



Department of Planning and Community Development

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Joseph C. Sullivan
Mayor

PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng, Clerk
Darryl Mikami, Member
Melissa B. McDonald, Member

Braintree Planning Board
July 9, 2013
Town Hall – Cahill Auditorium

APPROVED

Present:

Mr. Robert Harnais, Chair
Mr. Joseph Reynolds, Vice Chair
Mr. Darryl Mikami, Member
Ms. Melissa McDonald, Member
Mr. James Eng, Clerk

Christine Stickney, Director
Melissa SantucciRozzi, Principal Planner

Chairman Harnais opened the Planning Board meeting at 7:00 p.m. and called role.
All members were present.

Zoning Board of Appeal Petitions – July 2013

ZBA (13-26)

30-J Forbes Road / Ben & Jerry's / New Ventures Scoop Shops, LLC

Attorney Frank Marinelli, represented Stephen Marcus, Ben & Jerry's South Shore Place Franchisee
Stephen Marcus

Mr. Marinelli introduced Stephen Marcus and gave his background. He explained that on June 4, 2013, he obtained a common victualler license and permission for outdoor seating for Suite "J" at 30 Forbes Road. He said the Planning Board is familiar with the redevelopment of South Shore Place when Karma Nominee Trust came in a few years back.

He further explained that this Application is for an additional sign minor in size (14SF) that will be located on the side of the building facing Simons. All of the retail spaces at South Shore Place were approved with 28 SF of wall signage that face internally toward the parking lot. This retail location is very similar to the opposite end space that is occupied by the Vitamin Shoppe on the northerly end. The Vitamin Shoppe's secondary sign was approved for 28 SF.

The proposed secondary sign for Ben & Jerry's is consistent with the approval that was given on the easterly end, except the proposed size is half the size at 14 SF. Additionally, there is a staircase leading to the concourse and a handicap ramp adjacent to Jared's Jewelers that impairs clear view of the sign from Granite Street. He described it as a very modest request.

The Applicant is also asking permission to put a Ben & Jerry's "woody mural" of cows and pasture in the window space covering the lower 3.5 FT of the 9 FT windows. Known as a "woody "woody mural", its purpose is to cover the back of the interior seating. He provided a seating plan to the Board.

Chairman Harnais asked the Board if they had any questions.

Ms. McDonald asked Mr. Marinelli if the front and side signs were of the same height. Mr. Marinelli answered yes, and referred to a provided plan to show that the height and mount location on both sides is the same.

Mr. Mikami reminded Mr. Marinelli that the Board originally worked with him on the retail signage for the entire site, some of which was approved by the ZBA even though Planning voted unfavorably. He said he is sympathetic to the local vendors but disagreed with the "woody mural" saying the extra window signage is excessive and not necessary.

Mr. Marinelli reiterated the purpose of the "woody mural" is a family friendly way to conceal the backside of the tables and chairs. Mr. Marcus supported and clarified that the 14 FT sign is his primary importance; the "woody mural" is simply to cover the back of the interior seating.

Mr. Eng asked what portion of the negotiated signage of 508 SF will this exceed if this is approved.

Referring to the Staff Report, Mr. Marinelli said that he does not agree with the term "negotiated signage"; no one knew who would occupy the spaces and the unique needs of each space. He noted that the signage of the units is modest and this unit has no visibility from the street – it's not a site that has clear view from Granite Street or Forbes Road.

Mr. Eng asked if the Applicant could live without the second sign if the "woody mural" was permitted.

Mr. Marinelli answered no, the secondary sign is very important for visibility, the "woody mural" covers the inside table and chairs along the stairway side.

Mr. Eng proposed shades instead. Mr. Marcus said the Corporation would not permit shades.

Mr. Marinelli reminded Mr. Eng the latitude in the by-law. It's a 10 acre site for the betterment of the Town. The secondary sign is innocuous, friendly and fun for all ages.

Mr. Eng asked if Mr. Marinelli is willing to back down. Mr. Marcus explained that the "woody mural" is to cover the unattractive back of the couch that is visible in the window.

Mr. Eng impressed that the Applicant has exceeded the square footage and wants to understand why. He had no further questions.

