



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

Planning Board Meeting
June 12, 2012 – 7PM

NEW/OLD BUSINESS:

Chairman Harnais welcomed the newest member of the Planning Board, Melissa MacDonald who has filled former member Michelle Lauria's position. Mr. Eng **MOTION** to accept the minutes of 5/8/12 seconded by Mr. Reynolds - vote 2:0:3 (MacDonald, Eng & Harnais abstained)

Zoning Petitions:

Daniel and Alice Winters – 14 Morrison Road

The applicants explained their zoning petition showing that the deck was built in 1986. Member Mikami questioned the applicant if a building permit had been obtained in 1986? Member Eng questioned if building had signed off and if not they should check with building to make sure everything is agreeable with building. Member Reynolds **MOTION** to recommend approval to the Zoning Board of Appeals, seconded by Member Eng – unanimously voted.

Anthony LaPuma – 1749 Liberty Street

Mr. LaPuma introduced himself as the applicant representing Master Builders Plus Trust – he explained the project and explained the house has been there since late 1700's. Member Mikami questioned if the applicant will be razing the existing dwelling and Mr. LaPuma responded yes and explained under the new proposal it will bring all the setbacks into conformance. Member Eng commented that he was glad to see the new homeowners setting the house back further on the lot. Member Eng **MOTION** to recommend favorable action to the Zoning Board of Appeals, seconded by member MacDonald – unanimously voted.

Sprint Spectrum L.P. - 100 Grandview Road

Attorney Scott Lacey, representing Sprint Spectrum the applicant for installation of wireless equipment on the Corcoran building at Grandview. He explained that they will replace three antennas with three new antennas and an equipment cabinet all behind the screened wall. Mr. Mikami asked if this was only for Sprint or others and Mr. Lacey responded yes to Sprint and no other carriers. Member Reynolds questioned the height of the antennae after reading the staff report – Mr. Lacey explained that Sprint antennas are not going above the screen wall and are

10' feet above the roofline. Member Eng **MOTION** to recommend approval conditional on the applicant Sprint coming back with a plan that depicts the actual height of the proposed, seconded by member Reynolds – unanimously voted.

Public Hearing – 20-60 Forbes Road/ Karma Nominee Trust [#10-07] Proposed Modification to Special Permit and Site Plan Review

Present:

Mr. Robert Harnais, Chair

Christine Stickney, Director

Mr. Joseph Reynolds, Vice Chair

Mr. James Eng, Clerk

Mr. Darryl Mikami, Member

Ms. Melissa McDonald, Member

The petitioners were represented by Attorney Frank Marinelli, Peter Diana of the Carpenter Group, Brian Dundon of RJ O'Connell and Randy Hart of Vanase Hangen Brustlin (VHB). Attorney Marinelli provided an update on the project since the original approval on 12/14/10. To date the Hyatt hotel is open for business and the development team is back before the SPGA for consideration of a modification to the proposed parking. In particular the applicant would like the Planning Board to review the study prepared by VHB relative to the parking occurring under a "limited service hotel" that would require 1.0 parking spaces per unit. Attorney Marinelli noted that the Zoning Bylaw provides for only a generic "hotel" ratio of 1.25 per unit. He noted that this assumes all the full service amenities such as conference space, hotel restaurants, fitness centers and large event rooms (ie: former ballrooms). He noted the Hyatt has been designed for the business traveler with small bedrooms and conference rooms. There is no restaurant within the hotel and there are no ballrooms hence the parking requirements need to be viewed differently. The VHB reported demonstrated that the Hotel and proposed uses can operate with 627 parking spaces and will still have an excess of 32 spaces.

Member Mikami questioned if the additional parking is needed for employees? Attorney Marinelli noted the site has 636 parking spaces for all uses. Member Eng expressed his concern that the Planning Board has heard that parking is not needed and then when a site has reached full occupancy there is a parking issue and questioned Attorney Marinelli if he could he guarantee this would not be the case here. Member Reynolds questioned how the applicant would police the parking – urging employees to take the farthest parking spaces and allowing customers the closest for more turn over. Member Reynolds suggested that like the South Shore Plaza perhaps a seasonal parking plan should be implemented for the holidays. Attorney Marinelli noted that the proposed restaurant would probably have valet parking as well.

