



Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
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Joseph C. Sullivan
Mayor

APPROVED

PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
Linda Cusick Woodman, Clerk
James Eng, Member
Darryl Mikami, Member

Braintree Planning Board

November 30, 2009

Town Hall – Johnson Memorial Chambers

Present:

Robert Harnais, Chair

Christine Stickney, Director

Joseph Reynolds, Vice Chair

Melissa Santucci, Principal Planner

Linda Cusick Woodman, Clerk

James Eng

Darryl Mikami

The Vice Chair called the meeting to order at 7:05 P.M. Mr. Harnais arrives and calls the roll: Mr. Mikami, Mr. Eng, Mr. Reynolds, Ms. Cusick Woodman, Mr. Harnais all present.

New/Old Business

Discussion on Outstanding Sureties [95-13] - Horizon Plaza/501-551 Mahar Highway

Ms. Stickney informed the Board that the applicant had agreed to renew the bond which will expire on December 7, 2009 and come before the Board at a later to discuss release of surety. She recommended that the applicant provide the continuation certificate to the Department by Friday, December 4, 2009.

Motion by Mr. Reynolds, second by Mr. Eng to require proof of bond renewal by December 4, 2009 and, absent submission of proof, the Department shall contact the bond company to start proceedings to exercise the bond.

Request for Reduction of Surety and Lot Release - Whites Hill/O.I.B. Corporation

Ms. Santucci informed the Board that the applicant had requested to appear before the Board on December 15, 2009 to allow him time to confer with Town Engineer.

Discussion on Release of Surety – The Lincoln Condition #90.b.

Ms. Stickney informed the Board that she had made several unsuccessful attempts to contact the individual responsible for bond renewals. The Chair indicated he wished to discuss this issue at a future meeting.

Motion by Mr. Eng, second by Ms. Cusick Woodman to table the discussion.

Vote: 5/0

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Planning Board Meeting 11/30/09

Planning Board 2010 Meeting Schedule

Ms. Santucci informed the Board that she had spoken earlier in the day with BCAM's Wes Rea who suggested that BCAM can cover the Planning Board meetings if they were to schedule them in the auditorium on Tuesdays when the Council is not meeting. Mr. Harnais added that the Mayor wishes the meetings to be on cable [BCAM]. Ms. Santucci will reserve the auditorium for the second Tuesday of each month.

Motion by Mr. Eng, second by Ms. Cusick Woodman to adjourn at 8:50 P.M.

Vote: 5/0

Respectfully submitted,

Linda Raiss



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Braintree Planning Board
November 30, 2009
Town Hall – Johnson Memorial Chambers
Public Hearing at 7:00 P.M.

Present:

Robert Harnais, Chair	Christine Stickney, Director
Joseph Reynolds, Vice Chair	Melissa Santucci, Principal Planner
Linda Cusick Woodman, Clerk	
James Eng	
Darryl Mikami	

Petition to Rezone 376 Franklin Street from Residence B to General Business
Messina Residential Properties, LLC

Attorney Carl Johnson was present to represent the applicant and was accompanied by Rob St. John and Attorney Ron Marshall from F.X. Messina Enterprises, Jen Turcotte from Green Environmental and Gregg Godfrey from Panera [anticipated tenant at 400 Franklin Street]. Attorney Johnson presented the Board with the background of the property at 400 Franklin Street. He explained that the applicant is looking to rezone 376 Franklin Street from Residence B to General Business in order to expand the existing parking at 400 Franklin Street. This expanded parking is proposed to accommodate Panera and revitalize the property, which will bring additional revenue to the Town through permitting fees and taxes. He stated that this rezone would not be considered spot zoning as 376 Franklin Street abuts property zoned General Business, that there will be no expansion of the building at 400 Franklin Street and no negative impacts to the abutting residential properties.

The applicant's intention is to redo the parking lot at 400 Franklin Street to make the spaces comply with zoning and to create 16 additional spaces. They feel the improved parking area will have a traffic calming effect, as currently there is much cut-through traffic. Green space will be created, stormwater treatment enhanced, fire lanes striped handicapped access improved and fencing added to buffer abutting residences. In order to redo the parking area they have applied to the Planning Board for a Grading Permit.

Attorney Johnson added that the “nose” of the property [at the intersection of Granite and Franklin Streets] belongs to the Commonwealth and the parking that is available there is not included in the applicant’s calculations.

The Chair asked for comment from members in the audience.

Ron Gates, 377 Franklin Street, asked why it was necessary to expand the parking when at the best of times the parking lot is only one-half to two-thirds full. He was concerned about rezoning residential property to business property and the domino effect that might have on the properties abutting the parcel proposed for rezone and how that might devalue the properties remaining residential. He disagreed with Attorney Johnson’s conclusion that the reconfigured parking area to the south would deter cut-through traffic and asked if the parking area were to be reconfigured could they remove the ATM and use that area for the parking expansion [instead of moving southward]. As to Attorney Johnson’s claim that the redevelopment would add greenery, he noted that the entire backyard of 376 Franklin Street is green. How is turning that into a parking lot increasing the green space? He ended by stating that the residential properties are slowly being surrounded by business property and he can see no benefit to the proposal.

