



Department of Planning and Community Development

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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
August 31, 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 7:05 P.M.

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

No New/Old Business was conducted during this meeting.

Motion by Ms. Cusick Woodman, second by Mr. Reynolds to adjourn at 10:05 P.M.

Vote: 5/0

Respectfully submitted,

Linda Raiss



Department of Planning and Community Development

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Braintree Planning Board
August 31, 2009 Public Hearing @ 7:05 P.M.
Town Hall Auditorium

Present:

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Joseph Reynolds, Vice Chair
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39 Lantern Lane/R. and M. Dirrane
Application under Braintree Zoning Bylaw Section 135-710

The Chair opened the continued public hearing.

David Mackwell, Kelly Engineering Group, and Martin and Rita Dirrane were present. Mr. Mackwell addressed the Planning Board, noting that the applicant had submitted final revised plans to the Board. The changes incorporated on the final plans were the addition of a sidewalk, modification to the plan notes, re-numbering the units, clearly defining the “No Build” area, addition of “No Parking” signs, a stop sign, speed bumps, drywells and two fence gates for abutters who have rights to pass on Lantern Lane. Mr. Mackwell added that he had received earlier in the day a copy of a letter from the BSC Group and wished to respond.

Referring to that letter, Mr. Eng stated that he had a huge concern about the groundwater system and wished the engineer to respond to the charge that it is inadequate.

Mr. Mackwell responded that the allegations about the inadequacy are based on hearsay only and stated that Town Engineer reviewed the plans. The original application proposed three additional dwelling units [total of four on the parcel] to be constructed on site. Reducing the number of units to three and the consequent reduction in the length of the driveway, the proposal results in a decrease in impervious surface. However, the drainage system designed for four units has not changed.

Mr. Eng asked about the retaining wall and the comment by BSC’s engineer that it will result in “blight.” Mr. Mackwell responded that the only people who will be able to view the wall would be the Dirranes or those folks traveling on Lantern Lane. The abutters will not be able to see it from their backyards.

Ms. Cusick Woodman asked about earth removal during construction, to which Mr. Mackwell responded that all earth removed during construction would be stored on site until project completion. She added her concern about the speed bump and plowing in winter. Mr. Mackwell stated that it was the responsibility of the homeowners to maintain the speed bump.

Mr. Reynolds had questions relating to drainage: test pits for the drywells, perc tests. Mr. Mackwell stated that test pits were dug for the subsurface detention system, but not the drywells. But, the applicant has not taken credit for the drywells. Regarding the perc tests, soil verification will be conducted before construction.

Mr. Reynolds asked if Mr. Mackwell considered the drywells as an added mitigation [yes].

Ms. Santucci noted that there will be oversight during the soil verification process.

Mr. Reynolds also asked questions about the retaining wall: if the plans indicated runoff would be directed away from the wall [yes]; if crushed stone would be used [yes], if rip rap would be installed [yes]. Mr. Mackwell said filter fabric would be installed between the crushed stone and the ground.

Mr. Reynolds returned to the drainage design and Mr. Mackwell reiterated earlier detailed explanations provided by Mr. Kelly [principal of Kelly Engineering] and repeated Mr. Kelly's assertion that the system is overdesigned. Mr. Reynolds noted that an abutter to the south had concerns about runoff to her property and asked if the subsurface recharge area would improve conditions in that direction. Mr. Mackwell said that was the intention.

Mr. Reynolds stated his belief that the reduction in the number of units and the length of the driveway would result in improved drainage conditions for the neighborhood.

Mr. Mikami wished to know if the applicant was prepared to absorb the costs of the project [yes] and how soon progress could be noted. Mr. Dirrane responded that he needed to wait and see what happens. He has no date in mind now. Mr. Mackwell added that the applicants needed to wait for approval to see where they could go.

At an earlier meeting the Chair had indicated that the public comment period of the hearing was closed. However, he wished to entertain comment from those in attendance, emphasizing he wished ONLY comments not previously entered into the record.

David Crispin, BSC Group engineer, stated that he had a contract with William Johnson to represent the neighbors opposed to this project. He had sent comments to staff earlier in the day [*Please see correspondence from Mr. Crispin dated 8/31/09.*] and wished to enter into the record his concerns about the test pits being only 8' deep [when the leaching field is 10' deep] and the fact that Draft Condition #45 requires verification of the test pit and percolation rate data.