Mr. Reynolds asked what the total square footage of the Vitamin Shoppe signs is. Ms. Stickney confirmed that each sign is 28 SF; a total of 56 SF was approved. Mr. Reynolds said that this proposal is 14 FT in addition to the already approved 28 SF, less than what was approved for the Vitamin Shoppe. He recognized the site being unique with multiple structures and obstructed site lines. Overall, he said, it is tastefully done and there is room for exception in this situation. Considering the building in front of this retail space that obstructs the location and the exception made for the Vitamin Shoppe, this is less of a variance being requested. Regarding the "woody mural", he said he does not have an issue; it does not contain any lettering and it does not cover the entire window.

Mr. Marinelli reiterated Mr. Reynolds comments and reinforced the hardships of this particular retail space. He further stated that the signage for each of the tenants is modest.

Mr. Harnais acknowledged Mr. Mikamis' feeling about the "woody mural"; however, he did not regard the "woody mural" as a sign. He did not have a problem with the requested signs or the "woody mural". He believed the "woody mural" was simple and fun, befitting the area. He had no further questions

Mr. Harnais called for a Motion to recommend approval.

Mr. Reynolds made a Motion to recommend approval for the variances; seconded by Ms. McDonald.

4:1:0 Favorable Recommendation (Mr. Mikami voted against)

Mr. Harnais explained that the Planning Board is not the final permitting authority; the review by the Planning Board is simply a recommendation.

ZBA (13-25)

30 Forbes Road / Legal Sea Foods, LLC

Frank Marinelli addressed the Board stating Legal Sea Foods filed an application for some signage at 30 Forbes Road. The signage will be located on the second level, adjacent to the hotel where the entry to the restaurant is located. He said that today, July 9th, he received a memo from Staff that raised an issue that one of the signs is not a wall sign and he planned on addressing that and filing an amended proposal before the Zoning Board Meeting on July 23, 2013.

Ms. Stickney asked Mr. Marinelli if he will be asking the Zoning Board of Appeals for an extension. Mr. Marinelli said he would not but would like to get an answer to the issue raised in the Staff Report. He would also like to submit another set of amended plans.

Ms. Stickney stated that unfortunately, the Planning Board will not meet again until August. Ms. Stickney suggested the matter be tabled, saying further that she was under the impression that he intended to ask for an extension from the Zoning Board Meeting.

Mr. Marinelli said the timing of the Staff Report did not permit any discussion with his client or submission of an amended plan.

Ms. Stickney suggested Mr. Marinelli table the matter for a few minutes to allow him to reach his client. Mr. Marinelli did not believe at 8:30 PM he would reach his client.

There was some discussion between Chairman Harnais and Ms. Stickney as to how to proceed under the circumstances. There was more debate concerning the timing of Staff Reports and the lack of time for Mr. Marinelli to submit changes or amended plans.

Mr. Marinelli reluctantly agreed to continue but wanted it noted that he hopes they receive reciprocal good faith in the analysis of an amended plan. He did not agree with some of the comments in the Reports that he received very late that afternoon.

Ms. Stickney asked the Chairman what he is directing the Staff to do. Mr. Harnais clarified that Mr. Marinelli will return to the Planning Board on August 13, 2013 and then to the Zoning Board on August 27th.

Mr. Harnais said he recognized that the Application was filed with the Zoning Board on June 21st and submitted on time, however the Planning Board's heavy schedule and the holiday interrupting the work week, it was unfortunately delayed. Mr. Harnais expressed his appreciation to Mr. Marinelli in continuing.

The matter was continued to August 13, 2013.

13-03 (Public Hearing)

**Randall Avenue, 30 Randall Avenue, 52, 60, 84 Pearl Street / William Frazier
Special Permit and Site Plan Review**

Mr. Harnais read the Public Notice.

Ms. SantucciRozzi explained that Mr. Fraizer has requested his application be withdrawn without prejudice.

Mr. Harnais called for a Motion to withdraw the application without prejudice.

Mr. Eng made the Motion to withdraw the application; seconded by Ms. McDonald

Vote: 5:0:0

ZBA (13-23)

121 Pearl Street / Michaels Stores Inc.

Richard Pretorius, Pretorius Electric & Sign Co. represented Michaels. Mr. Pretorius addressed the Board explaining the Applicant is seeking permission to install a sign larger than the code allows but in keeping with the size of the neighboring storefront (Shaw's) that is also 450 feet back from the street. The new "Michaels" logo is cursive lettering. Some letters descend and are part of the area included in the square footage. He said they are requesting a 5 FT letter "M". The "arts and crafts" letters on the sign measure 21" in height.

