

Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
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Phone: 781-794-8234 Fax: 781-794-8089

Joseph C. Sullivan
Mayor

PLANNING BOARD

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

APPROVED

Braintree Planning Board
July 20, 2009
Town Hall Auditorium

Present:

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

Christine Stickney, Director
Melissa Santucci, Principal Planner

The Chair called the meeting to order at 7:00 P.M.

Roll Call: Mr. Reynolds, Ms. Cusick Woodman, Mr. Eng, Mr. Mikami, Mr. Harnais all present

New Business/Old Business

Zoning Board of Appeal Petitions - July

For details please see Ms. Santucci's Staff Report dated 7/17/09.

150 Potter Drive/Braintree Electric Light Department

BELD's Chuck Coyne explained to the Board that BELD wished to increase the size of the warehouse which has been permitted by the Planning Board.

Ms. Santucci added that BELD was before the Board seeking two votes: one for the variance to construct the new warehouse 10' from the property line and a second from the Planning Board to modify the Special Permit and Site Plan Review granted for the demolition of the warehouse and construction of a new warehouse. BELD has proposed an increase in size from 6820 SF to 8060 SF which will require 1.2 additional parking spaces. BELD provided excess parking for permitted activity.

Mr. Eng asked if any abutters had commented. [no]

Motion by Mr. Eng, second by Ms. Cusick Woodman to recommend the ZBA grant the setback relief.

Vote: 5/0

Regarding the request to modify the Special Permit, Mr. Eng asked if the Fire Department had access to the building. Ms. Santucci responded that she had not asked for comment from that Department as there are no circulation concerns.

Motion by Mr. Reynolds, second by Mr. Mikami to approve the request for a minor modification to the Planning Board's Special Permit and Site Plan Review.

Vote: 5/0

300 River Street/T-Mobile/Omnipoint Communications

Jen Lougee provided information about her client's application to add 9 antennae [at 74'] on the existing 140' tower which carries equipment from other telecommunications providers. She provided a handout to the Board.

Mr. Eng asked if T-Mobile were proposing to add antennae onto the pole [yes], if the location was a youth hangout [not to Ms. Lougee's knowledge, but she has visited the site only during daylight] and if the Inspector of Buildings had commented on the soundness of the structure. [No, but she will present a structural analysis to the ZBA.]

Mr. Reynolds asked about T-Mobile's proposed positioning [above Verizon with access through their space].

Ms. Cusick Woodman asked a rhetorical question relative to how these telecommunication towers will look in the future with multiple providers co-locating. Ms. Lougee responded that she really could not answer that question, but - should their proposal be granted - all the major carriers will be located on this tower. So adding antennae would seem unlikely.

Mr. Harnais noted the concern raised in Ms. Santucci's staff report that the Town [property owner] had not authorized the application.

Motion by Mr. Eng, second by Ms. Cusick Woodman to recommend the ZBA grant the request to add 9 antennae, predicated on the receipt of a structural analysis of the tower and sign-off by the Town.

Vote: 5/0

157 and 161 King Hill Road/A. Spadea, Trustee of Braintree Lodge 760 Realty Trust

Attorney Michael Modestino was present to represent the applicant who is seeking to alter pre-existing non-conforming lots, a non-conforming use and non-conforming access across a residential zone. This would correct an encroachment and allow the portion of the building at 161 King Hill Road to be located at 161 King Hill Road and not on the lot at 157 King Hill Road.

Ms. Santucci added that should the application be approved by the ZBA the applicant would come before the Planning Board to submit an ANR plan in order to adjust the lot line.

Motion by Mr. Reynolds, second by Mr. Eng to recommend the ZBA grant the petition.

Vote: 5/0

89 Cotton Avenue/D. Carroll, Jr.

Mr. Carroll explained to the Board that he wished to increase the size of his home by adding a second story and third floor attic within the footprint of the original bungalow.

