



Department of Planning and Community Development

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PLANNING BOARD

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

Joseph C. Sullivan
Mayor

Braintree Planning Board
July 7, 2014

Town Hall – Johnson Chambers

Present:

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

Christine Stickney, Director
Melissa SantucciRozzi, Principal Planner

APPROVED

Chairman Harnais called roll at 7:05 p.m.

Zoning Board of Appeal Petitions – July

ZBA (14-18) 7:06 p.m.

250 Granite Street / (Buffalo Wild Wings)

Carol Bugbee of Philadelphia Sign Company represented Buffalo Wild Wings, she addressed the board seeking a favorable recommendation for relief for signage that exceeds the height allowance.

Ms. Bugbee handed out printed material to the Board and explained there is one wall sign a total of 65 SF and two door decals measuring less than one SF. The actual measurement of the primary wall sign is 6 FT x 10 FT 9 IN. The height is in excess of the 4 FT maximum. The restaurant does not have good visibility within the mall property. The request for relief is reasonable and consistent with relief previously granted other businesses in the plaza.

Mr. Mikami said the Buffalo Wild Wings is distinctive and asked if there are other corporate designs that will not create a variance. Ms. Bugbee explained why the national brand sign could not meet the requirement.

Mr. Eng asked about the lighting. He said he thought the sign was appropriate and did not have further questions.

Ms. McDonald did not have any questions.

Mr. Reynolds commented that other signs at the mall and the physical location of this sign make the relief reasonable. He also commented that the Town needs to review the sign bylaws. A shopping area such as the South Shore Plaza constitutes different conditions and considerations.

Mr. Eng made a Motion for Favorable Recommendation; seconded by Mr. Reynolds.

Vote: 5:0:0

ZBA (14-17) 7:12 p.m.

195 Pleasant View Avenue / Stefano and Janice Sardelli

Stefano Sardelli addressed the board explaining they are seeking a variance to connect, by expansion, an existing pool and add stairs. The deck will measure 11.7 FT from the rear lot line. He provided written abutter approval to the Board.

Mr. Mikami asked what the hardship is relative to the application. The Applicant explained that this will make it easier to get to the pool should there be an emergency.

Mr. Mikami explained that the Applicant did not have a recognized hardship.

Mr. Harnais explained to the Applicant some examples of acceptable hardships. He said they could have an issue with soil conditions, shape of the lot or ledge.

Mr. Eng asked if the Applicant owned Lot 4, Mr. Sardelli said no, it is owned by Boston Edison, clarifying that it is a utility easement. He said he would be 39 FT from the side lot line.

Mr. Reynolds asked if the Applicant read the Staff Report, he did not. Mr. Reynolds commented that since the deck is not a permanent structure, he believed there was an opportunity for approval.

The Chair had no questions and called for a motion.

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

Vote: 5:0:0

7:23 p.m.

178 Washington Street, CVS Pharmacy – RJ O'Connell & Associates, Inc. (12-11)

Request for As-Built Approval and Release of Surety

Brian Dundon, P.E., R.J. O'Connell & Associates, Inc., Civil Engineers
Heather Monticup, P.E., Traffic Consultant, Greenman-Pedersen, Inc.

Mr. Dundon explained he has requested As-Built approval for the completion of the CVS project at 178 Washington Street. He said that he met with Staff on the recent improvements. He further noted a typographical error that stated the building square footage on the Approved Plans. The Approved Site Plan indicated the building square footage as 12,900 SF; the building shown measured 13,388 SF, and the As-Built footprint is 13,411 SF. Mr. Dundon also mentioned their agreement to provide a 6 month follow up traffic monitoring report in January of 2015 that marks one year after the store opening. He introduced Heather Monticup available for questions about the traffic report.

He further asked for the release of the \$99,000.00 Surety Bond per Condition #4 and release of \$7,000.00 of the \$8,000.00 Cash Bond posted by the contractor designated for the occupancy permit. Per Staff request, an amount of \$1,000.00 will continue to be held for reseeding in the fall.

