

Department of Planning and Community Development

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Mayor Joseph C. Sullivan

Braintree Conservation Commission

Patrick Flynn, Chair
Donald Murphy, Vice-Chair
Diane Francis
Matthew Hobin
Daniel J. McMorrow, Jr.
Gail Poliner-Feldman
Alan Weinberg

Staff Kelly Phelan

CONSERVATION COMMISSION MEETING MINUTES THURSDAY, JANUARY 5, 2012

APPROVED

Members Present: Alan Weinberg, Acting Chair
Gail Feldman
Diane Francis
Matthew Hobin

Staff: Kelly Phelan

Public Hearings

Request for Determination of Applicability

531 Pond St./RMT Braintree, LLC

Tom French from Highpoint Engineering was present to represent RMT Braintree, LLC. Mr. French described the site as 9.25 acres on the west side of Pond St. with a 67,000 square foot building which as formerly the Ainslie manufacturing business. He pointed out the area toward the back of the site where the pavement ends and which is within the buffer zone to a wetland and stream.

Mr. Flynn asked why they were before the Commission now since the appeal of the Planning Board decision had not been resolved. He said that two years ago the Commission indicated that they would consider this once that appeal had been resolved.

Mr. French said the applicant would like to move forward and that it is only a 4 inch berm to direct runoff to the catch basins and to replace an existing fence. The runoff goes to the back of the site and discharges to the brook which flows off under Pond St.

Mr. Flynn asked for clarification that the Planning Board asked for the berm and the inserts in the catch basins and that no other activity is going on. Mr. French said other than the fence, there was no other activity.

Mr. Flynn asked about an unresolved issue with parking at the back of the site. Mr. French said the plan approved by the Planning Board included designated vehicle storage areas. He said what was before the Commission that evening was a request for a determination on the berm and fence.

Staff said there was a surviving condition from a 1994 Order of Conditions which stated that no vehicles could be stored overnight in the 50 foot buffer zone.

Mr. Weinberg said that they are just looking at the Request for Determination of Applicability which is properly before the board. He said he considers the fence a maintenance item. He asked how many catch basins are on the site. Mr. French replied that they were eight catch basins. Mr. Weinberg asked if there were silt sacks in the basins and if they are part of a maintenance plan. Mr. French said there are silt sacks in the basins and they are included in the maintenance plan reviewed as part of the Planning Board decision. Mr. Flynn noted that these were an upgrade required as part of the process with the Planning Board.

Mr. Flynn asked staff about the parking issue. Staff said that the applicant would have to address it with the Commission if they plan to use that area but what is before the Commission now is only the berm and the fence.

Ms. Feldman asked about the berm and where the runoff goes. Mr. French said the berm would go along the edge of pavement and would direct flow to the catch basins. The catch basins tie into a pipe which goes out to Pond St. Ms. Feldman clarified that the Planning Board required the berm and asked about the timeline to put in the berm. Mr. French said the permit was under appeal and he didn't have too much information about that.

Mr. Flynn asked for public comment.

Roger and Darlene Aiello were present. Ms. Aiello said she wanted to complement the Chair on his memory and for remembering the discussion about the surviving conditions two years ago. She said the September 15, 2009 Planning Board decision was under appeal and that the application to the Commission was not allowed to be before them and that the law prevented them from going forward.

Staff said that law was changed five or so years ago to allow the applicant to go forward at their own risk, with the understanding that they would have to undo the work if the court reversed the decision.

Mr. Flynn asked Mr. French why they moving ahead with the application to the Commission if the appeal had not been settled. Mr. French said that the applicant wanted to proceed.

Mr. Weinberg said the Commission can go forward with the application because the appeal does not supercede the Wetlands Protection Act and they are two different processes.

Mr. Flynn asked the Aiellos why they appealed the Planning Board decision. Ms. Aiello said it was because of two conditions- #18 and #31- on outside storage of materials and the use of the addition for only dead storage.

Ms. Feldman said the Commission can rule on the wetland protection law.

Mr. Aiello said the catch basins don't take the water and the berm won't change that. He said the site is pitched the wrong way.

Mr. Flynn asked Mr. Aiello if he felt the berm would have an adverse effect. Mr. Aiello said yes, he thinks it will collect even more water. He said every two weeks they have a sweeper that sweeps up the white chemicals from Stanley Steamer.

Mr. Flynn said any other issues that could be going on that could be enforcement issues would have to come before the Commission. He said that tonight he didn't see anything beyond an asphalt berm and maintenance of a fence.

John Wells from 87 Regis Rd. said he understands the determination on the fence, which seems innocuous. He wants to understand how to report obvious violations. He also wants to understand if the berm pitches the right way. Ms. Feldman asked Mr. French to address this. Mr. French said berm would act as a backstop and prevent the water from flowing toward the wetlands. Mr. Wells asked if they had put sand bags up to see how the water would flow if the berm was up. Mr. French said no but they had elevations which show that.

Mr. Flynn asked why the Commission should not issue a negative determination for the berm. Ms. Aiello said for two reasons. One is that the wetlands and water supply will still be impacted and because the board wasn't going to do anything until the appeal was settled.

Mr. Flynn said there were other matters (such as the parking) which would come back before them.

Ms. Aiello said the petition should have gone not just before the Planning Board but the Conservation Commission and the Zoning Board because there were so many bylaws and regulation broken.

Mr. Aiello said McCourt had no right to buy the property and use it as a construction site. Ms. Aiello said he knew what he bought and knew he bought it with restrictions.

Mr. Flynn said he was still trying to understand why they were opposed to the berm. Ms. Aiello said that they pollute the water supply daily. Mr. Flynn said that putting the drain guards and berm in would improve things. Ms. Aiello said that it was very frustrating that they reversed their decision to not move forward until the appeal was settled. She said the berm would not do anything to help the situation at the property and that Stanley Steamer pollutes on a daily basis and they would prove it with their video.

Mr. Flynn asked for comment from the other members.

Mr. Hobin said when he went to the site visit two years ago it was raining and he saw the catch basins and could see the water running off. He said the berm would direct flow to the catch basins.

Ms. Feldman said there were issues with parking and storage but that those weren't before the board today. She felt they had the right to fix the fence without coming to the board and that they would be bettering the situation by using the filters and the berm. Ms. Feldman said if there are pollutants going into the wetlands there are avenues for addressing that.

Ms. Francis said she saw the fence and berm as minor improvements and had no problem with them.

Mr. Wells said the Planning Board had extensive discussions about the berm and that Mr. Eng requested a granite curb and relocating snow removal locations. Staff said the condition specifically said "4-6 inch bituminous concrete berm". Mr. French pointed out the snow storage area on the plans.

Motion by Ms. Francis to issue a negative determination of applicability with conditions for erosion control during construction and maintenance of the berm and the catch basins. Motion seconded by Mr. Hobin. Vote: 5-0.

Other Business

Approval of Minutes

Motion by Mr. Weinberg, second Mr. Hobin, to accept the minutes of December 15th. Vote: 5-0.

Adjourn

Motion by Ms. Francis, second by Mr. Hobin, to adjourn the meeting at 7:40 PM. Vote: 5-0.