



Department of Planning and Community Development

Melissa M. SantucciRozzi, Principal Planner
1 JFK Memorial Drive – Braintree, Massachusetts 02184
Phone: 781-794-8234 Fax: 781-794-8089

Joseph C. Sullivan
Mayor

PLANNING BOARD

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

Braintree Planning Board
February 23, 2015
Cahill Auditorium

APPROVED

Present:

Robert Harnais, Chairman
Mr. Joseph Reynolds, Vice Chair
Mr. Darryl Mikami
Mr. James Eng

Christine Stickney, Director
Melissa SantucciRozzi, Principal Planner

Chair called roll at 7:10 p.m.

Zoning Board of Appeal Petitions – February, 2015

ZBA (15-3) 7:11 p.m.

80 Independence Avenue / Signature Signs

Jackie Tierney, Signature Signs, 36 Finnell Dr., Weymouth
Dennis Duggan, President of Archbishop Williams High School

Ms. Tierney explained that the Application is for one single-sided, full-color ground sign located at the corner of Washington Street and Independence Avenue. There are two other signs, one at the Main entrance and one at the Administrative Building which are not illuminated.

Ms. SantucciRozzi commented that the proposed LED sign looks good and clarified the 10FT setback requirement from the front property line. She further clarified that there are 3 total ground signs.

Mr. Mikami asked what will appear on the LED sign when there are no events. Mr. Duggan explained that the school logo will appear. Mr. Mikami then asked Staff if the proposed full color will set a precedent, considering our bylaws or upcoming bylaw changes. Ms. SantucciRozzi noted the recent gas station red lit signs but said the proposed sign is much more pleasing than the current sign on site.

Mr. Eng clarified the 10 FT setback and that the current sign that is on wheels will be removed.

Mr. Harnais did not have any questions and called for a Motion.

Mr. Eng made a Motion for Favorable Recommendation; seconded by Mr. Mikami.

Vote: 3:0:0

ZBA (15-4) 7:16 p.m.

727 Granite Street / Signature Signs

Jackie Tierney, Signature Signs, 36 Finnell Dr., Weymouth

Ms. Tierney explained she was representing the Applicant, FX Messina who proposed an aluminum sign with cutout black letters that are back-lit (white) and mounted on a stone wall. This sign would be in addition to the existing signs.

Ms. SantucciRozzi commented about the existing signage that already grossly exceeds the allowable square footage. Staff recommended removal of some of the current signs before consideration of more.

Mr. Mikami informed Ms. Tierney that there have been numerous attempts by FX Messina to increase signage and he agreed with Staff to remove some existing signage.

Mr. Eng also discussed the signage overage.

Ms. Tierney asked how much signage they would have to scale back. Staff said the allowable square footage is 150 FT; the location signage totals 750 FT.

Mr. Eng made a Motion for Unfavorable Recommendation; seconded by Mr. Mikami.

Vote: 3:0:0

ZBA (15-5) 7:26 p.m.

77 Brewster Avenue / Steven AuCoin

The Applicant did not appear for this matter.

Mr. Eng made a Motion for No Action; seconded by Mr. Mikami.

Vote: 3:0:0

Mr. Mikami Motioned for Recess; seconded by Mr. Eng.

Vote: 3:0:0

Mr. Eng did not participate in the following vote.

(Continued) Public Hearing 7:45 p.m.
400 West Street and 579-587 Granite Street / Rader Properties
Grading Permit/Special Permit(s) (File 14-09)

Attorney Gary Markoff, Sherin & Lodgen, Boston, MA
James Rader, Rader Properties, Norwell, MA
Zac Bazinski, Bracken Engineering, Buzzards Bay, MA

Mr. Markoff updated the Board on the abutter property damage progress. He said that since the last meeting, some essential elements concerning the abutters have been agreed to with Brian Noble, 376 West Street, and his neighbor, Thao Nguyen, 388 West Street, involving a retaining wall, a fence and landscape screening.

