

Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
90 Pond Street – Braintree, Massachusetts 02184
Phone: 781-794-8234 Fax: 781-794-8089

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
December 15, 2009
Town Hall

Present:

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
Linda Cusick Woodman, Clerk [arrived at 8 :20 P.M.]
James Eng
Darryl Mikami
Christine Stickney, Director
Melissa Santucci, Principal Planner

The Chair called the meeting to order at 7:00 P.M. and called the roll: Mr. Mikami, Mr. Reynolds, Mr. Eng, Mr. Harnais all present; Ms. Cusick Woodman not present.

New/Old Business

For details please see Ms. Santucci's staff report dated 12/11/09.

224 Common Street/L. Smith

Mr. and Mrs. Smith were present and explained to the Board that they received a Building Permit to have an aboveground pool installed in their backyard. The pool location met all setbacks. However, when the contractor attempted to install the pool he discovered a large root ball, which he was unable to remove, and installed the pool within the side [4'] and rear [3'] yard setbacks. The Smiths have made application to legitimize the pool.

There was extensive discussion initiated by Mr. Eng about the applicants' situation with the Board concluding that the contractor was at fault for not complying with the Zoning Bylaw.

Ms. Stickney asked who pulled the Building Permit [Mrs. Smith] because that person would be responsible for the infraction.

The Chair asked who the installer was [Nameco] and opined that there are regulations which residents must follow and creating one's own hardship is not one of them.

Mr. Reynolds asked if it would be possible to fine the installer [no]. He added that the structure is not a permanent structure and asked if there was any opposition from neighbors [no].

Motion by Mr. Eng, second by Mr. Mikami to take no action.
Vote: 4/0

100 Weston Avenue/J. Rust

Mrs. Rust was present. She provided copies of the stamped plan, which was not submitted with the application, and informed the Board that they wished to add a bathroom and closet over the existing first floor addition which is 5.6' from the property line.

Mr. Reynolds stated it is a pre-existing condition and he would have no issue.

Motion by Mr. Eng, second by Mr. Reynolds to forward a favorable recommendation to the ZBA.
Vote: 4/0

1393 Liberty Street/D. Blischke and M. Sanders

Attorney William Ohrenberger and David Mackwell [Kelly Engineering Group] were present to describe the applicants' project [to create five lots from three] and the need for variances for four of the lots [minimum lot areas in the Watershed Protection District]. There is lots of ledge on the 139,777 SF property, which now contains one single-family dwelling. Should the property be subdivided to create five lots, lot coverage of each lot would be between 5% and 19.98%, which equals only 12% of the entire 139,777 SF parcel. The applicants are also proposing a 15,000 SF buffer on the west [Town Forest] and north property boundaries. He noted that Dale Avenue is a paper street, entirely wooded, and that the applicants own one-half of that paper street.

Mr. Mackwell gave further detail, noting that they have met with neighbors who provided feedback. Specifically, the neighbors expressed their opposition to big houses and were interested in the construction of common driveways to cut down on pavement and curb cuts. Regarding "impervious" surface, Mr. Mackwell stated the planned sub-division of land supports the intent of the Zoning Bylaw.

The Chair wished to confirm that the Planning Board's role in this process is only one to provide a recommendation.

Mr. Eng wished detail on the neighbors' reactions and Mr. Mackwell repeated his earlier comments about house sizes, common drives and a no-build buffer. He said there was essentially no opposition.

Mr. Mikami asked if the buffer were in addition to the required setbacks or if there were some overlap. [The buffer overlaps the setbacks in some areas.]

Mr. Reynolds wished confirmation that there are two common drives [yes].

Ms. Santucci noted that one lot needs no relief.

Motion by Mr. Eng, second by Mr. Reynolds to forward a favorable recommendation to the ZBA.

Vote: 4/0

The Chair restated his earlier remarks regarding jurisdiction and process. Mr. Reynolds added that the applicants and engineer have done a good job in mitigating possible concerns of the neighbors.

Recommendation for Street Acceptance – Wood Road

Ms. Stickney presented the proposed layout plan which would be before the Town Council that evening. She informed the Board that a portion of Wood Road had been accepted in 1961, improvements [hydrants, asphalt and sidewalks] have been made and were financed by the businesses. Staff recommends that the Board vote to send a favorable recommendation to the Council.