Member Reynolds **MOTION** to accept the correspondence list dated 6/12/12, seconded by Member Eng – unanimously voted.

Member Eng **MOTION** to close the public hearing, seconded by Member Reynolds – unanimously voted.

Member Reynolds **MOTION** to approve the proposed modification of the original Special Permit issued on 12/14/10 to modify the hotel parking to be considered as a limited service hotel with a parking ratio of 1.0 per unit, seconded by Member MacDonald – unanimously voted.

Public Hearing
S & H Realty Trust (Landing Pub) – #2-10 Commercial Street
Administrative Site Plan Review (BWLD) and Special Permit for Reduced Parking

Present:

Mr. Robert Harnais, Chair

Christine Stickney, Director

Mr. Joseph Reynolds, Vice Chair

Mr. James Eng, Clerk

Mr. Darryl Mikami, Member

Ms. Melissa McDonald, Member

Present on behalf of the application was Brian Donahue of Donahue Architects, Harry Sarras and members of the Sarras family. Mr. Donahue reviewed the project and using photos gave the history of the building originally constructed in the mid-1800s as the Bates Opera House, a three story building that was destroyed by fire and rebuilt in 1930 as a single story wood frame structure. The Smelt Brook runs beneath the building and is enclosed by a granite foundation wall on the south side and an embankment on the north side with a 25 inch crawl space beneath the floor. Mr. Donahue described the existing building footprint as 4,440 SF on a 7,400 SF lot showing renderings of the proposed Landing Pub commenting that it will look similar to the Southside Restaurant recently opened in South Braintree Square. Construction would begin this summer and take approximately 8 months to complete and during this time a gate upstream of the culvert would be closed restricting the flow. The Conservation Commission has mandated certain conditions in their decision.

On-site, the proposal can accommodate 2-3 cars in parking spaces along with the dumpster. The applicants have approached other property owners in the area for shared parking and Jack Keough who owns Express Pumping at #16 Brookside has agreed to permit two additional spaces on his site. Mr. Donahue noted he was prepared to submit a document into the record from the applicants that they will provide MBTA passes to any of their employees to use public transportation.

The Chair asked if there was anyone who wished to speak - No public comment was provided.

Mr. Mikami questioned how many parking spaces are required now for the restaurant and the pizza shop? Mr. Donahue responds per the current BWLD zoning 16 spaces are needed for 1/space for every 6 seats in the restaurant and 1 space/500 SF or 3.5 for the retail – 19 spaces

total for the project. Mr. Mikami asks how many do you have now? Harry Sarras responds there are 4 in the rear of the building. Mr. Mikami noted this will be an issue in the future.

Mr. Eng asked about when the other two retail spaces are activated what will they be activated for? Mr. Donahue notes no tenants as of yet but it would not be any other food service type establishment. Mr. Eng commented on the brook flows and the ninety degree turn it takes beneath the parking lot and asks if they have looked at how you will structurally maintain this flow? Mr. Donahue responds to the current work being done under the PWED/municipal water line project demonstrates there is very little flow. They are proposing to have a new foundation wall interface at two locations with the existing culvert wall and it is something they will need to investigate as construction progresses to know what they are dealing with. Mr. Eng noted for the record that the Town Engineer commented in a letter that he needs the designs of the top slab that would be going behind the building with information on the design to accommodate delivery trucks. Mr. Donahue acknowledges he was in receipt of a copy of the letter. We have agreed to work the Town and have a structural engineer who is here tonight, Mr. Abdul Hammadeh that will be working on a design. Mr. Eng asks if the applicant would consider day lighting a small portion of the brook at the rear of the building on Brookside – Mr. Donahue notes that it would be tough to do because of delivery vehicles and would impinge on the accessibility into the driveway. Mr. Donahue noted this has not been asked by us of the Conservation Commission.