Mr. Noble addressed the Board to explain the impact to his property and reported that the Applicants efforts to remedy his property damage were minimal at best. He said at one point, the Applicant even suggested he spend his own money to correct the damage he caused.

Mr. Noble explained his numerous attempts to involve the Building Department and make them aware of the construction damage. He asked if they would issue a Cease and Desist Order until the issues were resolved and later requested the Building Department withhold the Certificate of Occupancy until the issues were resolved. He said each time the Building Department recited the procedures and timeline of the appeals process.

Mr. Noble urged the Planning Board to properly Condition any grading permits and future special permits.

Carl Johnson, attorney for Mr. Noble, provided an Aerial on which he noted the changes and damage that was done to Mr. Noble's property. Mr. Johnson discussed the Grading Permit relating to the preconstruction elements, including the retaining wall, adequate landscaping and the restoration of a fence.

Another abutter, Thao Nguyen, 388 West Street addressed his opposition to the Board. He explained his property damage to be a fence; tree removal, the removal of a wall and the intrusion of his privacy with lighting and cameras. He said the changes devalue his property and as of this date, there is only a verbal agreement for restoration.

Charles Korkoros, District 1 Councilor addressed the Board and said he visited the site at the request of Mr. Noble. He expressed how severely damaged the property was and suspected the Towns' property was also damaged. He said he was not assured that there is a definite agreement between the Applicant and the damaged abutters. He urged the Board to hold the Applicant responsible with definitive plans. He said he opposed any Grading Permit that did not satisfy every abutter that has been affected.

Mr. Rader addressed the Board, he explained preconstruction conditions. He said the fence had to be removed because of overhanging branches. He said he was not aware that the contractor aggressively excavated abutting property. On an Aerial, he indicated the encroaching branches and he said they needed to be removed to resolve a roof drainage problem. Mr. Rader said further that he believed their restoration plan will resolve the damage.

Mr. Johnson spoke again, he submitted more photos that detailed the construction damage and he urged a careful review of the plans.

Ms. SantucciRozzi commented about her involvement in the meetings between some abutters and the Applicant. She said she did not agree with the location of the proposed playground drainage that was submitted and she requested an alternate plan be submitted that does not further impact abutters.

Mr. Mikami commented about the previous review of the project and the many issues that complicate it. He asked Mr. Markoff what happened to the previous ZBA variance request; he wanted to know why his client withdrew.

Mr. Markoff said the Applicant withdrew the Application for a Variance because he did not feel it was needed and Town Council agreed. He said the issue was solved with an Easement, a copy of which was submitted to the Building Department and Town Council.

Mr. Mikami asked if there are any outstanding zoning issues remaining on this project. Mr. Markoff referred to the Grading Permit and again noted the Easement which he explained took care of any zoning issues.

Mr. Mikami informed Mr. Markoff that the Grading Permit was not a zoning issue. He asked why all the prior work was done without permission. Mr. Rader said the Building Inspector saw the Plan and issued a Building Permit to construct a playground.

Mr. Mikami confirmed Mr. Raders' experience with projects, Town Bylaws and that he has an attorney for legal counsel. He reminded Mr. Rader that the Planning Department issues the Grading Permit, not the Building Department.

Mr. Markoff said that the grades were shown to the Building Department; the Building Inspector did not require him to get a Grading Permit and he suggested the Planning Board ask the Building Inspector about it.

Mr. Mikami responded by saying the Applicant is responsible to follow the Bylaws. Further, he asked Mr. Markoff why the Planning Board should approve a Grading Permit since the work has already completed. Mr. Markoff said they haven't done the grading – Mr. Mikami disagreed, he said the entire playground is graded. Mr. Mikami pointed to all the work done without a permit in addition to the damage to abutting properties, including Town property.

Mr. Mikami said he wanted the Applicant to submit a complete damage report, he requested that all deficiencies be repaired and landscaping in place before he would agree to a Grading Permit.