Mr. Eng asked if the renovations would be in keeping with the character of the neighborhood [yes] and Mr. Reynolds asked about abutters' reactions [none negative].

Motion by Mr. Reynolds, second by Ms. Cusick Woodman to recommend the ZBA approve the proposal.

Vote: 5/0

Request for As-Built Approval

23 Central Avenue and 745 Washington Street/Trustees of Thayer Academy

For details please see Ms. Santucci's staff report dated 7/14/09.

Attorney Frank Marinelli addressed the Board on behalf of the applicant. He noted that the applicant had received a Grading Permit in order to construct the new Performing Arts Center on their campus. The temporary parking had been removed and the applicant's engineer had submitted the two items noted in the staff report as being outstanding [electronic copy of the As-Built plan and a statement that no fill was imported from off site].

Ms. Cusick Woodman commented that the fence to the west of 23 Central Avenue looks good. Mr. Reynolds added that the Center looks great. Mr. Harnais added that the success of this project is a result of applicant and Board working together.

Motion by Mr. Reynolds, second by Ms. Cusick Woodman to grant As-Built approval and to release the \$3,500 surety being held for completion of this project.

Vote: 5/0

Request for As-Built Approval

149 Franklin Street/K. MacDonald Bousaleh

For details please see Ms. Santucci's staff report dated 7/13/09.

Ms. Santucci reviewed this approval for a two-family conversion, stating that the applicant had been very cooperative, following through on every detail the Board and staff recommended/required. She noted that the applicant's mother had passed away and the door which had been allowed for her needs has been removed.

Ms. Cusick Woodman's asked if staff had entered the dwelling to verify that it was indeed used as the approved two-family dwelling. Ms. Santucci responded that she had gone through the entire house to verify that the applicant has complied with all the conditions.

Mr. Reynolds asked if staff had received the disk copy of the plan [not yet] and Mr. Mikami asked if the occupancy had changed. [The first floor is occupied by the family and the second floor apartment is rented.]

In response to Ms. Cusick Woodman's noting that there are lots of cars parked at the property, Ms. Santucci said she had asked for more parking than required by the Bylaw. She added that she has fielded no complaints from neighbors lately and responded to specific questions about the interior [side door access, basement cleared, new heating system, second floor egress].

Mr. Harnais stated for the record that he had received calls about activities at the property.

Motion by Mr. Eng, second by Mr. Reynolds to grant As-Built approval.

Vote: 5/0

Acceptance of Planning Board Meeting Minutes for June 15, 2009

Motion by Mr. Eng, second by Mr. Reynolds to accept the minutes of the June 15, 2009 meeting.

Vote: 5/0

The Board recessed until the 8:30 P.M. Hearing.

Motion by Mr. Reynolds, second by Mr. Eng to adjourn at 11:40 P.M.

Vote: 5/0

Respectfully submitted,

Linda Raiss



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APPROVED

Braintree Planning Board
July 20, 2009 Public Hearing @ 7:30 P.M.
Town Hall – Johnson Memorial Chambers

Present:

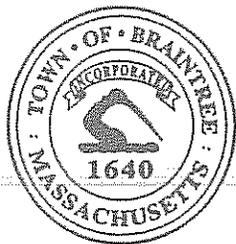
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531-533 Pond Street and Rear Pond Street/RMT Braintree, LLC and McCourt Construction
Application for Major Modification to Planning Board Decision 93-4

The applicant had agreed to a continuance.

Motion by Mr. Eng, second by Mr. Reynolds to continue the hearing to August 31, 2009 at 7:00 P.M.

Vote: 5/0



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APPROVED

39 Lantern Lane/R. and M. Dirrane
Application under Braintree Zoning Bylaw Section 135-711

The Chair opened the continued public hearing.

David Kelly, Kelly Engineering Group, and Martin and Rita Dirrane were present. Mr. Kelly addressed the Planning Board and passed out a summary of his presentation to the Board.

The attorney representing some of the neighbors objected to the submission of written material which others had not had an opportunity to review.