Mr. Reynolds complimented the applicant on taking the initiative to move forward in the Landing under the new zoning. Mr. Reynolds asked if it was entirely in the Town of Braintree – Ms. Stickney noted under the new zoning, the Weymouth Planning Director can make recommendations but has reserved that right for tonight's meeting. Mr. Reynolds noted there are more details needed regarding specific information and engineered site plans. He asked how many seats are in the restaurant and the days of operation. Mr. Donohue responded the restaurant will have 95 seats and be open seven days a week with approximately 6 employees. The applicants propose to have deliveries made on Tuesday mornings and liquor deliveries on Tuesday -Thursday. Mr. Donahue showed a coloring rendering of the proposal as to proposed colors of the building with deep tones.

Ms. MacDonald asked about the construction and if the plan was to tear everything down? Mr. Donahue responded yes to razing and then re-build a new building with an additional 100 SF – Ms. MacDonald asked when would were you hoping to start construction – he responded tomorrow.

Chairman Harnais asked who owns the liquor license. Mr. Sarras responded that he does. Chairman Harnais explained that although they have filed under a new ordinance designed to stream line permitting there is more detailed information needs to be submit upon which staff can review and that they will need to return to another public hearing – Mr. Donahue interjected that he did not understand what additional information is needed? Mr. Harnais explained - what we rely on is the planning department recommendation and they have

indicate they are missing information to give a favorable recommendation – Mr. Harnais then read the staff report.

Ms. Stickney noted her a conversation with Mr. Donahue that there is a new site plan that needs to be provided and that the Planning application needs a professional engineer stamp on the plan – Mr. Donahue noted that BSC has done a plan already given to Conservation and only a new water line has changed - Christine noted that the plan submitted to the planning department has hand drawn utilities – discussion pursued back and forth on the issue - Mr. Donahue expressed frustration and ask why it cannot be approved with a condition that this plan be submitted. Christine explained that the level of information needed on the plan has not been provided. Under the new ordinance this is not a simple renovation rather the demolition of a building and new construction over a culvert that is questionable that we need a structural review, a stamped plan attesting that he building fits on the lot and information on the utilities before staff could recommend approval. It is also a Special Permit for a parking reduction which staff cannot approve only the Board by vote.

Mr. Donahue asked once the information was submitted could this be done under old business at the Planning Board’s next meeting? Ms. Stickney responded that it would be a continued public meeting for the site plan and if the Board wished they could vote on the special permit tonight however no written documentation has been provided as to the off-site parking agreement or the subsidy by the owner for public transportation. Chairman Harnais questioned the process going forward and Christine explained that the Special Permit requires a continued public hearing unless voted tonight. She added this is a new process that we are working through – two major issues are the parking but the municipal parking lot has spaces available for parking but and secondly of more concern is a report from a structural engineer that this building can be built over the culvert. Chairman Harnais noted for disclosure his involvement with a public hearing in Weymouth for a new restaurant and they too are using the municipal parking lot. Mr. Donahue would like to close the issue tonight but acknowledges if he can’t then he will provide the materials.

Mr. Reynolds **MOTION** to approve the correspondence lists 5/14/12 & 6/12/12, seconded by member Eng – the vote was unanimous. Chairman Harnais asked for the direction of the Board on proceeding.

Mr. Mikami asked if he could make an additional comment; has the applicant met with the neighbors and the district councilor relative to the project – he believes traffic and parking will be a concern to the neighborhood. This information as requested by staff is important to be available before the Planning Board in rendering a decision. Mr. Mikami encouraged strongly that the applicant meet with the neighbors and the Planning Director before the next hearing. Mr. Sarras added he has spoken with the neighbors and there in no objection – everyone wants to see an improvement and he has had nothing but support for the project.

Councilor Tom Bowes spoke citing although this was not his district – he was in full support of the project – he asked that the Planning Board grant the waiver for parking and move forward noting it is something they have been working on for over a year.