Mr. Rader said he did not know how he will get the detention basin to another part of the property. He said it catches the playground runoff and it would have to be pumped to the fence area. Mr. Mikami said the Applicant will have to figure it out.

Mr. Reynolds did not repeat Mr. Mikami's comments but added that he believed the unresolved issues should move forward. He said the focus should be on drainage, property bounds, encroachment, landscaping and lighting.

Mr. Harnais pointed out the reckless way this Applicant went about this project resulting in abutting property damage. He urged the Applicant to work with the Planning Department going forward and called for a Motion to Continue.

Mr. Reynolds made a Motion to continue to April 14, 2015 at 7:45 pm; seconded by Mr. Mikami
Vote: 3:0:0

(Continued) Public Hearing 8:35 p.m.
911 Washington Street – Black and Gold Hospitality, Mark Miner
Use Special Permit and Site Plan Review (File 14-12)

Mark Miner, Black and Gold Hospitality, 69 Gulliver Street, Milton
James Gallagher, Attorney for the Applicant
Steve Richmond, owner of the property

Mr. Gallagher explained that in addition to approving the 3 spaces in the ally, the Zoning Board approved a variance as to the number of spots required so they do not have to seek any additional parking.

Mr. Richmond addressed the snow removal of the 3 parking spaces in the rear of the building. Mr. Miner explained that he is seeking parking from Braintree Cooperative Bank and working with Jay Nuss, a realtor in the area; pending the outcome of his Application for Special Permit and Site Plan Review.

Mr. Reynolds asked for studies or data that indicate foot traffic. Mr. Miner did not have data but estimated 30% of the business to be delivery and the remainder will be from the area.

Mr. Harnais thought the project is a good opportunity and did not have further questions.

Mr. Reynolds made a Motion to Accept the Correspondence dated to November 25, 2014 through February 23, 2015; seconded by Mr. Eng.

Vote: 4:0:0

Mr. Mikami made a Motion to Close the Hearing; seconded by Mr. Reynolds; seconded by Mr. Mikami.

Vote: 4:0:0

Mr. Reynolds made a Motion to Approve the Draft Conditions; seconded by Mr. Mikami
Vote: 4:0:0

Melissa McDonald arrived at 8:45 p.m. to participate in the following matter only.

(Continued) Public Hearing 8:45 p.m.
7, 7 Rear and 11 Independence Avenue – Thomas Fitzgerald
Use Special Permit and Site Plan Review (14-06)

John Garland, Attorney for the Applicant, Quincy
Thomas Fitzgerald, Applicant
Erin Joyce, P.E., Joyce Consulting Group, Braintree
Anthony Andronico, LSP, Quincy
Bob Connolly, Karma Environmental Services, Norwood
Choo, Choo Architects, Quincy

Mr. Garland updated the Board on the Tax arrears. The Applicant has paid the vast majority of the taxes. There is an agreed deadline of March 31, 2015 to complete the tax arrears; a final payment of \$48,000 will complete the payment of the back taxes that predated the Applicants ownership.

Mr. Andronico addressed the Board he summarized the contamination project and detailed their efforts to date. He reported that three monitoring wells placed in January, 2015 were clean indicating any contamination has not migrated beyond the property boundaries. He said they have removed over 300 tons of contaminated soil and plan on another estimated 1,000 tons - additional wells will be placed per DEP requirements after which a Risk Assessment and Feasibility study will be done.

Mr. Garland reported that Mr. Fitzgerald submitted a plan for a rooftop landscape screen between the building and Oak Grove Terrace.

Mr. Harnais called for public questions – there were none.

Ms. McDonald did not have any questions.

Mr. Mikami stated that the Special Permit should not be allowed until the taxes are paid. Ms. SantucciRozzi explained the inclusion of a standard condition that states that no construction will commence until the taxes are paid. He then asked about the timeframe for the cleanup.

Mr. Andronico said there are numerous chemicals in the soil that exceed the DEP standard. When weather permits, the soil that will be removed will be replaced with clean soil and tested again. He estimated a monitoring period of about 2 years for the site. The monitoring should not delay construction.