Therefore, any Planning Board decision before such verification is premature. He asserted that the Board does not have adequate information to make a decision. Regarding staff's Findings: Mr. Crispin returned to his earlier and often-made contention that the lot in question is non-conforming and as such relief from the Zoning Bylaw is required. This triggered strong responses from both the Chair and Vice Chair [Reynolds]. While Mr. Reynolds stated that Mr. Crispin was being selective in the presentation of "facts" and neglecting the whole story, Mr. Harnais declared that Mr. Crispin was not presenting the facts, was stirring things up and misleading others. It was not right and not fair. The Bylaw has been established and it is the obligation of the Board to follow the Bylaw, not Mr. Crispin's interpretation of the Bylaw. He urged Mr. Crispin to deal with the facts, to stick with the Bylaw and provide testimony on the engineering aspects of the project.

Mr. Crispin continued by stating that Mr. Johnson would be able to see the retaining wall from his property as would the public passing on Hewmason Road. He suggested that the words "in perpetuity" be added to Conditions #51 - #54, #69 and #71. Regarding the retaining wall he feels the design should be stamped by an engineer and presented to the Board before the project is approved, not after. The applicant will need an easement from abutters to install the retaining wall and this should come before the Planning Board issues a decision. He stated that 2" of topsoil is too little. [Ms. Cusick Woodman asked if Mr. Crispin knew of the very large retaining wall adjacent to D'Angelo's on Granite Street and if retaining walls look the same on the front and back.] Mr. Crispin referred to the fact there is no detail on the retaining wall and asked what is proposed.

In response to Mr. Crispin's contentions about Finding #1, Mr. Mackwell asserted that the Building Inspector has issued Building Permits in the past for construction on the property [and thereby has set precedent for construction].

William Johnson, 32 Prescott Lane, informed the Board that he had written to the Fire Chief asking if the Fire Department could approve a 12' wide driveway with cut-outs for passing vehicles and sloped berms. His goal is to get the driveway constructed farther from his home and that of the Carmodys, the neighbors most impacted by the proposal. He feels it would be a win-win for both the Dirranes [lower the cost of driveway construction] and the neighbors [less intrusive driveway].

Mr. Eng is opposed to the installation of berms, as opposed to granite curbing. The curbing, installed at a 90° angle provides added protection to keep vehicles on the driveway.

Mr. Johnson stated that even with a 6' high fence his family and the Carmodys will still see the retaining wall. He asked that the fence be placed on the driveway and not on the property line. He also has concerns about runoff from the driveway to his property, which already has drainage issues.

Mr. Mackwell stated that the applicant has no objection to a 12' wide driveway with turnouts.

Mr. Eng asked if the Fire Department was "okay" with the narrower driveway. Mr. Mackwell quoted from the letter to the Planning Board from Deputy Chief Donahue stating no opposition.

Jack O'Connor, 52 Elm Knoll Road, had concerns about drainage from Lantern Lane and snow storage [and melting snow] and asked if the driveway grade could be changed to pitch away from his property. Ms. Santucci explained the elevations and topography and stated that the water drains away from his house. *The Chair emphasized that the grade will pitch away from Mr. O'Connor's property.*

Mr. O'Connor asked if the proposed 4' fence could be 6'. He also asked about the drywells and was concerned that the two drywells for Unit #3 would drain into his property [and basement]. He asked if the drywells could be relocated. Mr. Mackwell noted that the drywells are "add-ons." The roof drains to the drywells and from there the water flows to the central part of the property. Mr. O'Connor added he is opposed to the project.

Mr. Johnson returned to the podium to speak on behalf of abutter Ken Girard, 45 Prescott Lane, who could not be present and has a concern about "buffering" for his property. If few trees are to come down, he does not need a fence to be installed. However, if many trees will be removed he has requested a fence. Ms. Santucci stated she had been in contact with Mr. Girard and had a condition regarding his concern. *The Chair injected his concern that the issue of fence or no fence needed to be "time specific."* Ms. Santucci stated Mr. Girard would need to make his decision prior to the issuance of a Certificate of Occupancy for Unit #3.

Larry McCarthy, 46 Prescott Road, asked about the location of the snow storage area [around the cul de sac].

Sara Zwicker, 98 Stetson Street, reiterated concerns on drainage she earlier had raised at hearings and in a letter addressed to the Board and wondered if the recharge area could be deeper. Discussion among Ms. Zwicker, Mr. Mackwell, Mr. Harnais and Ms. Santucci followed and concluded with statements that the water exiting the property post-development would not be greater than leaves the property today.