Mr. Kelly continued and focused his presentation on the revised plans and changes based on direction from the Planning Board and on neighbor concerns. This plan revision provides for a reduction in density from three additional dwellings to two – which averages out to approximately 27,000 SF per dwelling, a reorientation of the two additional houses, and a reduction of 100' in the length of the driveway. He noted that he feels many of the comments made during the public hearing have not been based on fact, perhaps because those making the comments have not reviewed the plans or have not understood the plans.

Density has been a major issue for the neighborhood. However, the current proposal provides 180% of the requirement for a Residence B lot [15,000 SF]. With the removal of 15,000 SF of driveway, the proposal still provides 21,300 SF per unit, when – in fact – few lots in the area meet the Residence B requirement. In fact some are as small as 5100 SF.

Drainage has been a concern for the neighbors because of the additional impervious surface proposed. However, the stormwater management system has been designed to be consistent with standards of practice for such systems and with DEP standards. It will treat the runoff before it enters the subsurface recharge system where it sits until infiltration into the ground. He added that there will be a plan for regular maintenance of the system [sweeping, cleaning, etc.]. This will be the responsibility of the homeowners' association which also will assume responsibility

for maintenance of all the common areas. As to the adequacy of the design, it has been reviewed by Town Engineer.

Earlier in the hearing comment was made regarding the depth of the ground water at the northern test pit. The mottling [discoloration] observed may be an indication of a past high water condition. However, this is not always so. The plans have been revised to maintain a 2' separation, with a shallower profile [2' clearance instead of the original 4'].

Screening, Buffering, Open Space: Mr. Kelly noted that the total impervious surface on the property is 15,000 SF; 81% of the property will be open space, 18,700 SF of which is wooded and will remain outside the limit of clearing line. Evergreen plantings to the west of Unit 1 and fencing along the driveway are proposed to provide screening for neighboring properties. There will also be landscaping between the proposed dwellings.

Mr. Kelly concluded by stating that while the neighbors have advocated for their property rights, the rights of the Dirranes are also a factor. The proposed development is far less dense than the surrounding neighborhood. As for the question of access by the Fire Department, the applicants have included their requirements for an additional hydrant and house sprinklers in the plans.

For more detail, please see correspondence from Mr. Kelly dated 7/10/09.

The Chair invited comment from those in attendance and asked that those comments address issues which have not yet been presented to the Board.

Attorney Ron Kaplan, representing a number of the abutters, addressed the Board. He stated he had done research on Section 135-710 of the Zoning Bylaw at the Town Clerk's office and that research revealed the following: Article 2 of the October 1975 "draft amendments" were discussed by the Planning Board and recommended to be "extended" to the June 8, 1976 Town Meeting. This issue was never revisited and the proposed bylaw never endorsed by Town Meeting. It is invalid. However, he acknowledges that the Chair has indicated it will be considered valid until the Town's Solicitor rules otherwise.

Attorney Kaplan stated that the applicants have put the "cart before the horse" because they have not complied with the condominium laws of the Commonwealth [M.G.L. Chp. 183A, Sections 2 and 16] which require a Master Deed to be filed. This has not happened.

He stated that excavating for driveway improvements will create an unsafe condition and suggested occupancy of the existing dwelling be rescinded until safe access to the Dirranes' house can be assured. He continued by raising a multitude of issues: the fact Section 135-710 states the Planning Board may allow more than one building on a lot only if such development can occur "without nullifying... the intent and purpose of the Zoning Bylaws;" altering the driveway is problematic as are the raising the level of the road, blasting and the construction of the proposed retaining wall. He added: this proposal needs ZBA review; the plan has changed; the revisions were submitted two days late and are ambiguous. In fact, the changes require the

proponent to file a new application. He asked if the property is currently served by Town sewer or is on a septic system [Town sewer].

