automotive involving only new cars.

Mr. Eng pointed out that there will be drainage issues if that property is filled with cars.

Ms. SantucciRozzi, addressing Mr. Eng, clarified it is only Class 1 – new cars.

Mr. Reynolds referred to Section 1.4 of Mr. Burke's report regarding storm water management. He said that presently, there is no drainage system for the flow toward the shipyard property (northerly). He asked when the site is cleared, in the first phase of site enhancement, will the entire terrain will be cleared of trees and grass. Mr. Burke explained there will be some vegetation around the edges, but the highpoints will be clear.

Mr. Reynolds said he is looking forward to further detailed storm water plans.

Mr. Marinelli said that what Mr. Burke has designed, the detention basins, will handle everything that is being proposed right now. They are prepared to address anything that is in the Staff Report.

Jim Burke explained further about the cuts showing the high spots and flow direction, reviewing the current and proposed changes.

Mr. Reynolds asked further about after the proposed changes, specifically, if the runoff be entirely on the surface. Mr. Burke said correct, it is a pervious surface other than the impervious surfaces such as the ledge; there is not a lot of soil to get saturated.

Reynolds stated his primary concern is the runoff relating to neighboring property.

Mr. Harnais supported the concern of the two property owners abutting the property to ensure there are no runoff problems. Beside the safety aspect relating to the slope, he said he would not suggest cutting it at all because it will cause a runoff.

Mr. Smith (abutter) asked about any concerns about gasoline storage on the site, as it would relate to a possible targeted attack at CITGO.

Mr. Harnais said he thought the storage of gasoline for the new cars is minimal. Mr. Marinelli agreed.

Mr. Harnais called for a Motion to Continue to July 9, 2013 at 8:30

Mr. Reynolds made a Motion to Continue; seconded Mr. Mikami.

**Vote: 4:0:0**

**(10-01) 9 Month Review**

**250 Granite Street / Dave & Buster's, Inc. of Massachusetts**

Andrew Upton – DiNicola, Seligson & Upton, Attorney for Dave & Buster's, Inc.

Merrill Becht – Asst. General Manager, Dave & Buster's, Inc.

Brian McCleary – Regional Operations Direct Dave & Buster's, Inc.

Mr. Andrew Upton addressed the Board and introduced Merrill Becht, Assistant General Manager. He explained that Dave & Buster's contributes to the Town of Braintree in numerous ways including tax revenue, added jobs and community contributions.

Mr. Upton stated that Dave & Busters has an exemplary record of cooperation with the Police and Fire departments and it employs numerous police and fire details. Dave & Buster's has now produced over one hundred pages of documents pertaining to the operation of the Braintree business.

Merrill Becht then addressed the Board. He stated that since 2012, they hired 156 employees of which, 15 are Braintree residents.

Additionally:

- there have been 5 health Inspections as of 6-11-13;
- The requested report of Police incidents were submitted previously; The more important issue is an incident involving the Licensing Commission for which Dave & Buster's was found not responsible;
- There are still police details on Thursday, Friday and Saturday evenings;
- There is a strict alcohol management policy; involving the police when necessary. Party buses are stopped at the door and the alcohol level of the patrons is assessed; they will not provide more alcohol to people who do not need it and often the busses turn around and leave;
- Regarding the issue of lines; because the business has leveled off, they do not have a line issue. On a busy night, they are counting people entering and exiting; when they get close to their maximum and have people outside, they keep people away from the street in a designated area to provide space for a line; and
- Regarding sales, Securities and Exchange figures are available online; beyond that, being a privately held company, they are prohibited from providing any sales figures. In general, although they started out very strong, they are not doing the sales volume they anticipated. Regardless, it is still a very good business.

The Chair asked if the Board had any questions.

Mr. Mikami asked about the hiring practices saying he understands there are 154 employees, how many of those are full time vs. part time. Mr. Becht said 46 are full-time, the remaining employees are part-time.

Mr. Mikami asked how many of the full-time employees are Braintree residents. Mr. Becht said they are a mix of full-time and part time. He further explained that in the hospitality industry, the employees are typically part-time.

Mr. Mikami also asked if the number of employees has gone up or down. Mr. Becht answered: down.

Mr. Mikami referred to the Police reports and asked about the issues in the midway. Mr. Becht explained that there are typically a couple of incidents in the Midway. What has been working is monitoring the front doors. They employ wristbands for minors beginning at 8:30 pm.

Mr. Mikami said that Dave & Buster's recognize some parking lot incidents when police were called. Mr. Becht responded by stating the issue actually originated at the restaurant next door.

Mr. Becht further explained that line control means 20 – 25 people on stairs outside. Mr. Mikami reminded Mr. Becht that during the Special Hearing, it was clearly stated that there will not be lines. He further clarified that anytime you have people waiting outside the door is a line and respectfully asked if the management would keep better track of this number. Mr. Becht agreed.