Mr. Pretorius said that comparatively, the "Shaw's" sign next door measures a total of 9 FT. The request is also so it can be seen from the street because it is set quite a distance back.

Mr. Harnais asked if the Board had any questions.

Ms. McDonald asked if this is about the same size as the previous "OfficeMax" sign. Mr. Pretorius said the previous sign was a bit larger.

Mr. Mikami noted that relative to the current "OfficeMax" sign, the size of the proposed sign doesn't seem out of order.

Mr. Eng did not have any questions.

Mr. Reynolds asked what is the size of the current "Michaels" sign at the current location. Mr. Pretorius said they are 4 FT letters with a 24" (height) tag line but explained that this is the old logo.

Mr. Reynolds commented about the distance this retail location sits from the street and therefore doesn't have a problem with it.

Mr. Harnais did not have any problem with the sign request and called for a favorable Motion.

Mr. Eng made a Motion for a favorable recommendation; seconded by Ms. McDonald

Vote: 5:0:0 Favorable Recommendation

Vice Chair, Joe Reynolds recused himself at 8:00 pm from participation in the matter of ZBA (13-19), and he left the room.

ZBA (13-19)

90 Newton Ave / Michael Reynolds, Trustee

Carl Johnson represented Michael Reynolds, Trustee and Audrey M Kustka, owner. Mr. Carl Johnson explained the history of the subject property, noting the size of the two lots involved. He also presented and referenced the lots in aerial photos. He explained

that the owner of each parcel, despite the grade problems, have consistently paid taxes to the Town. In 1953, when the 1948 bylaw was in effect, the dwelling house was expanded. At that time, it exceeded the 7,500 SF area requirement and 75 FT in width requirement.

Plot 42 is an undeveloped lot containing 5,500 SF; it is 50 FT wide and the land value is assessed at \$123,800. It has never supported any improvement associated with the dwelling lot (Plot 43).

Plot 43 is the dwelling lot containing 11,000 SF; it is 100 FT wide and the land value is assessed at \$132,700. Currently, together, the lots exceed an assessed land value amount of \$260,000.

Plot 42 has a severe topical grade slope making it undevelopable. This presents the Applicant with a financial hardship because it is too costly to remedy the grade changes, the contours and the conditions to make it functionally usable. It is an inequitable tax burden.

One thing that could be done is to construct a dwelling on the lot. He presented a photo of a Greek Revival style house and points out that the grading enables it to fit. This would minimize interruption in the grading that would have to take place.

Mr. Johnson referenced the comments in the Staff Report that the house will not be disruptive and it is compatible with the neighborhood.

The proposed variance relief for Plot 42 is for minimum lot size and lot width. Plot 43 relief is needed for minimum lot size only. This Plot has been assessed by the Town as a buildable lot and taxes have been paid as such. Proposed re-division utilizes established lot lines consistent with the lots in the neighborhood. Relief could be granted without detriment to the public good.

Mr. Johnson referred to the Staff Report that stated that the Applicant has demonstrated a valid hardship associated with the topographical conditions of the lot. He further asked for the opportunity to construct another house that will not be detrimental, it will be compatible with the development of other modest homes in the neighborhood and he asked that the Board support the relief before the Zoning Board of Appeals.

The Chairman asked if the Board had any questions.

Ms. McDonald commented on Mr. Johnson's thorough presentation and had no questions.

Mr. Mikami asked if this is granted and a house was built such as the example presented, would there be filling that necessitates a grading permit.

Mr. Johnson said that he believed a wing or retaining wall will be necessary. He doesn't believe it will require a grading permit and that the trees can remain. There may be some tree removal in front but this is not a lot that has to be stripped in order to build the house on it.

Mr. Mikami next asked if a house may have been built on this lot in previous history. Mr. Johnson said absolutely.

Mr. Eng said he has concerns about the grade drop of more than 10 ft. He acknowledged the taxes being paid for an unusable property. However, he said thought if the house was built without filling, it may not sell and didn't want to see the project fail.

Mr. Johnson explained that there will have to be some re-grading and thought a retaining wall on one side may be required.

Mr. Eng said a wing wall on both sides would be necessary; the cost of the retaining wall(s) will conflict with the cost of the house and he had concerns about the grading. He had no further questions.