David Crispin, consultant for some of the abutters, stated that he has raised written concerns about the project and has not received answers. He added that the Board cannot take action on this application because the lot is non-conforming [does not have 50' of frontage]. Referring to Section 135-302 [Use and structures to comply with density and use requirements], Mr. Crispin asked if this is a legal lot. He questioned some elements of Mr. Kelly's presentation regarding the depth of the ground water at the northern test pit, as the neighbors have water in their basements. He continued by stating that the stormwater management system is not in conformance with DEP requirements and BMP would have the stormwater system 10' from the property line, the drain line is depicted through the Johnsons' and Carmodys' houses and setbacks continue to be an issue. He raised the issue of the plans not being submitted by the deadline date.

For more detail, please see correspondence from Mr. Crispin dated 7/20/09.

Jack O'Connor, 52 Elm Knoll Road, was concerned about the relocation of Unit #3 as it is too close to his property line and is detrimental to his property. He asked how many trees would be removed for the driveway improvements [all trees within 3' of the right of the driveway].

Mr. Eng asked if there was a sidewalk on the plans, to which Mr. Kelly responded that the revised plans include a landscaped strip which could become a sidewalk. There are no sidewalks in the entire neighborhood all the way to Commercial Street.

Mr. O'Connor asked if speed bumps and signs would be installed on the driveway [Mr. Kelly responded that there are none in the neighborhood, but they can be considered.] and if the removed trees would be replaced [Mr. Harnais said they would not.]. He would like a fence along his property line and concluded by asking if any of the Board members wanted to live in one of the proposed new homes. Mr. Harnais stated that the inference was inappropriate.

Tina Carmody, 50 Hewmason Road, informed the Board that her deed stipulates they have an easement to use Lantern Lane to access their property. The Dirranes' driveway is a right-of-way. She asked what effect the removal of trees will have on the water conditions in the area. Mr. Kelly responded that the drainage calculations take into account the present wooded condition and the post-development condition.

Jean York, 58 Bellevue Road, stated she learned of the plans only yesterday [7/19/09] and wanted more information on the catchbasins [provided yet again by Mr. Kelly] and who would maintain the system [homeowners' association].

Craig Rotz, 31 Prescott Lane, asked the Board to respond to his earlier inquiries about snow removal [Mr. Kelly said the snow would be dealt with on site, unless extreme conditions dictated it would need to be removed from the property.] and raised concerns about children walking to the school bus [or if the bus would enter the property to service the new homes].

Michael Heslam, 9 Prescott Lane, asked if the Town had a “fence watcher” who could provide property surveys for the residents. The Chair responded that any individual wishing to know the exact location of his property lines must contract with his own land surveyor. Mr. Heslam also had questions about whether or not the retaining wall would impede access to the right-of-way. This resulted in Mr. Kelly repeating his description of the wall.

Ms. Santucci informed those present that rights over Lantern Lane were discussed during the hearing process for an earlier application. Access to Lantern Lane is not being cut. It is the neighbors who have requested fencing for privacy, as the widened driveway will be closer to their property than the existing driveway.

Mr. Heslam ended by asking under whose jurisdiction would fall an accident should U.S. Postal Service employees use the driveway to deliver mail....

Bill Johnson, 32 Prescott Lane, informed the Board that he had come to the Planning Department on July 9th to check on the submission of the revised plans before his family left on vacation. Plans were not available and he has a major concern about the deadline. Another neighbor, Mr. Cassidy, was able to purchase copies of the plans the following week. Mr. Johnson also has concerns about maintenance of the storm drains and asked who would enforce the maintenance condition.

David Oliva, 172 Edgehill Road, read Section 135-706 of the Zoning Bylaw [Preexisting lots] and referred to Lantern Lane’s existing 27’ frontage.

Nita Ricca, 49 Sterling Street, asked if Lantern Lane were a private way and, if so, why it is not posted as such. She continued by asking if she could go up and down Lantern Lane and if the use is non-conforming why the Planning Board is considering the application.

Hank Joyce, Councilor from District 4, asked that the Board continue the public hearing to give the neighbors a chance to review the plans.