Mr. Eng asked if there were any hidden issues and if the street is well lit and striped. Ms. Stickney responded that the layout is shown on a Land Court plan, that Town Engineer recommends favorable action and that the roadway is not built to subdivision specifications. Mr. Eng asked if acceptance of Wood Road would result in a higher assessment of the properties along the “improved” street [no].

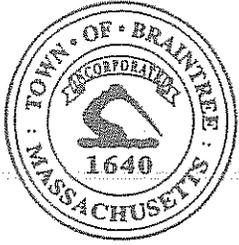
Mr. Mikami asked if there were any tie in with a possible future hook up to Route 128 [no].

Motion by Mr. Reynolds, second by Mr. Mikami to adjourn at 8:45 P.M.

Vote: 5/0

Respectfully submitted,

Linda Raiss



Department of Planning and Community Development

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Braintree Planning Board
December 15, 2009
Town Hall

Public Hearing at 7:30 P.M.

Present:

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng
Darryl Mikami

Christine Stickney, Director
Melissa Santucci, Principal Planner

80 Oregon Avenue/D. McGrath, J.M. McGrath, R. Trabucco and John J. Clark III

Application for Special Permit [Floodplain] and Site Plan Review

For details please see Ms. Santucci's staff report dated 12/11/09.

Public Hearing at 7:45 P.M.

Present:

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng
Darryl Mikami

Christine Stickney, Director
Melissa Santucci, Principal Planner

85 Oregon Avenue/Ngoc-Thu H. Huynh

Application for Special Permit [Floodplain] and Site Plan Review

For details please see Ms. Santucci's staff report dated 12/8/09.

Ms. Santucci stated that both the application for 80 Oregon Avenue and for 85 Oregon Avenue are related and she suggested that they be discussed together.

The Chair read the legal notice for 80 Oregon Avenue and asked for a motion to accept the correspondence summary for that application.

Motion by Mr. Reynolds, second by Mr. Mikami to accept the correspondence summary.

Vote: 4/0

The Chair read the legal notice for 85 Oregon Avenue and asked for a motion to accept the correspondence summary for that application.

Motion by Mr. Reynolds, second by Mr. Mikami to accept the correspondence summary.

Vote: 4/0

The Chair informed the applicants that there were only four Planning Board members present to vote.

The reason new applications have been filed [instead of the applicant amending the Grading Permits issued earlier by the Planning Board] is because the proposed grading includes work in the 100 Year Floodplain, which cannot be authorized under a Grading Permit.

David Mackwell of Kelly Engineering Group was present to represent the applicants. In addition, Mr. J. McGrath and Mr. R. Trabucco were present. Mr. Mackwell explained briefly the intent of the applications is to grade 85 Oregon Avenue to provide a usable yard area. [There is a 10' slope on the west side of the dwelling.] Compensatory storage for filling in the floodplain at 85 Oregon Avenue will be provided on the lot at 80 Oregon Avenue. The current applications are to rectify unapproved work done in the floodplain.

Mr. Mackwell also stated that there will be a trench drain in the driveway at 85 Oregon Avenue and an area drain in the front yard to eliminate runoff to the street.

The Chair asked if there was anyone in the audience who wished to speak in favor or in opposition to the project or had any comment or question. Hearing none he closed that portion of the hearing and asked for comment from the Board.

Mr. Mikami asked how the situation had been created [in view of the fact the applicant had been issued Grading Permits for both lots] and who bore the cost to rectify the problem.

Mr. McGrath stated that the developers bore the entire cost of this new grading. He explained that when he was out of state on vacation the intended buyer of 85 Oregon Avenue instructed the landscape contractor to make changes to the grade [in the floodplain] to provide a usable backyard. Mr. McGrath has been working with Ms. Santucci to resolve the issue of excess fill and has pulled most of the material off 85 Oregon Avenue. He is proposing to create compensatory storage on the lot at 80 Oregon Avenue.