There were no further questions; Mr. Harnais called for a Motion to approve.

Ms. McDonald made a Motion for a favorable recommendation; seconded by Mr. Mikami.

Vote: 4:0:0 Favorable Recommendation

Mr. Reynolds returned to the meeting at 8:28 P.M.

ZBA (13-24)
31 Gale Avenue / Susan Smith

Susan Smith, property owner, addressed the Board stating she is seeking approval to put an addition on the back of her house. The addition is 44.5 FT x 8FT and 12FT in a small section. She explained she is proposing to add to the backside portion of her dwelling for the purpose of handicap access for her elderly parents. At present, her 86 and 90 year old parents are still mobile but she wanted to have accommodations ready if they come to live with her in the future.

She explained that where the house was built on the lot and numerous other issues prevent her from locating the addition anywhere but off the back of the house.

Locating the addition at the back side does not impair the public view of the Town dam and it interfaces best with the house in the back. She shared a photo of the grade difference of about 4 FT.

Ms. Smith said the current interior space is too small for handicap accessibility. The kitchen is 9 x 11 with 4 doorways. She would like to add a bedroom with a bathroom for her parents

She explained that there is an existing back porch that is 8FT wide. She explained further that her intent was to extend the addition out that 8FT.

Ms. McDonald asked Ms. Smith if she considered building something less intrusive.

Ms. Smith said that when she met with Ms. SantucciRozzi who suggested that Ms. Smith stay within the 8 FT depth of the porch that already exists. She said she worked hard to do that, and the plan depicts a small area of less than 60 SQ. FT. outside the 8FT depth of the porch.

Mr. Harnais explained to Ms. Smith that her plan as submitted now required her to go before the Braintree Conservation Commission then back before the Planning Board for a Special Permit. He confirmed that she understood that.

Mr. Mikami asked Ms. Smith why she did not plan on the North side of the property. Ms. Smith said there is only 20 FT between that side and the neighbor's property and that it would impact the vegetation. Additionally, locating it on that side locates it the furthest away from the access – it would necessitate an entirely new kitchen instead of expanding the existing kitchen, therefore costing much more. It just doesn't work on that side.

Mr. Mikami listened and then explained that those are not valid hardships.

Mr. Harnais confirmed with Ms. Smith that she understood the additional engineering expenses she is proposing.

Mr. Eng asked what the hardship was to locate the addition on the northerly side.

Ms. Smith reiterated her reasons, accessibility for her elderly parents, the additional expense and the vegetation.

Mr. Reynolds also inquired about the hardship. He said he is sympathetic to the needs of elderly parents and preservation of the area but the zoning violations present a difficult argument. He expressed that this is not a hardship and it requires a different solution.

Mr. Harnais questioned the location of the addition.

Ms. Smith said the opposite side is not workable.

Mr. Harnais called for a Motion.

Mr. Reynolds Motioned to not recommend approval based on the totality of the facts and the way the plan has been presented, seconded by Mr. Mikami.

Vote: 5:0:0 Unfavorable Recommendation

ZBA (13-27)
96 Conrad Street / Gabriel Spadorcia

Kathy Burns, the Applicant's daughter, spoke for Erma and Gabriel Spadorcia. Ms. Burns explained that her father is losing his eyesight and her mother is in cancer remission. The house is now too big and difficult for her parents especially since the bedrooms are located on the second floor. It is however, too small if she and her family move in to take care of her parents. They are proposing an addition located off the back of the garage. This is the only location they could figure for the addition to make it easy for her parents.

The proposed first floor addition is 780 SF. There is 22 FT from the retaining wall to the new addition, 30FT is required. The right side of the retaining wall is 4 FT. There is no other place to locate the addition.

Ms. McDonald asked if there are any concerns among the neighbors. Ms. Burns said the neighbors are happy that her parents are not leaving the neighborhood. Ms. McDonald had no further questions.

Mr. Mikami questioned the size of the addition saying it was nearly doubling the existing size. He asked if the addition needed to be so large; perhaps they could resize to a smaller plan, he said he did not see a hardship.

Ms. Spadorcia explained there is no other configuration that would work for all the issues of her elderly parents. The hardship is that her parents want to stay in their home and they need the help of their family living with them.

Mr. Mikami stated the plan makes a non-conforming lot more nonconforming. He also stated that he understands the situation.