The Chair announced that the Board would be closing the public comment period for the hearing.

Susan Johnson, 32 Prescott Lane, said the neighbors have posed so many questions with no answers and asked why the meeting was taking place if the applicants did not meet the deadline for submission of the revised materials. The Chair responded by stating that the hearing is a continued public hearing and the deadline is one for staff. No statute is involved. In response to an earlier comment, he noted the revisions do not rise to the level requiring a new application as the applicants were told to reduce the number of units to two.

Lee Dingee, Councilor-at-Large, asked that the Planning Board let people know what the next steps are. The Chair responded that the Board will begin their deliberations to get answers to questions they have and that have been raised by the neighbors. As to the repeated question about the legitimacy of the application ["Why are we here?"], Town's counsel has "reaffirmed the ordinance." After deliberating, the Board will either vote the project up or down or vote to continue to another date and time certain.

The Chair announced that the hearing is now put to Planning Board for deliberation.

Member Reynolds addressed those in attendance, thanking everyone and noting that this is a "great case" about interaction between abutters and applicants who wish to make changes in a responsible manner. Much has been presented for the Planning Board to consider. Mr. Reynolds feels the issues needing to be addressed by the Planning Board are the density of the proposal [and buffering considerations], drainage [because of topography] and public safety.

Density/Buffering: Mr. Reynolds commented that the revised plan to propose the construction of two additional units instead of three is a better direction to go. The size of the parcel and the proposal could work. Neighbor concerns about buffering along the mutual property lines are valid and he asked if the retaining wall were in a fixed location and how it would impact the neighbors. Mr. Kelly provided a detailed explanation: the wall will be constructed of reinforced concrete with its face 2.5' from the east property line at its closest point; it is designed to support the slope rising eastward and will vary in height along the property line [0' – 5']. The existing driveway grade will be maintained along the west side and the grade will extend across the driveway [5' below the existing grade to the east] and the wall will support the slope. He gave a detailed explanation of the actual wall construction.

Mr. Reynolds asked what effect the wall would have on runoff and what effect freezing conditions would have during cold weather should snow be stored against the wall. [The wall will have weep holes and not need to withstand any hydrologic/hydrostatic pressure. No water will sit against the wall. The development will not result in any additional water, just a different manner for treating it.] Mr. Reynolds reiterated his concerns: the purpose of the wall and what impacts it would have on abutters. From what he is hearing and from what he sees on the plans no negative impacts jump out at him. It seems the construction of the wall will provide some benefits to the abutters and to the applicants in the maintenance of the driveway.

He then asked about fencing at the boundaries of the property: There will be a fence the entire length of the driveway [west property line] and a short fence on the top of the retaining wall about 4' above the driveway which will not impact neighbors. There are also plans for natural screen [dense white pine] on the east side south of the existing driveway.

Mr. Reynolds asked several questions about the grade difference between the subject property and that of Mr. O'Connor and Mr. Kelly responded that the proposal will result in conditions no different than existing conditions. The applicants will maintain as much vegetation as possible. In fact, Unit #3 is proposed on the existing lawn area. The applicants are committed to a firm and clear buffer line.

Mr. Reynolds returned to the 4' fence proposed on top of the wall and whether or not it would impact the sight line at the intersection of Lantern Lane and Hewmason Road. He asked when autos exiting the driveway would see the "outer boundaries of Hewmason" and not just "a straight line" out across Hewmason. Mr. Kelly stated that there is an existing garage on the property abutting the northwest side of the drive which limits the sight distance out of Dirranes' property. The proposed retaining wall ends before Hewmason and conditions as they exist today will not change, except perhaps to be improved by the removal of vegetation. [Mr. Reynolds asked if the applicants' had "engaged" the Berniers on this point. Mr. Kelly indicated that he had spoken with them and that the applicants' goal is to disturb the area as little as possible as the neighbors' concern was to save as many trees as possible. The proposal will not interfere with their ability to get in and out of their driveway. Mr. Reynolds noted that he was happy to hear this explanation as he has heard from the neighbors whose property is close to the driveway.]