Bill Grieco, Rosedale Avenue, stated that he agrees with Mr. Gates’ comments and that he is not in favor of knocking down the house at 376 Franklin Street.

Since no one in the audience wished to comment further, the Chair closed that portion of the public hearing and asked for comment from the Board.

Mr. Reynolds had questions about the actual number of parking spaces which are currently required, currently provided and the number which will be available should the rezone pass and the spaces be reconfigured to comply with zoning. He continued by asking what the applicant intended to do about the fire lanes and parking configuration should the rezone not pass. Attorney Johnson responded that they would need to go before the ZBA to seek relief in order to retain Panera as prospective tenant. He repeated that the upgrade would revitalize the property. There is no intent to devalue the abutting residential properties, as Messina Enterprises owns two of the residential parcels in question. Bringing Panera to Braintree will benefit the community as well as the property owner. Without Panera the applicant would not undertake any upgrades.

Mr. Reynolds continued with a series of questions about the ATM and its possible relocation, curb cuts, the property recently subject of an endorsed ANR, the property across Franklin Street [at the northeast corner of Five Corners]. Attorney Johnson responded: The applicant does not propose relocating the ATM; the curb cuts are under the jurisdiction of the Commonwealth of Massachusetts; the ANR plan was submitted to the Planning Board in order to allow for the expansion of the parking lot should the rezone pass.

Ms. Cusick Woodman asked if the proposal includes razing the house at 376 Franklin Street [Yes, the tenants will be relocated.] and if the house has historical significance [no]. Her major concern is if the rezone would be considered "spot zoning" and wishes an opinion from Town Counsel as she does not want approval of this request to be precedent-setting.

She later asked if employees would be encouraged to park in the rear. [Attorney Marshall responded that the leases stipulate that the property owner has the right to designate employee parking. Currently there is no issue because of the building's vacancies.] She also asked how the state feels about liability on their land [the "nose"]. [Attorney Marshall responded that has not been an issue.] She returned to the issue of the ATM, stating it is a "blister," it inhibits two-way traffic and asked if the applicant would consider relocating it. [No, because the reconfigured parking improves the situation.]

Mr. Mikami stated that he likes the proposal to reconfigure the parking area and asked why it was never done before. Mr. St. John responded that the applicant "acknowledges the weakness of the parking" and purchased the property at 376 Franklin with an eye to future expansion of parking at 400 Franklin Street. He stated that Panera wishes to go into the building at 400 Franklin Street, but the potential lease is predicated on the rezone and that Bertucci's has long been concerned about the constraints of the parking lot. Mr. Mikami asked if the applicant would consider placing the two adjoining properties on Franklin Street owned by Messina under covenant, explicitly excluding them from the possibility of future business development. Mr. St. John responded that the applicant has recently constructed two new homes on these properties, therefore has no intention of tearing them down to attempt to expand the business uses at 400 Franklin Street. Mr. Mikami, noting that the applicant proposes drainage improvements, asked if currently there are problems on site. He also wished to know if the rear parking area would be included in the upgrade. [No, it was redone in conjunction with the Sunrise Assisted Living project.]

Mr. Eng stated that he frequents Bertucci's and noted that the parking lot is "bad." He asked about snow removal [will be the same as in the past, mound and remove if necessary] and parking in the "nose." Mr. St. John stated that those spaces will remain, but are not included in the parking calculations.

Mr. Gates asked who plows the parking area in the “nose” [Messina Enterprises].

Mr. Eng asked if Messina Enterprises – who lost the “nose” to the Commonwealth during a reconfiguration of Five Corners – would approach the state to acquire that parcel. Attorney Marshall stated that Messina Enterprises had attempted to do that in the past, but the state would neither sell nor lease that parcel. He added that the state would not consider selling land at an improved intersection in the event they would need to re-acquire the land for future improvements.

Later Mr. Eng returned to the parking reconfiguration proposed to address the cut-through traffic and asked about the difficulty of exiting from four of the spaces. [That would not be a problem as the aisle width is proposed to be 24’.]

Mr. Harnais asked how many parking spaces are currently in the front parking area [After some confusion among the applicant’s team, Ms. Santucci said it should be 122 spaces.] and if the spaces in the “nose” have ever been included in the applicant’s parking calculations [no]. Mr. Harnais asked if the main entrance to Panera would be from the rear. [No, but customers will be able to park in and enter the building from the rear.] He stated he would like the applicant to propose “something physical” to calm the cut-through traffic. [The applicant will look at traffic calming measures for the cut-through traffic.]

Ms. Santucci informed the Board that the applicant has submitted an application to the Board for a Grading Permit which will be heard in December. During that hearing the Board will have opportunities to discuss circulation and other site issues that are not relevant to this application to the Town Council for a rezone.

Ms. Stickney asked the applicant to submit a copy of the use variance and stated that when the state was in the process of major improvements to Five Corners, the former Town Engineer had concerns about the location of the curb cuts. Following on Mr. Mikami’s idea of a deed restriction, Ms. Stickney stated that should Messina Enterprises not be considering future expansion, placing deed restrictions on the two adjoining lots should not be problematic.

Motion by Mr. Reynolds, second by Mr. Mikami to continue the hearing to December 15 2009 at 8:15 P.M.

Vote: 5/0

Respectfully submitted,

Linda Raiss