Mr. Reynolds expressed his agreement that there has been a lot of hard work but overall he sees no major problems or objections – but he feels conditions need to be provided and reviewed by the Planning Board to assure the success of the project and commented this a whole new ordinance and process and he prefers to have all items completed.

Mr. Eng asked an administrative question if the public hearing portion could be closed for part of the application. Ms. Stickney answered that the Special Permit portion could be closed and because that process is governed by state statute you have 90 days to render a decision. The administrative site plan review does not call for a public hearing just a public meeting – Mr. Eng asked the applicant if that did anything with the construction – Mr. Donahue responded that he would like to close as many doors as possible – we would like to do as much as we can this evening.

Chairman Harnais noted that even if we closed the special permit he cannot go forward with construction until both issues are resolved – Ms. Stickney responded yes and he also needs the Conservation Commission approval. Mr. Donahue explained where they are with the Conservation Commission but acknowledged a decision has not been issued.

Chairman Harnais suggested that they work with the Planning Director and return at the next meeting to get this resolved. The Chair entertained a **MOTION** from Mr. Reynolds to continue the public hearing to July 19th at 7:30 PM, seconded by member Mikami – unanimous vote in favor. The applicant and the Board signed a mutual extension of the deadline.

Public Hearing
Richard Clancy 1091&1093 Washington Street/ File #12-01
Special Permit (135-608 Floodplain) and Site Plan review

Present:

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

Christine Stickney, Director

Chairman Harnais read the legal notice for the application advertised in the Patriot Ledger

In attendance on behalf of the application was Mr. Clancy and his engineer Sean Hardy of Hardy Engineering who explained the applicant brought over 1500 CY of material from the Braintree

High School site for fill onto his lot without permits from the Planning Board and Conservation Commission. The proposal before the Planning Board is to remove approx. 1000 CY of fill and re-grade the lot to construct an in ground swimming pool. He noted submitted with the application were three site plans and explained the differences between them using the plans shown on a poster board.

Once removed the fill will net an increase of 4.5 CY increase in the flood storage and they have been before the CC and received an Order of Conditions.

Mr. Mikami commented he was curious why no permits were filed. Mr. Hardy responded that applicant did not realize he needed them and was trying to utilize some free fill from the High School site and took the opportunity. Mr. Mikami questioned further that after looking at the staff report, did you and the applicant have looked at these conditions? Mr. Mikami commented this is a lot of fill 1000 CY to be removed and commented he was curious if any other significant conditions were required by the Conservation Commission.

Mr. Hardy answered that Conservation Commission asked that they provided some buffer area between river and activities in the rear yard and a 28 foot buffer that computes out to the 3900 SF they were looking for and the applicant will plant 18 trees for protection for habitat adjacent to the river.

Mr. Eng asked if they are ok with the draft conditions – Mr. Hardy responded that they had read them and the applicant has a contractor ready to go. Mr. Hardy add a comment on the posting of an As- Built bond as required by both boards of \$1500 and the condition of the Planning Board that only if the beyond 30 days after completion of the project. Mr. Hardy continued that the other conditions regarding the contractor and requirement by the Health Department were all understood and once this is up and running and it should go quickly. Mr. Eng followed up with the comment that he wanted to make sure they were comfortable with the conditions because you will need to comply with them and the Town's bylaws – it was unfortunate this wasn't done first.

Mr. Harnais asked if there was anyone in the public that wanted to speak – no one spoke

Ms. MacDonald questioned the removal of fill and asked if there was a logistical plan of how the removal will take place – how many trucks – Mr. Hardy responded that the contractor would most likely use an excavator to bring it up the hill and fill the trucks – Ms. MacDonald followed up with where will the fill go? Mr. Hardy noted the condition that a location where the fill would be going to prevent another problem somewhere down the street and the contractor has to provide certain information to the staff.

Mr. Eng **MOTION** to accept the correspondence list of 6/21/12 seconded by Ms. MacDonald – unanimously voted.

Mr. Reynolds **MOTION** to close the public hearing, seconded by Mr. Mikami - unanimously voted.