Mr. Eng had no questions.

Mr. Reynolds asked Ms. Spadorcia if the minimum rear yard setback variance can be adjusted by 2 FT if possible. He explained that resizing it to 5 FT would bring it to 19 FT deep off the garage instead of the proposed 21.

Mr. Harnais said he saw it as a 7 FT variance and acknowledged the need to care for her parents

Mr. Harnais called for a Motion.

Ms. McDonald made a Motion for favorable recommendation with a 5 FT variance; seconded by Mr. Reynolds.

Vote: 5:0:0 Favorable Recommendation

13-01 (Continued Public Hearing)
35 Rocsam Park Road / Franmar Properties of New England, LLC
Special Permit (135-609) and Site Plan Review

The Applicant has requested this matter be continued without testimony.

Chair Harnais called for a Motion to Continue the Public Hearing to August 13th at 7:45 PM.

Mr. Eng made a Motion to Continue; seconded by Mr. Reynolds.

Vote: 5:0:0

ZBA (13-21)
46 Elliott Street / Mark Vakhovsky

Mr. Vakhovsky, property owner, explained that he wanted to subdivide his lot that consists of over 22,000 SF. He explained that it is difficult to take care of and would like to subdivide the property into two lots of 12,000 SF and over 10,000 SF. He would like to develop the 10,000 SF parcel by constructing a house and selling it which would also reduce the cost of his property taxes. The 10,000 SF lot will be similar in size to the neighborhood lots.

Ms. McDonald had no questions.

Mr. Mikami explained that currently, the Applicant is utilizing both properties on which there is a swimming pool. Ms. SantucciRozzi clarified that the property is as one, including yard amenities and the division will be viewed as a detriment.

Mr. Mikami suggested that if divided, the house size permitted would be very tight and small area.

Mr. Harnais clarified for Mr. Vakhovsky, that he is using (both lots) which is unlike a vacant or wooded lot.

Mr. Eng asked what the hardship is.

Mr. Vakhovsky explained they are paying taxes on the land and it is not usable because of the elevation and grading. Additionally, the pool encompasses some of the proposed lot. Because of the irregular grading that exists, it is difficult to care for. Mr. Vakhovsky suggests that the lot is buildable with regrading.

Mr. Eng clarified with the Applicant that the proposed lot is it buildable. The Applicant answered yes. It would be a different elevation. Mr. Eng clarified also that the Applicant is saying the property is a financial hardship.

Ms. SantucciRozzi explained that the existing house is a two family, in a Residential B zone; the use is non-conforming.

Mr. Reynolds said that this changes the facts and asked if this precludes the Planning Board taking action.

Ms. SantucciRozzi suggests the property contains a non-conforming use, which is being altered.

Reynolds explained to the Applicant that, as it currently exists, his house is a non-conforming structure. Understandably, it was built before the by-law.

Mr. Harnais explained to the Applicant that this has to be addressed, Ms. SantucciRozzi suggested letting the Zoning Board decide the outcome.

Mr. Reynolds said that since this will not change the Planning Board's ability to vote, he asked the Applicant if a driveway will be possible on the proposed divided parcel, considering the topography. Mr. Vakhovsky said yes, with a level entrance off the street.

Mr. Reynolds asked Mr. Vakhovsky the size of current house, if he knew the footprint. Applicant was not sure of the actual dimensions. Mr. Reynolds asked what size house the Applicant was proposing for the new lot.

The Applicant said he has not planned that yet but was aware that only a small house would be possible on the intended lot.

Mr. Hamais had no questions and called for a motion

Mr. Reynolds made a recommendation for favorable approval. Mr. Eng asked if the proposal includes the removal of the deck and pool, once confirmed, he seconded the Motion for favorable approval.

Vote: 4:1:0 Favorable Recommendation (Mr. Mikami voted against)

ZBA (13-22)
85 Cotton Avenue / David Litif

Mr. Litif addressed the Board and explained that he is asking for a variance on an existing condition. A clearance on one side of the house is not 10 FT. He is not going over, he wants to square off the footprint and go up. He is planning on expanding for bedroom space for his two children and elderly mother.

Mr. Mikami asked if this is just a fill-in. Mr. Litif explained he is only squaring off to go up – it will make it look better

Mr. Eng confirmed that he is going up not out. Applicant: yes, just squaring off.
Mr. Eng questioned ledge on the property in the rear of the house.