Drainage: Mr. Reynolds asked about the catchbasins needing to be 10' from the property line. [Please refer to Mr. Crispin's comments above.] Mr. Kelly stated that that distance is mentioned for projects subject to DEP jurisdiction. THIS PROJECT IS NOT SUBJECT TO DEP'S STORMWATER REGULATIONS. Having said that, Mr. Kelly indicated that the applicants fully comply with the regulations. The subsurface chambers are 2.7' wide [with 1' of stone on either side] and can be located 10' from the property line.

Mr. Reynolds continued that he wanted Mr. Kelly to address the benefits to result from the stormwater system and if the project would create a situation more detrimental than that currently existing. Mr. Kelly stated that their goal is to mimic existing conditions, matching or reducing the peak rate and volume of runoff. There are two separate watershed areas: one about 250' from Hewmason Road, the other on the southerly area of the property. Their engineering design has held the existing highpoint and offsets the impacts of the increase in width of the driveway. Current drainage conditions have the water infiltrating into the ground and that is the condition they will mimic with the proposed stormwater system.

Mr. Kelly added that at request of Town Engineer [prompted by comments from a neighbor who stated that water -- from Hewmason Road - currently runs into his driveway], the applicants have agreed to repave at their expense a portion of Hewmason Road at the end of Lantern Lane to create a lower channel in center of road.

Mr. Reynolds stated that he had observed this condition and thanked the applicants for understanding the impacts of their property on abutting properties and agreeing to this roadway improvement. He added that it is the Board's responsibility to ensure that the changing conditions will not be more detrimental than pre-development site conditions. Although he feels the applicants have taken this "spirit" seriously, the Board needs to take it one step further as this is not the Board's "run-of-the-mill" application. The Board must raise the bar higher for this project than is normally sufficient and responsible. He wishes to hear more about the proposed drainage and hopes that Mr. Eng's engineering insights will help to clarify some areas. He added that it seems to him that the post-development conditions regarding driveway runoff create a

better situation, but he is looking for statistics and facts to back up what is being presented and has more questions on this topic.

Member Cusick Woodman asked if the water main is adequate. Mr. Kelly repeated earlier statements that the water main has been upgraded to 6" and the Fire Department required the houses be sprinkled and a new hydrant installed.

She also asked about exterior lighting and its impacts to the neighbors. Mr. Kelly stated that no street lights were proposed, but that the applicants are considering low landscape features like bollards. Ms. Cusick Woodman stated she does not feel speed bumps work well and asked about the length of the driveway [400'].

There ensued a discussion about the change in elevation from Unit #3 to Mr. O'Connor's house [Elevation 101' to Elevation 63'] and if there were an erosion problem [erosion controls will be installed during construction]. Regarding a fence between the subject property and Mr. O'Connor's property, Mr. Kelly mentioned the possibility of a 4' chain link fence.

Member Mikami stated to those in attendance that the Planning Board can place conditions on the project and the Board is looking for ideas from abutters. If jurisdiction passes from the Planning Board and the Board loses control of the development, the conditions are lost. He noted the escalating expense of the development and the downturn in the economy and asked about the applicants' thinking when they purchased the property. Mr. Kelly stated that the applicants considered the possibility of constructing more houses on the parcel and had explored many alternatives such as a subdivision roadway off Prescott Road. Continuing Mr. Mikami asked if the applicants were now proposing Cape Cod berm instead of granite curbing, a landscaped strip instead of a sidewalk and shortening the length of the driveway because of the expenses involved. [Yes, but the project is financially viable.] Mr. Kelly noted the special needs of one of the applicants' children and their desire to improve the property to better support their daughter.

Mrs. Dirrane addressed the Board and emphasized that their interest in the property was not financial gain. She noted the many benefits of the land for her family and her daughter's special needs. The house and property "work for her family."