Mr. Mackwell added that the fact the rear yard at 80 Oregon Avenue has not been developed allowed the developer more easily to provide compensatory storage for filling in the floodplain at 85 Oregon Avenue than otherwise might have been the case.

Mr. Eng said he feels the developer did a good job attempting to mitigate the problems created by others and Mr. Harnais stated he feels the developer has done all he can to comply with the Zoning Bylaw.

Mr. Reynolds asked Mr. Mackwell to repeat his explanation of the drainage at 85 Oregon Avenue.

Mr. Mikami asked if 80 Oregon Avenue had been sold [yes] and if there should be a re-assessment of the parcel in view of the fact they now have a bigger and better lot.

Motion by Mr. Eng, second by Mr. Reynolds to close the public hearing for 80 Oregon Avenue.
Vote: 4/0

Motion by Mr. Eng, second by Mr. Reynolds to accept the Findings [Section 135-608.E.] and grant the Special Permit [Floodplain] and Site Plan Review for 80 Oregon Avenue.
Vote: 4/0

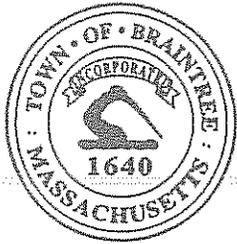
Motion by Mr. Reynolds, second by Mr. Mikami to close the public hearing for 85 Oregon Avenue.
Vote: 4/0

Motion by Mr. Eng, second by Mr. Reynolds to accept the Findings [Section 135-608.E.] and grant the Special Permit [Floodplain] and Site Plan Review for 85 Oregon Avenue.
Vote: 4/0

Mr. Mackwell asked for a vote to waive compliance with the requirement for terracing.
[no]

Respectfully submitted,

Linda Raiss



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PLANNING BOARD

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Braintree Planning Board
November 30, 2009
Town Hall
Public Hearing at 8:15 P.M.

Present:

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

Christine Stickney, Director
Melissa Santucci, Principal Planner

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

The Chair read the public hearing notice.

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, and Gregg Godfrey from Panera [anticipated tenant at 400 Franklin Street]. Attorney Johnson stated that the question raised at the earlier hearing relative to whether or not this request would be considered "spot zoning" had been addressed in correspondence from the Town Solicitor dated December 15, 2009. Her opinion was that re-zoning this parcel would not be considered "spot zoning." Attorney Johnson added that the applicant had submitted a letter dated December 14, 2009 in which the applicant agreed to the Board's request to file a restrictive covenant for the properties at 368 and 370 Franklin Street. In addition, the concern raised relative to a dangerous situation being created in the parking area at the southeast corner of the building was addressed by adding to the plans a speed bump and a crosswalk.

Ron Gates of 377 Franklin Street had concerns about the parking areas at 400 Franklin Street and the demolition taking place at 376 Franklin Street. Ms. Stickney informed Mr. Gates that this hearing was simply to consider the request to rezone the parcel at 376 Franklin Street. The issues involved with the property at 400 Franklin Street will be considered by the Board at a future meeting. Abutters will be notified of the time of that hearing and will have an opportunity to raise questions about proposals for work on that parcel.

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Public Hearing – Rezone of 376 Franklin Street

Mr. Reynolds read the letter dated December 14, 2009 from Attorney Ron Marshall relative to the filing of restrictive covenants referenced above.

Ms. Stickney stated that the Planning Board's role in the rezone process is to provide a recommendation to the Town Council. Staff is recommending that the Board send the Council a favorable recommendation for the request to rezone 376 Franklin Street.

Motion by Mr. Eng, second by Mr. Reynolds to close the public hearing.

Vote: 5/0

Motion by Mr. Eng, second by Ms. Cusick Woodman to forward to Town Council a recommendation supporting the rezone of 376 Franklin Street.

Vote: 5/0

Attorney Johnson asked that the Town Solicitor's opinion be appended to the Planning Board's vote. Staff assured Attorney Johnson that the Council would be provided copies of the opinion. The hearing before the Council is scheduled for January 20, 2010.

Ms. Santucci announced that the applicant's request for a Grading Permit for 400 Franklin Street would be heard on January 12, 2010.

Respectfully submitted,

Linda Raiss