To prevent any possible exposure into the building, a subsurface vapor system will be installed that acts as an interceptor will be constructed as a precautionary measure. He assured Mr. Eng that the public will be protected with this plan.

Mr. Eng asked about the oversight process and any prevention measures. Mr. Andronico explained that the DEP may or may not audit his reports.

Mr. Eng then asked Mr. Garland about the removal of the Penthouse – Mr. Garland said the Applicant is seriously considering removing it.

Mr. Reynolds asked Mr. Andronico for an explanation of “in-situ” treatment. He explained that it is an injection of treatment chemicals, such as Peroxide or oxidizing agents to breakdown the hydrocarbons in the petroleum to target contamination in the subsurface soil.

Mr. Reynolds asked Staff if these types of contingencies are included in the Conditions. They were not but Ms. SantucciRozzi said she will incorporate some Conditions from notes taken at this meeting.

Mr. Reynolds asked Staff about a few items. Ms. SantucciRozzi explained the access and egress to the site - she said a walkway on the north side of the building was incorporated.

She said Mr. Fitzgerald provided a title report that indicated he owned the land within the layout and will be required to incorporate all the land area in Braintree into one development parcel. She also informed the Board that the building footprint had been slightly reduced.

Regarding parking, she said the garage will be controlled access and the spaces will be assigned.

Ms. SantucciRozzi said the roof landscaping plan has not been resolved. Mr. Reynolds had no further questions.

Mr. Harnais commended the Applicant for taking on such a difficult project plagued with tax liens and hazardous issues but Mr. Harnais noted the Boards’ problem with the penthouse.

Mr. Garland conferred with the Applicant – he said the Applicant is willing to remove the Penthouse to satisfy the Board and neighbor concerns.

Mr. Mikami asked Mr. Fitzgerald if he is confident on financing; Mr. Fitzgerald said yes, there are plans in process and assured the Board he is fully committed.

Brian Black of 26 Holmes St., Braintree, asked about the portion of the property that is in Quincy. Mr. Harnais assured Mr. Black that Quincy will likely make sure that whoever owns that parcel, that it will be maintained. Mr. Black thanked the Board and the Applicant for listening to the neighbors throughout the past couple of years and appreciated being included.

Mr. Reynolds made a Motion to enter the correspondence dated June 23, 2014 through February 23, 2015; seconded by Ms. McDonald
Vote: 5:0:0

Mr. Reynolds made a Motion to Close the Public Hearing; seconded by Ms. McDonald

Vote: 5:0:0

Mr. Reynolds made a Motion to Approve the Application with Conditions as stated, addressing the contingencies based on summary, report and reflect the removal of the penthouse; seconded by Ms. McDonald.

Vote: 5:0:0

(Continued) Section 135-904.2(B) Billboards – Mayor Sullivan 9:45 p.m.
Zoning Ordinance Text Amendment (TCO #14-066)
Peter Morin, Town Solicitor

Vice Chair Reynolds read the Public Notice.

Ms. Stickney reported to the Board that a revised Amendment to Zoning Bylaw, dated February 23, 2015, concerning billboards was provided today.

Peter Morin, Town Solicitor reported that the Proposed Zoning Amendment has been sufficiently revised to move to the Town Council. He said it offers an updated definition of billboards creating an overlay district, identifying where billboards can be located. He doubted it would be the final draft but said it is a good beginning for Town Council refinement.

Ms. Stickney asked Mr. Morin if a map of the overlay district is available. Mr. Morin did not have a map but said the area will be limited to Rte. 128, near the Wood Road area; it will contain a restriction that will prevent locating any billboard within 1,000 FT of a residence.

Ms. Stickney asked if the scope of the original Amendment has been exceeded. Mr. Morin said no, and Town Council review provides more assurance.

Mr. Mikami confirmed that this will limit billboards to within the special overlay area. He asked about the yearly permitting details. Mr. Morin said that it allows the Town to monitor the content and payment of fees. The Planning Board will be the Special Permit granting authority, the Building Inspector would enforce compliance.