Mr. Reynolds **MOTION** to approve the Special Permit application under the floodplain protection district with conditions as outlined by staff, seconded by Mr. Eng – unanimously voted.

The Chair suggested tabling the next public hearing for later in the evening since it was a town department and no one was present Member Reynolds **MOTION** to table the matter to later in the evening, seconded by Member Eng – unanimously voted.

NEW/OLD BUSINESS (CONTINUED):

Request for As-Built Approval/Dave and Busters - 250 Granite Street

Brian Dundon of RJ O'Connell & Associates was present on behalf of the applicants and joining him as requested by staff were senior members of Dave and Busters Mr. Dolphe Berly - President and Chief Executive Officer, Merle Bett – General Manager and Derek Robinson, Braintree General Manager and Attorney Andrew Upton.

Mr. Dundon explained the purpose tonight was to seek As Built approval and requesting release two surety bonds; one for \$5,000 and the second for \$15,000 that was posted prior to the issuance of the original occupancy permit for an incomplete item at the front façade of the building.

Mr. Mikami asked about the licensing board meeting that Dave and Busters was before for an incident and understood some matters were resolved and would like to hear from management if any other incidents have occurred and what changes in procedures have been made. Mr. Robinson, Braintree General Manager, noted they implemented following: they removed the T&T glasses and over/under shot glasses as souvenirs available to the public from the menu; secondly they agreed to two additional managers were hired but only one has been hired to date and thirdly as part of security a Captain is positioned in the bar Thursday –Sunday to increased 11 to 12 captains throughout the facility and lastly we added a video camera in the midway.

Mr. Mikami asked if there have been any other incidents – Mr. Robinson had a conversation with Chief Frazier who agreed on the zero incident rate of the store and the police detail security can be reduced. Mr. Mikami noted the Board had asked about a “report card” and we expect to have you back for the 9-12 month review – please have a framework available before hand for that meeting. He also reviewed the policy and procedures for underage patrons. Mr. Robinson reported that the wrist bands have resulted in slowdowns at the main door and have asked patrons to have ID's out for checking – therefore a second scanner was purchased and a another captain was added to help move the lines forward.

Mr. Mikami notes the lines were something we had originally talked about and understanding from the police department there have been lines outside of the building and since this a place of assembly that required a Special Permit we were told there would be no lines. How will that get does address – Mr. Robinson commented at the original opening we were overwhelmed with initial interest resulting in lines – but we have addressed that now. We opened on 12/7/11 and were pretty quiet and after the New Year we were pretty busy and now the novelty is tapering off making it manageable.

Mr. Berly re-introduced himself as the President/CEO and commented that D&B is at half the volume now than when they opened and has substantially reduced due to the key factor in the entry procedure.

Mr. Mikami appreciates his comments adding he felt D&B were unprepared when the lines came and D&B should have had more contingencies and that although now this has dissipated we need to look at if there should begin to be additional lines how will this be treated and handled? Before it is some type of public safety issue – He added would really like you to think about that – consult with the police department – we want you to be successful – come back to us with some answers - very important that you are prepared for the upcoming future.

Mr. Robinson noted that he and the other managers were not with the company during the permitting and understood the procedures that they have were adequate. To address the lines we moved folks into different exterior areas – smokers to the right of the building – and on the left there is a ramp – around those concrete areas – once we got them off the ramp and onto the sidewalk – there was no longer a problem. Mr. Mikami asked that they submit us a written control policy as what is the appropriate number of people waiting in line – what do you do if that number is exceeded. Mr. Robinson replied that he understands and will also provide a diagram of the area showing the area for waiting for the next time before the Board.

Chairman Harnais noted that Mr. Mikami has taken the charge for the Board and has the real interest of the Town on this matter to assure public safety.

Mr. Eng **MOTION** to grant As-Built Approval and release the two surety bonds request including the six surviving conditions referenced in the staff report, seconded by Reynolds – unanimously voted.

Mr. Berly noted that he appreciates the support of the public safety divisions within the Town. Mr. Robinson added his comment that management has relocated to the state to be here to open the unit up and he believes in the same things as the Board.