Ms. McDonald commented that it turned out to be a good project and that she agreed with the Staff Report recommendations on Page 2 of the Staff Report datd July 3, 2014

Mr. Mikami asked why the traffic counts are higher than originally estimated.

Mr. Dundon said he was also surprised at the increase of traffic. He believes the CVS is serving a need. He said there have been no complaints since its January 2014 opening. He said he is not aware

of any accidents caused by the CVS. There have been no speed studies on Church Street. Mr. Mikami recommended continued monitoring due to the residential area.

Mr. Eng said he was concerned about making the left turn out of the site lot onto Church Street toward the intersection of Church and Washington Street. He asked Mr. Dundon if there have been any problems in this regard. Mr. Dundon said there have been no reports indicating this problem. Mr. Eng asked him to include this issue in the January 2015 follow-up report.

Mr. Reynolds commented that the project met the expectations. He also emphasized continued traffic monitoring. He said he travels through that intersection daily and has not experienced any problems.

Mr. Harnais asked if Applicant has read the Staff Recommendations, Mr. Dundon said he did and he is in agreement with the Conditions.

There were no further questions or comments, the Chair called for a motion.

Mr. Eng made a Motion to grant As-Built Approval on 178 Washington Street, with the following Surviving Conditions 1, 3, 12, 15, 34, 35-41, 45, 47, 48, 49, 51 – 55, 57 – 64, 68, 69, 74 – 80, as well as release of the \$99,000.00 Bond and a partial release of the Cash Surety in the amount of \$7,000.00; seconded by Ms. McDonald.

Vote: 5:0:0

7:35 p.m.

Action on Subdivision Default Status (03-17)

Oregon Avenue Definitive Subdivision – Zampine Farm Realty Trust

Planning Board Member, Melissa McDonald recused herself and left the room

James McGrath addressed the Board he explained the original project ran into financial problems and he asked for a 60 day window to complete the road.

The Chair asked if the public had any questions or comments.

Mike Guerrio, resident of 90 Oregon Avenue addressed the Board and stated that he wants the street to be completed because of the inconvenience for services but stressed he wants it to be done properly.

Quan Tran, resident of 85 Oregon Avenue stated his concern with open permits, mentioned no snow removal or services for 4-5 years. He noted a few large snow storms – he had a contractor plow at his expense. He wanted the street to be accepted – the residents of the subdivision have been left stranded.

James Doherty, resident of 75 Oregon Avenue explained he has been in this development since it began. He noted the high cost of the 7 lots in the development. He acknowledged the financial issues stated by Mr. McGrath but that each home buyer also suffered a severe reduction in the value of their homes due to the market. He said each owner has been paying taxes for the past 6 years for a street that is not even accepted, not receiving town services such as snowplowing. He said the builder did not service the buyers and asked that the street be completed so it can be accepted, it was time to move on.

Chris Scott, resident of 70 Oregon Ave.

Mr. Scott agreed with the other comments, he said regardless of the economic hardships, it is time to move on.

Mr. Mikami said he appreciated the neighbor comments and agreed with their comments.

Mr. Eng asked Mr. McGrath if he had a completion plan and questioned him about the quality of the work that will be done. Mr. McGrath supported the quality of his 32 years of experience and mentioned the original Subdivision Conditions which are still in effect. Mr. McGrath said he plans to follow the subdivision approved plans.

Mr. Eng asked if any of the neighbors sued the Applicant, Mr. McGrath answered no, there are no pending suits. Mr. Eng asked if the \$20,000.00 quote for the unfinished work on the subdivision that that he submitted to the Town, is still a fair estimate. Mr. McGrath said currently, the estimate is about \$53,000.00. He asked for the opportunity for the 64 days to complete the work. He explained that at this point, there is nothing in it for him and he understands the residents' frustration.

Mr. Reynolds acknowledged that there was no ill will here, this was not the way it was set out to be. However, it is time to move on for the residents of Oregon Ave. He said the Town is setting itself up for a dangerous precedent if it were to reverse its decision. Mr. Reynolds said the Bond money that is conditioned for the remaining work can be bid out and he believes that this is what should be done. The misfortune that caused this situation is now water under the bridge and we should move on.