Mr. Eng said the Board wants Dave & Buster's customers to walk away having had fun and that he appreciated the management's effort to make the location safe. He asked Mr. Becht if Braintree or Providence was more successful. Mr. McCleary the Regional Operations Director, said that Providence has higher volume but they are very happy with the Braintree location.

Mr. Reynolds appreciated the detailed information provided. He said he echoes Mr. Mikami's comments of improvement. Said the ratio of incidents was pretty good and the health inspection records are good. Considering the volume of guests, it didn't meet the level of concern that some community voices had. He commended them on handling the guest count and line control.

Mr. Harnais said they have done a great job with crowd control and appreciated the good organization and security. He commended them on a good job.

Ms. SantucciRozzi said their appearance satisfies the condition in the Special Permit that required a 9 month post opening review.

**(99-08) Discussion**  
**Liberty Farms Definitive Subdivision / F.X. Messina**

Ms. Stickney addressed the Board saying she sent a letter to the F.X. Messina company on May 8, 2013, to remind them that the Liberty Farms subdivision was still not complete in an effort to find out what was going on with the property.

Bob Campbell (Braintree Engineering Department) looked at the Surety Bond and he informed Ms. Stickney that there is currently a \$191,000.00 Bond. She said she was concerned that the surety obtained in the year 2000 may not be enough to cover current day costs?

Ms. Stickney said that on June 10, 2013, Ron Marshall (F.X. Messina) sent her an e-mail requesting the ANR recording information. She said on June 11, 2013, they talked again about the unpaid inspection fees

that currently exceed \$14,000.00. Mr. Marshall said he will look into it and seemed to think they were going to pay it if they haven't already.

Ms. Stickney stated her concern that the subdivision is over 13 years old, are they going to complete the second phase of this subdivision or will it be yet another project that stays with the history of Braintree that doesn't get done. She wants to make sure the Town has enough Surety to get it done and strongly urge them to complete it.

Mr. Harnais asked Ms. Stickney if she wanted to make the Surety higher and if the Town can request more surety if the \$191,000 does not cover it. Ms. Stickney said yes. If there is no cooperation, she suggested a request for the Covenant to go back on all those lots because the Surety is not sufficient to guarantee it.

Ms. Stickney said she hoped they would cooperate. F.X. Messina's common practice is to simply renew the Bond each year delaying completion of the subdivision.

She said he thought they will finish one other house in the corner on the right, so the front end is built up. At this point we need to take a look at the road, get the finish coat on and then they should talk to us about the second half of the project.

Ms. Stickney further explained that we have all these Messina projects, all over town that are incomplete. We intend to take them one by one and get them finished.

Mr. Harnais asked for a list of the incomplete projects and that they should be requested to come before the Planning Board. Ms. Stickney said a list can be provided.

Mr. Harnais suggested written correspondence to F.X. Messina to urge them to complete and close the projects. He discussed the issue of Messina obtaining a Certificate of Occupancy by side-stepping the Planning Board. On this same project, Mr. Harnais reminded Ron Marshall (Messina) that there was a list of items in need of completion prior to a Certificate of Occupancy. The Certificate was issued by another department unknown to the Planning Department.

Mr. Mikami agreed with Mr. Harnais and suggested the Board aggressively pursue all incomplete projects with all developers. He agreed with Mr. Harnais, to compile a list and note the issues and the status of the projects and the surety.

Mr. Harnais discussed a Memo from the Tax Collector's office regarding taxes that are owed on certain projects. He said having received the Memo, it could not be ignored, it clearly identified the projects that are not paying taxes and he suggested that all the unfinished project developers should be put on notice.

Ms. SantucciRozzi explained that with some residential projects, a deposit per unit was required until they get to "as-built". Some projects have just gone and issued a Certificate of Occupancy without getting the Planning Board's sign offs.

Mr. Harnais wanted to know more about this.

Ms. Stickney said there was an instance that the owner of a subdivision house built a deck, not part of the original house and it had a zoning issue regarding a rear yard set-back. When the Planning Department said they wouldn't sign off on it because no plans were submitted, the owner simply removed the stairs from

the deck and said "I comply". The owner returned to Planning and we refused to sign off because no plan was provided. We never heard from the owner again, he went back to the Building Department and got the Certificate of Occupancy.

The Board discussed the practice of the Building Department, issuing some Certificates of Occupancy, by-passing the required signature of the Planning Department.

Ms. Stickney said she will compile a list and get that to the Board in an effort to get caught up on.

**Minutes** Approval of Minutes for April, 2013

Mr. Harnais called for a Motion to accept the Minutes for April, 2013  
Mr. Mikami Motioned to accept the Minutes; seconded by Mr. Eng.

**Vote: 4:0:0**

Mr. Harnais called for a Motion to adjourn the meeting.  
Mr. Reynolds Motioned to adjourn; seconded by Mr. Eng.

**Vote: 4:0:0**

**The meeting adjourned at 10:45 P.M.**

Respectfully Submitted by,  
Elizabeth Schaffer