Request for Reduction/Release if Surety/Elmlawn Road Extension

Attorney Brian Palmucci on behalf of Elmlawn LLC recapped for the Board when they last appeared before them for release of surety. It was requested by the Planning Board that they meet with the residents with outstanding concerns/issues and Ms. Santucci. Attorney Brian Palmucci personally reached out to all residents and believes that they have resolved all these issues. There remains one abutter with an issue of property line who is now being represented by the Counsel. Mr. Endrinuas has addressed all of the issues of Ms. Santucci and Town Engineer.

Mr. Jeffrey Smith resides at 37 Robert Street, he is the abutter with the property line issue and he has had his Counsel talk with Mr. Endrinuas and he respectfully requests that the Planning Board not release the surety noting that he has not been made whole with his issues. Mr. Eng asked Mr. Smith if they are close to settling or are they way apart. Mr. Smith said his back property line was impacted over a year ago and nothing has been settled.

Mr. Reynolds asked about a staff report and noted that Ms. Santucci has been out of the office due to personal issues. Ms. Stickney commented that there are two minor items in your materials, one from water and sewer – water boxes and the other catch basin grates – Melissa talked about this with her and Ms. Stickney reminded the Planning Board that this surety was for the subdivision roadway construction and that the property line issue was handled through the major modification decision approved by the Planning Board. This is an issue between two abutters and is not covered by the surety being held. Mr. Reynolds is aware of Mr. Smith's issue and is concerned

Mr. Eng asked why this can't be settled – Attorney Palmucci responded that it can be he sent a letter to the abutter he was informed of his Counsel – Attorney Green and in response to the letter they have had 4-5 telephone conversations in which he offered a settlement terms of repair any adverse impacts as a result of the surveyor's error and Attorney Green requested a cash payment. As of May 30th Attorney Green was still working on an itemized list to substantiate their cash payment.

Chair Harnais disclosed to the Planning Board that his office is in the same building as Attorney Palmucci.

Mr. Smith commented their offer to repair was insufficient and he doesn't want this guy back on his property. Attorney Palmucci expressed his concern that holding the surety is not fair to his client on the outcome of a settlement. Since the surety was to guarantee work performed with the subdivision construction. Mr. Smith said that it is not as straight forward as it appears. Ms. MacDonald asked if there are any motions to attach the surety through the court – Mr. Palmucci said no law suits were filed. Mr. Eng asked Mr. Smith why his lawyer has not come up with the itemized list – is there an issue with coming up with a number? Mr. Smith answered this is accurate.

Mr. Reynolds **MOTION** to table the matter to see communication from Ms. Santucci as to the conditions, seconded by Mr. Mikami – unanimously voted. Mr. Palmucci asked for clarification as to the staff report and Mr. Reynolds noted he would prefer to see something in writing.

Public Hearing
Amendment to the Zoning Ordinance Section 135-608 and Adoption of Flood Insurance Rate Maps/Department of Planning and Community Development

Present:

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

Christine Stickney, Director

Chairman Harnais read the legal notice for the application advertised in the Patriot Ledger

Ms. Stickney presented an explanation to the Planning Board that the Town has been mandated by FEMA to accept new flood maps of Braintree map as of 7/17/12 in order to remain in the Flood Insurance Program. This resulted in having to amend Section 608 to have the language updated along with the new map dates included. The Planning Board needs to forward a recommendation to the council for action.

Mr. Reynolds **MOTION** to recommend favorably on the adoption of the new FIRM maps dated 7/17/12 and favorably on the acceptance of the amendment to Zoning Ordinance Section 608, seconded by Mr. Eng – unanimously voted.

Endorsement of Minor Plan Revision/ Sealcoat/ B & R Partners LLC
825 Granite Street

Christine showed members the tear sheets of the modification - informational – Member Eng endorsed the plan.

Mr. Eng **MOTION** to adjourn the meeting, seconded by Ms. MacDonald – unanimously voted

The meeting adjourned at 10:10 PM

Respectfully submitted

Christine Stickney, Director
Planning and Community Development