Mr. Reynolds also commented that what the applicant is proposing fits into the neighborhood, it is not detrimental.

Mr. Eng Motioned for a favorable recommendation; seconded by Mr. Reynolds.

Vote: 5:0:0 Favorable Recommendation

ZBA (13-20)
34 Baker Avenue / Kevin Jameson

Ms. Santucci explained to the Board that the Applicant is on vacation. She further said that the Applicant is basically converting a sunroom, bumping it out for a 3-season porch and putting a deck on the back. He will be maintaining an existing non-conforming side-yard setback of 8FT; the sunroom is 8.9FT and the proposed deck will be 9.6FT.

The Chair called for a Motion.

Mr. Reynolds made a Motion for favorable recommendation; seconded by Mr. Mikami.

Vote: 5:0:0 Favorable Recommendation

05-15

Minor Modification (Landscaping Plan) / 550 Liberty Street / Lenox Farms L.P

Ms. SantucciRozzi explained they have lost about 75 plants. They would like to replace 70 of them and omit the remaining 5 plantings. The omitted plants are in areas that impede necessity such as a meter that needs access, a snow storage area, etc. She said Staff recommends that this be adopted as their new plan.

Mr. Harnais called for a motion on the minor modification.

Mr. Eng Motioned to accept the modification; seconded Reynolds.

Vote: 5:0:0 Accepted

Approval Not Required Plan / Longwood Road and 134 Blanchard Boulevard / Zukauskas and Bertone

Mr. Mario Bertone addressed the Board explaining he is the owner of property on Longwood Road and Blanchard Boulevard. He is proposing to combine two lots. On Blanchard Boulevard he proposes to construct a 50.29FT entrance to Lot #18 and #34.

There were no questions from the Board Members.

Ms. SantucciRozzi explained that there are a couple of changes to be made to the Mylar and suggested if the Board is comfortable, they may vote to allow the clerk to endorse when she receives the Mylar.

Mr. Harnais asked the Applicant if he spoke with the Planning Department regarding the 3 changes on the plan. The Applicant said yes.

Mr. Eng Motioned to endorse the plan and the final Mylar be submitted with the 3 revisions as outlined in the staff report; seconded by Mr. Reynolds.

Vote: 5:0:0 Approved

10-03

Request for As-Built Approval / Elmlawn Road Extension (Definitive Subdivision) / Elmlawn, LLC

Ms. SantucciRozzi updated the Board that she completed a Staff Report last week. Since then, she received the Drainage Certification from the engineer, received 2 disk copies of the As-Built and a \$4,000 Cash Bond from the Mentos. Further, there are no outstanding items; all items in the Staff Report have been taken care of.

Mr. Eng asked the amount of the bond. There were no further questions.

Mr. Reynolds motioned to approve the As-Built; seconded by Ms. McDonald

Vote: 5:0:0 Approved

11-06

Request for As-Built Approval / Covanta –SEMASS / 257 Ivory Street

Herb Druckman, Project Manager, Covanta-SEMASS

Ms. Stickney addressed the Board and introduced Mr. Druckman. He updated the Board on where they are on the project. He has requested As-Built approval but there are a couple of outstanding issues.

Mr. Druckman explained that there was a landscaping issue. What was planted didn't take; however, he is working with the landscaper who will replant in the fall.

There was also an issue with 2 granite curbs. The curbs got missed in the contract, they will now be completed.

Ms. Stickney said there remains an issue of a rain garden with the conservation Commission and they have not issued a Certificate of Compliance yet.

Mr. Harnais impressed on Mr. Druckman that it has to get done. Once Covanta gets it done, we all move forward.

Ms. Stickney said the Plans have been submitted and the work for the granite on the curbing on the radius but it's not ready for an As-Built Certificate. There are performance guarantees for the granite and the As-Built.

Mr. Druckman said it is their intention to get it done. Mr. Harnais acknowledged Mr. Druckmans' intent.

The discussion ended.

13-02 (Public Hearing)

Quincy Ave., Patten Ave., Lancaster Rd., Columbia Ter., Cliff Rd. / Daniel J. Quirk

Grading Permit

Frank Marinelli, represented the Applicant

Mr. Harnais recused himself and Ms. McDonald missed testimony last month, both left the room.

Mr. Reynolds read the Public Notice.