Mr. Mikami added that he wants a commitment from the applicants that the project will be done well and be an integral part of the neighborhood and asked – should the project be approved - when the applicants intended to commence work [as soon as possible] and whether the engineer expected that blasting would be necessary. Mr. Kelly stated that they do not anticipate the need for blasting as today there are preferable options. However, should they need to blast the applicants will make application to the Fire Department who would issue a permit. Pre- and post-blast surveys would be required. Mr. Mikami also wanted assurance that all possible effort would be made to address safety issues which are substantial for such a small development.

Mr. Eng told Mr. Kelly that he needs to correct Sheet 2 of the revised plans: a gas line is going through the Johnsons' yard. He emphasized that it is important that the plans are 100% accurate to give everyone confidence in the project. Regarding the proposal to install Cape Cod berm, he opined that the berm will not last. Granite curbing is the way to go. Mr. Eng informed the audience that he had spent 13 years on the Conservation Commission and is very experienced in stormwater issues and well able to assess the drainage concerns of the abutters. Mr. Kelly noted that the proposed system has a capacity greater than needed to treat current runoff, but it is the smallest unit the applicants can buy.

Mr. Eng concluded by saying there are pros and cons to the proposal, but he sees the pros: the applicants have reduced the number of homes, are committed to leaving as much of the wooded area as possible, constructing fences. Traffic is not an issue. Although the draft conditions need "tweaking," the Planning Board can issue conditions on the development and ensure that the applicants adhere to the conditions.

Chairman Harnais wished those in attendance to understand that the applicants have come before the Planning Board because the Town's ordinance allows it. The foundation for the Planning Board's decision is the law as it exists and case law, not emotion. The Board cannot act in an arbitrary and capricious manner in their determinations of the merits of the proposal and urged the abutters to be involved with the drafting of conditions. He also does not want the Planning Board to lose control over the project if the courts get involved. He added he feels a sidewalk is necessary.

Mr. Heslam asked the Board to consider the issues of sidewalk, lighting and a stop sign. [The Chair duly noted the request.]

Attorney Kaplan repeated his concern about safety during construction of driveway improvements. Mr. Eng responded that the width was sufficient to improve one-half the length of the drive at a time, allowing safe passage to the Dirranes' house.

Mr. Heslam asked about a bond. [None, as there will be no work in the public way.]

Mr. Johnson asked that the fence to be installed between the applicants' property and his property be of white vinyl with arborvitae planted on his side of the fence.

Mrs. Carmody stated that the applicants cannot build on the right-of-way according to the Bylaw. The Chair responded that no structure can be built on the driveway. Mrs. Carmody said a wall is a structure. The Chair explained that the meaning of the prohibition on building on the right of way was to ensure that the Carmodys access to their property over the right-of-way was not impeded. [The proposed wall is on the opposite side of the driveway from the Carmodys property which has the access easement.] The proposed driveway improvements will not keep the Carmodys from going back and forth. The applicants cannot prohibit passage over the right-of-way.

Mr. Reynolds said he feels the Board has made significant progress, but the “devil is in the details” and he has some follow-up questions that he wants answered. He thinks he would be prepared to vote on the project at the next hearing and would like the hearing continued. He feels the draft conditions can be tightened up [to ensure they cover all the necessary details] and available to interested parties before the next meeting.

Councilor Joyce requested that the conditions be issued in writing.

Mr. Reynolds said the more information the abutters have the better [to answer questions and alleviate their concerns] and he urged the Board to continue the hearing.

Ms. Santucci stated that almost all the concerns raised have been addressed in the draft conditions.

Ms. Ricca asked if the conditions are different for condos. [No, the Planning Board has no jurisdiction over condominium development. The conditions are set for the proposed project.]

Motion by Mr. Reynolds, second by Mr. Eng to continue the hearing to August 31, 2009 at 7:05 P.M.

Respectfully submitted,

Linda Raiss