Mr. Eng emphasized that he agreed with the language protecting the residential property and the character of the town.

Mr. Reynolds commented that this is a narrow opportunity to generate additional income but assure a limited to the overlay area. He clarified that “billboard zoning overlay district” and “business highway zoning district” mean the same. Mr. Reynolds suggested consistent language and mentioned his concern about people poking holes in ordinances.

Mr. Reynolds was unclear on the yearly renewal; Mr. Morin said he will work on the language. Mr. Reynolds and Ms. Stickney briefly discussed the State outdoor advertising guidelines and the Federal Beautification Act which also affects billboards.

Mr. Morin said it is the Town’s responsibility to look for alternative revenue while not repeating the mistakes of other towns - we want to make sure the results have the intended consequence.

Mr. Harnais did not have any questions and called for public comments – there were none.

Mr. Eng made a Motion to Close the Public Hearing; seconded by Mr. Reynolds
Vote: 4:0:0

Mr. Reynolds made a Motion to forward and Approve the Bylaw changes to the Town Council Order, Zoning Ordinance Text Amendment (TCO #14-066) with notations, clarifications and an overlay map; seconded by Mr. Mikami.

Vote: 4:0:0

Discussion and Action 10:10 p.m.
Peer Review Definitive Subdivision at 459 West Street

Don Delpico of 110 Oak Street, 459 West Street, LLC, addressed the Board and stated his disagreement with the time and expense of a Peer Review relative to a proposal for a Definitive Subdivision of 8 lots that was filed by Mr. Delpico. He said that his engineering work is stamped by a professional Engineer. He believed the peer review would delay the project and cost him more expense.

Mr. Harnais explained the Mr. Delpico that a Peer Review provides a report to the town from an independent authority that informs the town of the best way to handle the project. The Town has final approval.

Mr. Delpico asked if the peer review will cover all the plans – and he understood it to cost in the area of \$5,000. Mr. Harnais said he would have to put a deposit down from which expenses will be withdrawn; it may not cost the entire amount, in which case, a refund would be returned. Mr. Harnais explained it is in the Town's best interest to have an independent review regardless of the Applicant's credentials.

Mr. Delpico questioned how many peer reviews were done in the past 10 years, Ms. Stickney said there were many. Mr. Delpico said that the Almquist subdivision (located off Elm Street) was not reviewed.

Mr. Harnais agreed that it wasn't reviewed and consequently, it is a good example of why the Town now relies on Peer Review. He said there were drainage problems, boundary errors requiring new deeds; there were lawsuits from Almquist subdivision for years. Some abutters of Almquist had their property destroyed because the Town did not require a peer review. If the Town had required a peer review, this would not have happened.

Mr. Delpico thanked the Board for the discussion and explained that this process will tighten his subdivision completion schedule. Mr. Harnais said he understood his concerns.

Ms. Santucci said she will try to get the Request for Services out to a group of selected Consultants within ten (10) days. Once the responses are returned, the Planning Department will review them and the Applicant has an opportunity to check for conflicts. A Consultant is

then selected, a fee is paid by the Applicant and the Peer Review will begin. Mr. Delpico can obtain a copy of the Request at the Planning Department.

Approval of Minutes of December 15, 2014 and January 13, 2015 10:20 p.m.

Mr. Reynolds made a Motion to accept the December 15, 2014 and January 13, 2015 Minutes; seconded by Mr. Mikami.

Vote: 4:0:0

Ms. Stickney informed the Board that Mayor Sullivan has recommended Erin Joyce to become the 5th member of the Planning Board, replacing Melissa McDonald. She is expected to be ratified by the Town Council at their next meeting.

With no further business, Mr. Reynolds made a Motion to Adjourn the Planning Board Meeting; seconded by Mr. Eng.

Vote: 4:0:0

The Meeting adjourned at 10:26 p.m.

Respectfully Submitted,
Elizabeth Schaffer