Mr. Reynolds chaired and first called for a Motion to accept the correspondence. Mr. Eng made a Motion to accept the correspondence; seconded by Mr. Mikami.

Vote: 3:0:0

Mr. Marinelli addressed the Board and noted changes 29 – 31 of the Staff Report. Ms. SantucciRozzi said that the Board has an updated plan addressing #29 and #30 but not 31. He verbally reviewed the grading project in brief and described the proposed alterations of approximately 42,000 CY; involving 14,240 CY of fill amounting to a net cut of 27,773 CY, all of which is contained in the Grading Permit Report prepared by Jim Burke, of Decelle and Burke and on the submitted Plans.

Mr. Marinelli said he discussed some minor changes to the 11 Page Draft Conditions he received from Ms. SantucciRozzi. Ms. SantucciRozzi said that the Board has a copy of Condition #29 and #30, but not #31.

Mr. Reynolds asked if any abutters had any questions.

Mr. Phillip Smith and his wife, Lucia Qualey a/k/a Ms. Smith, abutting residents at 11 Patten Avenue, presented a letter that they addressed to the Planning Board.

Ms. Smith explained they love their home and they are concerned about the future use of the Quirk property and the impact it may cause to their property. Some of their concerns are runoff and erosion. Currently there are no water issues but they have concerns that that may change. She said they are concerned about the fill that will be brought in and said that there has been fill brought in prior to the recent proposal as well in March, April and May of 2012. At that time, they also endured hammering that they were never notified about.

Mr. Smith said that for the past few months fill has been brought onto the site and it appears to be building rubble (brick, concrete and some metal) and they are concerned about the future impact of this fill. Additionally, they are concerned about glass damage to their house that the hammering or blasting will cause, how is this documented and who is financially responsible if damage occurs.

Ms. Smith said further that the fill that was dumped in 2012 was brought in very late at night. This and the extensive hammering was disruptive. They would like to be informed of the intended hours of dumping and hammering and to know it will be within reasonable hours.

Ms. Smith said that in 2012 there were gas leaks on the property as a result of the drilling. National Grid responded but they didn't fix the problem, they just drilled to release the gases.

Regarding the future use of the property, as residents, she said they are concerned about excessive lighting. She said the current Quirk dealership located on Quincy Ave, is lit up like daylight at midnight, they do not welcome this kind of lighting.

Mr. Smith asked about the removal of trees.

Mr. Reynolds made a Motion to accept the letter from Phillip Smith and Lucia Qualey; seconded by Mr. Eng.

Vote: 3:0:0

Ms. SantucciRozzi clarified the conditions that address the Smith's concerns. She verbally reviewed the Conditions that resolve: Item 18 of their letter, saying that Condition #22 addresses this.

Regarding determination of fill sources to ensure contaminants; Ms. SantucciRozzi said no fill has been brought on site as part of this project; they will utilize an LSP (Licensed Site Professional) to oversee the materials that will be moved at the site.

Regarding drilling and blast damage to residents; Ms. SantucciRozzi said that drilling and blasting companies carry insurance policies and they are required to get a permit from the Fire Department. The grading permit involves 3 conditions relating to blasting; (1) obtaining a permit; (2) the pre and post blast survey; and (3) written and phone notice about the blasting.

Regarding the gas pipes, she further explained that a grading permit was not required previously; therefore, there are no conditions that regulated that. If there is damage caused by this project, there is insurance coverage by the company that is performing the work.

Regarding excessive light and traffic; Ms. SantucciRozzi said that no lighting is being proposed with this project. After the grading, if they are proposing lighting for this phase of the project, they have to submit a photometric plan which indicates location, style and the type of light to be installed on site.

Ms. Smith questioned Ms. SantucciRozzi about the lights they are permitted during the grading process. Ms. SantucciRozzi explained that no lighting is proposed during the physical grading. Ms. Smith asked what their recourse is if they have issues during the project process.

Ms. SantucciRozzi said they can either contact her in the Planning Department or approach the site coordinator that will be located either in the remaining building on the site or the construction trailer that will be there.

Ms. Smith reiterated that contacting the Planning Department was their avenue of resolution if issues arise.

Mr. Reynolds assured them that residents are first in interest. Abutters and residents have the ability to address issues with the Staff.