David Oliva, 172 Edgehill Road, had two questions: Would the Dirranes house be "sprinkled" [no] and could the approval be conditioned on the current owner? The Chair responded that the permit is for the land and use of the property and should the property be sold the new owner would be obligated to meet the Conditions of Approval issued to the current owner. [An exchange took place between Mr. Oliva and Mr. Eng relative to "value engineering," Mr. Oliva's contention being that value engineering cheapens a project, like a project in Watson Park. Mr. Eng stated value engineering is a way to do a job properly and does not "cheapen" a project.]

Mr. Reynolds read from staff's memo dated August 28, 2009 in which staff responded to comments submitted to the Board by abutters: "No Drainage System exists on the property today. The proposed Drainage System has been designed to reduce the rate of run-off leaving the site by 16% for the 2 year storm event and 14% for the 100 year storm event...."

Jack Carmody, 50 Hewmason Road, whose property is the first to abut Lantern Lane to the west and whose house is very close to the property line, stated he stands to lose a good portion of his property. The new conditions will be a big inconvenience for his family. He added that the project is a "disgrace." [clapping in crowd]

The Chair wished to enter into the record that he personally and the others on the Planning Board truly sympathize with the Carmody's and wish they could do something to help them out. However, 39 Lantern Lane is registered in Land Court and the owners have a right to their property, [even though the Carmody's have rights to pass on Lantern Lane]. This project has no bearing on the property boundaries. Mr. Harnais also responded to the clapping in the audience.

Pauline Delvecchio, 37 Prescott Lane, informed the Board that water flows down Prescott Lane because the residents have sump pumps draining into the road. She is also worried about fire.

Jean York, 58 Bellevue Road, stated her right to clap is protected by the First Amendment and an exchange between her and the Chair ensued. She asked if there were fire hydrants to be installed [at end of cul de sac].

Elaine Picco, 41 Cliff Road, responded to the Chair's comments about clapping. She said the clapping is a way for those in attendance to support their neighbors. She also feels there is an uneven response from the Board to sarcasm from neighbors and the applicant's representative. [The Chair said the sarcasm has not gone unnoticed.]

Michael Heslam, 9 Prescott Lane, said he had written to the Board about water running onto his property. He asked if Lantern Lane could be designated a fire lane and who the neighbors would turn to if the proposed improvements do not work. Ms. Santucci said a fire lane is a designated area adjacent to a building for Fire Department access.

Mr. Reynolds returned to the drainage issue, stating thousands of dollars have been spent on drainage studies [for this and other projects] and the designs are "tried and true." Should the improvements prove less than satisfactory, the Board can revisit the Conditions of Approval. He read from staff's memo dated August 28, 2009: The high spot in Hewmason Road will prevent stormwater runoff from Lantern Lane from traveling down Hewmason. "Therefore, the installation of a berm in front of ... 9 Prescott Lane would not divert ... runoff ... because it will not travel in that direction." He added that the comment by Mrs. Delvecchio that it is illegal for

residents to have sump pumps pumping water into the street. He ended by declaring that everyone involved in the hearing process has put much time and effort into listening to concerns.

Mr. Harnais stated that he feels it would be irresponsible for the Board not to condition the improvements to the driveway, especially the sidewalk.

Craig Rotz, 31 Prescott Lane, stated his concern about runoff. He also asked if the fence could be installed between the driveway and the sidewalk.

Mr. O'Connor asked if the Board could condition that the units be owner-occupied [no] and how many bedrooms [4] and baths [2] per unit. He is concerned about limiting the number of occupants in each unit. Ms. Santucci responded that the Town's Bylaw allows for not more than three unrelated individuals to live in one dwelling. Later in the meeting he asked where the transformer would be located. Discussion ensued and Ms. Santucci stated that BELD will instruct the applicant on their design requirements.

Nita Ricca, 49 Sterling Street, asked how long the driveway is [450'] and where the speed bump would be installed [at about the half-way mark]. Ms. Santucci stated she has proposed a speed table [instead of speed bump] which will be better for drainage and safety. Later she asked about the lighting. The Chair said the lighting would not negatively impact the neighbors.

Mr. Johnson wished to know how the Board felt about his proposed 12' drive with cut-outs and mentioned the sidewalk safety issue.

Ms. Santucci informed the Board that the fence posts would be constructed like bollards to prevent vehicles from entering his yard. The fence posts, though more solid than regular posts, will be covered with vinyl giving a uniform appearance.

Mr. Harnais reiterated his complete understanding of the Johnsons' and Carmody's situations and stated that the Board has taken all the issues very seriously.

Hank Joyce, Councilor for District 6, asked about snow storage and hydrant location, noted the fact the Fire Department cannot get its ladder truck down Lantern Lane and the multitude of questions raised "about the process." He strongly opposes the project.