Mr. Harnais addressed Mr. McGrath and acknowledged that he came here on his own and that he is sorry that this situation occurred and he just wants to finish it to make amends. He said that the past history is setting him up to fail, there is a lot of mistrust and the neighbors are upset. Mr. Harnais explained that he didn't want Mr. McGrath's work to be picked on because of the history. He said he respected Mr. McGrath for coming forward to try to do the right thing. There is too much animosity for Mr. McGrath and the residents to go forward together. No one else in the partnership came forward and Mr. Harnais noted his respect for that.

The Chair clarified that this was not a public hearing and called for a motion.

Ms. SantucciRozzi referred the Board to page 2 of the Staff Report that indicated the required actions of the Board in accordance with the Reconsideration Policy; she noted Paragraph Three, "Analysis". Mr. Harnais said that Item No. 6 is the main issue. The Board can vote for a positive or negative motion for reconsideration.

Mr. Reynolds made a Motion for No Reconsideration; seconded by Mr. Mikami.

Vote: 4:0:0

7:55 p.m.

95 Shaw St – Whyte Realty, LLC

Request for No Jurisdiction (BZB Section 135-608)

Dan Whyte of Whyte Realty, LLC

Mr. Whyte addressed the Board and explained he is proposing to add a second floor to an existing building to create two (2) small 1-bedroom units on the second floor and an office on the first floor.

Ms. McDonald had no questions or comments.

Mr. Mikami asked about Mr. Whyte's plans for the building. Mr. Whyte explained the first floor office will house his business and there will be two (2) tenants on the second floor but the footprint will remain the same.

Mr. Eng wanted to see what the proposed plan looked like and he looked further at the plans provided acknowledging the site plans will be submitted in the coming months.

Mr. Reynolds clarified that this appearance was simply a waiver for a special permit applied for the review process. A Site Plan review will follow.

The Chair asked Staff if there was an opinion on this matter. Ms. Stickney answered that she provided a Staff Report that notes no jurisdiction under Section 608.

There were no further questions or comments, the Chair called for a Motion for no Jurisdiction on the floodplain.

Mr. Eng made a Motion to Waive the Requirements for the application filed for a special permit pursuant to Braintree Bylaw Sec. 135-608 for the project described; seconded by Mr. Reynolds
Vote: 5:0:0

8:02 p.m.

(Continued Public Hearing) 126 Celia Road – Don Nguyen (14-03)
Special Permit and Site Plan Review

Mr. Nguyen addressed the Board and explained that he applied for approval for special permit waiving the 30 FT setback to build a 24 x 24 FT Garage. He said that he spoke with Staff who advised a detached garage in the back of the property. Mr. Nguyen said that this is not what he wanted noting an arthritis health problem requiring easy access into his house. He said there is a water basin on the left side of the house, on the right side there is a patio that is the back entry into the house. He said the left side is the best location for the garage but it violates the 30 FT setback.

Ms. McDonald had no questions.

Mr. Mikami asked what other engineering work has been consulted. Mr. Nguyen said the property was surveyed, he had Architectural Plans done for submission and he said these plans are ready whenever he can go forward.

Mr. Mikami asked about the water basin and asked if any engineering opinion of whether it could be moved. Mr. Nguyen said no. Mr. Mikami reminded the Applicant that the board needs this material to make an evaluation.

Mr. Eng asked what his hardship is and some of the acceptable hardships for such a waiver. Mr. Nguyen explained the obstacles that prevent building in another location on the property noting a rare Japanese Palm tree on the right side that will have to be removed; building on the right side is too close to his neighbor; the back will require removing an expensive air conditioning unit and building on the other side will block the patio and the back door.

Mr. Eng suggested the Applicant reconsider an alternative. Mr. Nguyen said he has reviewed all of the alternatives.

Ms. Stickney addressed the Board reminding them that the Applicant did submit review material and suggested that the Board take the next applicant to allow the Board time to review the material. (The hearing was delayed to re-copy the Applicant's material to the Board.)

8:07 p.m.