Mr. Marinelli addressed the Board and the Smiths, stating the particulars of this commercial property. It is highway business zoned property and Mr. Quirk has moved forward responsibly. He further addressed the Smith's concerns as stated in their letter of July 9, 2012. He assured them that any proposed "use by right" project over 500 SF has to come back to the Planning Board. This permit is about making the property "site ready" only. He summarized the consideration of their issues in the draft Conditions as follows:

Regarding runoff and erosion; he said it is covered in Conditions 18 – 23 of the proposed draft Conditions;
Issues concerning fill is covered in Condition 34;
Damages and subsequent compensation is covered in Condition 40 -42; and
Lighting is addressed in Condition 43.

Mr. Marinelli further said that the property is licensed for the parking of Class I motor vehicles. If there is an interim use for the property following the grading project, the Applicant acknowledges having to submit a photometric plan.

Mr. Reynolds stated that the way the draft Conditions are written, address the town, the residents and the abutters concerns and he feels confident that the Applicant will conduct the project responsibly. He then asked if the Board had any questions.

Mr. Mikami noted the Smiths' questions and suggested they address any additional questions to Mr. Marinelli. Mr. Smith asked about the truck loads of fill that was brought in recent months previous to this application. He asked if this fill was exempt from requiring a permit.

Ms. SantucciRozzi said she was not aware of the quantity that was brought in but that the thresholds are fairly high. The Applicant can alter the grades up to two feet and 150 CY without a permit. She said any filling going forward is under this permit and these Conditions.

Regarding the concrete material brought in, she said that often, concrete is used as a sub-base material; they grind it up in a crusher. There will be a crusher on site for this project.

Mr. Smith asked about the trees and viewed the plan that was submitted.

Ms. Smith asked about the hours of operation. Ms. SantucciRozzi said that the information is regulated by the town bylaws but generally, hours of operation are Monday – Saturday, from 7:00 am to 8:00 pm.

Mr. Mikami acknowledged the residents' concerns. He confirmed with Mr. Marinelli that these will be the hours of operation and that they will be complied with. Mr. Marinelli stated that notice will be given to his client.

Mr. Mikami opened the question of truck traffic route entry and exits. Ms. SantucciRozzi explained the truck route plan that was submitted. Construction trucks removing material from the site will exit onto Hill Avenue, they will travel down Hill Avenue, intersect with Quincy Avenue and then down Quincy Avenue. The estimated truck trips are part of the file and available for public review.

Mr. Mikami asked Mr. Marinelli about the blasting. Mr. Marinelli said that, as discussed with Mr. Smith, the blasting is better than the hammering.

Mr. Eng asked Mr. Marinelli if a blasting schedule will be provided to the neighbors.

Mr. Marinelli said that he cannot promise this, he can only provide the contact number for the person who will be in charge of the job.

Mr. Eng suggested that he direct his client to give advance notice.

Mr. Eng also reminded Mr. Marinelli that the streets should be kept free of construction dust and debris, respectfully of the residents. Mr. Marinelli said that all work will be done in a responsible manner and the Staff will be monitoring the progress. The Project Staff will be available to the neighbors.

Mr. Smith commented that per Provision number 24, a water truck is required to be available at all times to keep the dust down. He also asked when the project will begin. Mr. Reynolds said they can begin 20 days following the registered vote.

Ms. SantucciRozzi said that they will begin in August and the Board gave the Applicant till September of 2014 for completion.

Mr. Reynolds has no further questions, and is confident that Mr. & Ms. Smith's concerns have been addressed, he trusts the project will be very cooperative. He stated that the draft Conditions are complete, unless there are any objections, he called for a Motion to close the hearing.

Mr. Eng Motioned to close the public hearing; seconded by Mr. Mikami

Vote: 3:0:0

Mr. Eng Motioned to accept the Conditions and they be issued to the Applicant; seconded by Mr. Mikami.

Vote: 3:0:0

Chairman Harnais and Ms. McDonald returned to the meeting.

Notification to Registry of Deeds and Land Court of Planning Board Membership

Formal signature of Planning Board Members obtained for submission to Norfolk County Registry of Deeds and Land Court.

Mr. Harnais called for a Motion to adjourn the meeting.

Mr. Reynolds Motioned to adjourn; seconded by Mr. Eng.

Vote: 5:0:0

The meeting adjourned at 10:35 P.M.

Respectfully Submitted by,
Elizabeth Schaffer