Mr. Harnais wished all present to know that there will be continued monitoring of the project and that the Board will ensure that the applicant complies with all Conditions of Approval.

Herb Zwicker, 98 Stetson Street, apologized for arriving late and asked about snow removal from the sidewalk. The Chair responded that no snow would be removed to the property of others.

Lee Dingee, Councilor-at-Large, addressed the Board principally saying he was in attendance for the neighbors, mentioning the role of the Mayor's Transition Committee and noting the Bylaws are "confusing and archaic." In response the Chair spoke of community changes, the need for cities and towns to grow and the consequent need to change the Bylaws.

Mr. Mikami asked the width of the driveway: 9' existing; 18' proposed, plus 3' sidewalk. Mr. Eng asked if the applicant would be interested in exploring a 12' wide driveway [yes].

Motion by Mr. Reynolds, second by Mr. Eng to accept the summary of correspondence [Items #30 through #73].

Vote: 4/0 [Ms. Cusick Woodman had left the meeting room.]

Ms. Santucci referred to Section 2 of her August 28, 2009 staff report for items that must be added to the Record Plan before endorsement, should the Board approve the project:

- add detail for infiltration chambers near Hewmason Road,
- revise fence height to 6' [Condition 52],
- add lighting locations within driveway and details,
- remove erroneous spot grade at rear of Girard house,
- note that the fence posts behind 32 Prescott Lane shall be equivalent to bollards,
- relocate snow storage area behind the Girard property to center of cul-de-sac,
- enlarge fence gates at 32 Prescott Lane and 50 Hewmason Road to 10',
- add condition to allow Girards the option of fencing or plantings,
- increase topsoil from 2" to 4",
- relocate drywells.

Mr. Eng wanted Mr. Heslam to understand that all discharge [runoff] will be captured on the property.

Mr. Harnais stated that he feels a 12' driveway would be a good idea. It helps the process and makes it easier for all involved. He concluded by saying that it has been a difficult process, a learning experience, sometimes adversarial in nature. He mentioned that those who wanted just to say, "No" to the project compounded the difficulties and prevented a full exchange of ideas.

Motion by Mr. Reynolds, second by Ms. Cusick Woodman to modify the Draft Conditions to include the items in Ms. Santucci's August 28, 2009 memo and others [as listed above].

Vote: 5/0

Regarding the possibility of a 12' driveway, Ms. Cusick Woodman said if the Fire Department was okay with the reduced width and it can lessen the impacts on the abutters and improve their quality of life she would be in favor of the decrease in width.

Discussion ensued among Mr. Mackwell, Ms. Santucci, Mr. Eng, Mr. Johnson and Mr. Harnais about the possible location of a 12' driveway. After Ms. Santucci stated that the fence would remain as located on the plan and Mr. Johnson objected saying he would prefer then an 18' wide driveway, Mr. Harnais raised the issue of constructive taking should the Planning Board require the fence be located 6' into the Dirranes' property.

Mr. O'Connor suggested the Board might include a condition granting permission to clean the vinyl fence.

Ms. Santucci advised the Planning Board regarding this issue. She stated that the 18' width had been studied and discussed and suggested that the Board would be ill advised to vote on a 12' layout without seeing a plan. Should the applicants wish, they can have their engineer draw up a proposed 12' layout with a redesign of the drainage system and request the Planning Board vote on a minor modification to the decision.

Mr. Mackwell stated that the applicant would have no problem visiting a 12' layout.

Motion by Mr. Reynolds, second by Ms. Cusick Woodman to add a condition regarding the possibility of a minor modification for a 12' driveway with sidewalk.

Vote: 5/0

Motion by Mr. Eng, second by Ms. Cusick Woodman to close the public hearing.

Vote: 5/0

Mr. Reynolds wished to summarize his impressions of the process which was the most challenging he had experienced in his two stints on the Planning Board. He concluded that the process got to a place where the spirit of compromise and cooperation could come to the fore. He added his thanks to the Dirranes, who have been responsible neighbors and open to criticism, to the neighbors, who have shown up meeting after meeting to ensure that their concerns about impacts to their properties were aired and addressed, and to staff for their due diligence and follow-up of issues raised. He feels the Planning Board has been open-minded, diligent and fair in their review. The proposed project will improve the site drainage, addresses the safety concerns of the neighbors, and the proposed dwellings will have a positive impact on property values in the neighborhood.

Motion by Mr. Reynolds, second by Ms. Cusick Woodman to approve the application with the Conditions of Approval as modified [above].

Vote: 5/0

Respectfully submitted,

Linda Raiss