(Continued Public Hearing) Whites Hill Estates II – O.I.B Corporation (04-02)
Definitive Subdivision Plan Amendment

After waiting for 25 minutes, The Applicant was not in attendance. Mr. Harnais announced it was unfair for the public who attended in the interest of the matter. It was decided to continue the public hearing to Wednesday, September 10, 2014 at 8 p.m.

The District Councilor and a resident were concerned about the effect of a continuance on any timeline. Chair Harnais assured the public that this will not cause any statutory timeline implications that will affect the project.

Mr. Reynolds made a Motion to continue the Public Hearing to Wednesday, September 10, 2014 at 8 p.m.; seconded by Ms. McDonald.

Vote: 5:0:0

8:08 p.m.

2001 Washington St – CATS Academy (formerly Norfolk County Respiratory Hospital) (14-02)
Request for Minor Modification

Eugene Sullivan; Engineer for CATS Academy

Mr. Sullivan addressed the Board and summarized the project headway. The major change is a 50 FT relocation of three dormitory areas enabling them to utilize fill already on the site, reducing some tree removal and locating the buildings further away from the open space area. ADA accessibility prompted some changes that resulted in a 476 SF increase in the large building and 240 SF added to the two other subject dormitories.

Mr. Sullivan requested approval of the minor modifications and wants to make them part of the official record plans dated June 30, 2014.

Ms. McDonald asked why the changes to the lower buildings. Mr. Sullivan explained the increase was needed for clearance.

(Mr. Harnais stepped away from the meeting and Mr. Reynolds stood in as Chair.)

Mr. Mikami commented that 1200 SF added to the buildings is not inconsequential. Mr. Sullivan assured Mr. Mikami said they have not varied from the architectural plans and they are not using the space for additional beds. He explained that in designing the interior, they had to push and pull a few things that differ from the architectural plans submitted which were more schematic for layout.

Mr. Eng also focused on the changes and asked why they weren't seen earlier. Mr. Sullivan said it's not unusual that things change after plans are submitted. Mr. Sullivan said they tried to keep an open feel and limit the impacts.

Mr. Reynolds asked if the number of dormitories remain the same. Mr. Sullivan said yes. He clarified that ADA compliance is the reason for some of the building increases. Mr. Reynolds asked about the landscaping changes. Mr. Sullivan said that originally they planned to bring in 44,000 cubic yards of material. By relocating the buildings up 50 FT, it reduced the amount of incoming material needed. Mr. Reynolds asked what the biggest impact the changes made to the drainage. Mr. Sullivan said the basin on the lower area of the site is just reshaped. The fire lane access has changed to improve services but the design intent remains the same.

Ms. Stickney informed the Board that the Town Engineer had concerns about some other issues, but after his review of the drainage calculations, he had no issues. In summary, she said everything is the same, it has moved up the hill; the grades are steeper but still the same and the fire lanes are the same.

Mr. Reynolds asked about the increase of dormitory square footage. Mr. Sullivan said ADA compliance and the addition of a third faculty room accounts for some of the reason but the number of units are staying the same. Mr. Reynolds had no further questions and said he believed this is simply a minor modification.

Ms. Stickney informed the Board that 2 of the buildings that Mr. Mikami has issue with are not in Phase I, they are in Phase II.

Mr. Harnais said that since those buildings are not in the current plan, they will come before the Board when the Applicant does those buildings.

Mr. Mikami thought this was a borderline major modification. He asked the Applicant provide a detailed written explanation of the changes and what they include. Mr. Sullivan agreed to provide a detailed explanation to the Planning Department by July 11, 2014.

Mr. Eng made a Motion to approve the Minor Modification; seconded by Ms. McDonald.

Vote: 5:0:0

(Public Hearing RESUMED) 8:35 p.m.
(Mr. Harnais returned and Chaired the remainder of the meeting.)

(Continued Public Hearing) 126 Celia Road – Don Nguyen (14-03)
Special Permit and Site Plan Review

The Public Hearing resumed and Ms. McDonald expressed that she did not see a hardship.

Mr. Mikami agreed with Ms. McDonald, he did not see a hardship. He suggested the Applicant research all his options due to the buffer zone.

Ms. Stickney explained to the Board that if the Applicant builds behind or beside the house, he could pull a permit. She suggested the nominal cost of moving the air conditioner may be his best choice for the addition.

Mr. Nguyen explained that he did not know the procedure.

Mr. Eng reviewed the copied material and said he believes it is too tight, too close the property lines.

Mr. Reynolds said the Applicant has a tough burden to demonstrate a way for this to work. He strongly suggested the Applicant spend time and endeavor to find a better way, to get an Engineer that will increase your opportunity to get approval.

Ms. Stickney commented to the board that it is more a setback issue than an engineering issue.

Mr. Harnais said he cannot accept his hardship.

Mr. Mikami suggested presenting a design that locates the garage on the other side of the house which may be a better alternative.

Ms. Stickney explained the Applicants' options; he can continue and submit another plan or withdraw his application. If the Planning Board denies his request, he has to begin again.

Ms. SantucciRozzi said the buffer is only on one side, Ms. Stickney agreed he can build on the other side. She said if he builds on the other side, he can apply for a 10 FT variance.

Mr. Harnais explained to the Applicant that the Board is not likely going to vote favorably if he plans to put it in the submitted location. He said he is giving the Applicant an opportunity to withdraw.

The Applicant withdrew his Application.

Mr. Reynolds made a Motion to accept the Applicants' withdrawal; seconded by Mr. Eng.

Vote: 5:0:0

8:55 p.m.

20 Pond St – Messina Enterprises (12-04)

Request for Minor Modification

Rob St. John, Project Manager, Messina Enterprises

Ron Marshall, General Counsel, MSMM, LLC

Mr. St. John addressed the board, he said he submitted the responses to the Staff questions.

Ms. McDonald clarified with Mr. St. John that the changes have already been made. She noted that the changes should have not been done before approaching the Board.

Mr. St. John explained that the building construction cannot stop for a month, file with the Board, come before the Board and wait for the Board to make a decision. He explained that they are paying contractors, project managers and building supervisors to get the job done. Those decisions are made

with the information you have at the time. In this instance, the parging treatment that was originally applied, did not take. After it was applied, it flaked off the building so the mason removed it. They substituted the parging with an adhesive-like material which matched the back of the building with the rest of the project. He said they considered this a non-issue and he is surprised to be before the Planning Board about it.

Ms. McDonald noted to Mr. St. John that if the Planning Board denies this modification, it will cost the project much more to undo it.

Mr. Harnais addressed Mr. St. John, he said he is troubled by his arrogant attitude. He said that bringing a modification to the Board after the fact minimized the importance of the Planning Board who volunteer their time. He said he understood that Mr. St. John has to make decisions but expressed his attitude lacked apology.

Mr. St. John apologized to the Board and said arrogance was not intended.

Ms. McDonald did not have further questions.

Mr. Mikami mirrored the Chair's comments concerning coming to the Board after the fact. He noted that this seemed to be common practice on Messina's other projects as well, continually ignoring the legal process.

Mr. Marshall addressed the board and explained the changes pertinent to this particular reconstruction. He said there are daily decisions based on what they encounter on a rehab project.

Mr. Harnais acknowledged the issues that arise on a project but suggested that a phone call to the Planning Department would have been in order and would have avoided this issue.

Mr. Marshall said another issue that was brought to his attention is the raising of some lighting poles. Mr. Marshall didn't think that a safety decision was reason to call the Planning Staff.

Mr. Harnais said he understood, however, Messina commonly ignores consulting with Staff on such changes which raises mistrust about the projects. Mr. Marshall explained that in the past, this would have been considered a field change. He said he would endeavor to be more aware of how differently things are done present day.

Ms. Stickney pointed to an example of the Hyatt Hotel project that she worked on in recent years. She explained that she was on the site almost daily to consult on changes. She said she felt that kind of communication is lacking here. Mr. St. John invited the Planning Staff to attend their weekly site meetings where discussion and decisions are established. Ms. Stickney informed Mr. St. John that Staff did not have the time to attend their site meetings and encouraged his and Mr. Marshall to work closely with Staff to avoid future problems.

Mr. St. John asked how to go forward with what he described as "field changes". Mr. Harnais explained that there is a heightened scrutiny when you go about changes in this way.

Mr. Eng and Mr. Reynolds mirrored the other Member comments, prompting better communication.

Ms. SantucciRozzi commented that Mr. St. John did not bring this up as an issue, but rather, when she did a site visit for the court yard change, she discovered the elevation issue. Mr. Marshall suggested Ms. SantucciRozzi attend their weekly staff meeting.

Ms. Stickney commented that the Staff does not have the time to attend their meeting, she again encouraged better communication; suggesting a weekly report summarizing any changes would be helpful.

Mr. Eng asked if there are any more modifications.

Mr. St. John noted a change on the light pole that now requires a shield to focus the direction of the light; additionally, it is learned that the planting material designed for an emergency egress will not fit in the planned space and they intend on planting the overage in another area on the site. He also noted the dumpster pad size expanded out of necessity.

Mr. Eng asked Mr. St. John to submit a final document containing all of the additional changes; to be put before the Board for approval all at once. Mr. St. John agreed he would do this for the August Meeting.

There were no further questions or comments, the Chair called for a Motion.

Mr. Eng made a Motion to request Messina Enterprises to come before the Board in August with a final list of all the modifications to the project at 20 Pond Street, for the board to approve collectively; seconded by Ms. McDonald.

Vote: 5:0:0

9:29 p.m.

Status Update (#89-13 and #90-2)

Granite Plaza – Messina Enterprises

Mr. Ron Marshall updated the Board on the unfinished work under two old work permits in order to get As-Built approval. He said the open items were submitted a letter-form outline to the Board together with a landscape plan.

Mr. Marshall explained they hired a landscaper to do a plan and another to implement the plan and to do the construction of the irrigation well. The landscaping is intended for this coming fall. He requested an appearance at the August 12, 2014 Planning Board meeting to present the new landscape plan and said he will have the landscaper available for comment and any questions.

Further, Mr. Marshall said other issues at this location are parking and a solution for trash overflow into the conservation land. They intend to install a fence along the Conservation land and another fence around the dumpsters. He said he consulted with Planning and Conservation departments and this is the extent of the open items. They will prepare an As-Built Plan for final signoff and present it to the Planning Board.

Mr. Mikami asked for a time frame for all the outstanding items. Mr. Marshall estimated the end of October. Mr. Mikami asked if the parking lot will be re-stripped, Mr. Marshall said no, and asked for permission to not re-stripe until they are ready to provide more parking spaces. Mr. Mikami commented on the trash issue, Mr. Marshall said maintaining the trash is a challenge.

Mr. Eng asked if the plans would be available to the Board a few weeks prior to the next meeting. Mr. Marshall said they are essentially the same as the 11" x 17" plans submitted today but will provide full size plans for the Board and a PowerPoint presentation at the meeting as well.

Mr. Reynolds, agreed that a PowerPoint presentation on the landscaping would be welcome. He asked about the drainage structure maintenance. Not enough accumulation to warrant a twice a year and would like to modify the required maintenance to once per year. He intends to have the maintenance person available at the next meeting to discuss this.

Ms. SantucciRozzi commented that the summary Mr. Marshall submitted was insufficient and a full outline referencing Conditions in the Decision must be submitted for proper review.

Reynolds made a motion to continue the matter and for the Applicant to prepare the requested information and make it available to the Board prior to the hearing on August 12, 2014; seconded by Mr. Mikami.

Vote: 5:0:0

Approval of Minutes April 8, 2014

Chair Harnais called for a Motion to accept the April Minutes.

Mr. Reynolds made a Motion to accept the Minutes of April 8, 2014; seconded by Mr. Mikami

Vote: 5:0:0

Ms. Stickney informed the Board that a high volume of Applications is anticipated in the coming months and asked the Committee Members to consider a second meeting on August 26, 2014 or September 23, 2014 .

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

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

Vote: 5:0:0

The meeting adjourned at 9:50 p.m.

Respectfully Submitted by,
Elizabeth Schaffer