



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
November 10, 2014
Cahill Auditorium

APPROVED

Present:

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

Christine Stickney, Director
Melissa SantucciRozzi, Principal Planner

Chairman Harnais called roll at 7:05 p.m.

Zoning Board of Appeal Petitions – November

ZBA (14-34) 7:06 p.m.

355 Quincy Avenue / Work 'N Gear

Robert Cuoco, Work 'N Gear, 2300 Crown Colony Drive, Quincy, MA

Mr. Cuoco addressed the Board and explained that the signage and building appearance has changed over many years. Recently, they painted the exterior of the building; they completed other interior upgrades and would like to incorporate some signage for the windows that are now covered.

Ms. McDonald asked about the existing signs. Mr. Cuoco said they have a lighted sign and a pole sign in the front. Ms. McDonald asked why they want so much signage; she noted that the square footage is more than double what is allowed by the Town.

Mr. Cuoco explained that most of the signage is white space covering imperfections on the side and front of the building. Ms. McDonald asked about the window signs. Mr. Cuoco clarified that the signage plans that were submitted to the Planning Board are 2 different color options. Ms. McDonald said it was too excessive.

Ms. SantucciRozzi commented that a current sign exceeds the linear frontage of the building. Total signage proposed is 740 SF where 94 SF would be permitted. Staff recommended denial.

Mr. Mikami agreed it was excessive, he asked if the Applicant looked at other options because there doesn't seem to be a compelling reason. Mr. Cuoco said that some customers cannot locate the business. Mr. Mikami disagreed; the building is open and visible.

Mr. Reynolds noted the two different plans that were submitted and said with either; he was concerned about setting precedence. He said the business is visible and the proposal was excessive, he suggested another plan.

Mr. Cuoco said he was advised to "shoot for the moon and they could scale back"; they could scale back from the plans submitted.

Mr. Reynolds asked Staff about more details, Ms. SantucciRozzi said the 4 signs in the front and side sign total 640 SF. He suggested the Applicant decrease the white space.

Mr. Harnais said he did not have as much objection as the other Planning Board Members because the signs were more attractive than the oil trucks and other buildings immediately around the area. He also understood the Board's point on setting precedence.

Mr. Reynolds asked Staff if there is any signage in the surrounding area that is that large. Ms. SantucciRozzi said no.

Ms. SantucciRozzi asked the Applicant about the sign material. Mr. Cuoco said they are panels made of an outdoor PVC material fastened to the building with grommets that enable them to cover the blemished building in the process. He further explained that the landlord is not going to repair the building exterior, that this is his solution to upgrade the appearance.

Mr. Reynolds commented that this is a unique situation; he said he was open to the side of the building but recommended modifying the plan for the front.

The Chair suggested the Applicant submit a more reasonable plan, to work with the Planning Department and delay going to the Zoning Board.

Mr. Reynolds made a Motion to Continue to December; seconded by Ms. McDonald.
Vote: 4:0:0

ZBA (14-35) 7:28 p.m.

233 Middle Street / Welch Healthcare & Retirement Group, Inc.

Attorney Frank Marinelli, 439 Washington Street, Braintree, represented the Applicant

Frank Marinelli addressed the Board for the Nursing Home and explained they propose to remove the oldest section of the nursing home to add a parking area and porte-cochere entry on the lower level. He said the overall project would reduce the number of beds from 189 to 138 beds.

Ms. McDonald supported the project.

Ms. SantucciRozzi had no negative comments.

Mr. Mikami commented positively on the unusual request to reduce the space. He clarified with Mr. Marinelli that the two nonconformities, the front setback of 15 FT and the existing height of 41FT will still remain.

Mr. Reynolds agreed with the Board, he said he likes the plan.

Mr. Reynolds made a Motion for Favorable Recommendation; seconded by Ms. McDonald
Vote: 4:0:0

ZBA (14-33)

639 Washington Street / Bonnie Tann

Bonnie Tann, 16 Chesterfield St., #2 Readville, MA 02136
Continued by agreement to an undetermined date.

Adoption of 2015 Planning Board Meeting Schedule

Staff addressed the board and requested to move the December 9, 2014 meeting to December 15, 2015; there was no objection, the request was accepted.

The Board adopted the January 13, 2015 meeting date and tabled the discussion of the 2015 Meeting Schedule to December 15, 2014.

7, 7 Rear and 11 Independence Avenue / Thomas Fitzgerald

Use Special Permits and Site Plan Review (File 14-06)

Staff addressed the Board and stated the Applicant requested the matter be continued to December 15, 2014 at 8:45 p.m.

Ms. McDonald made a Motion for Favorable Recommendation; seconded by Mr. Reynolds
Vote: 4:0:0

ZBA (14-30) 7:45 p.m.

400 West Street and 579-587 Granite Street / 400 West Street, LLC c/o Rader Properties

Gary Markoff, Attorney for the Applicant, (400 West Street, LLC);
Sherin & Lodgen, 101 Federal Street, Boston, MA

Donald Bracken, Jr., P.E., Bracken Engineering, Inc., 49 Herring Pond Road, Buzzards Bay, MA

Mr. Markoff addressed the Board and explained that Mr. Rader was not present, he was ill. Responding to the Staff Report, he said that Mr. Rader is fully aware of the abutter issues. He said he spoke with Mr. Johnson who represented an abutter, Brian Noble and reported that the parties will be sitting down in the near future.

Mr. Bracken addressed the Board concerning the Lot Size Variance. He explained that the variance is needed for a playground which was constructed on a residential property on West Street. It was learned after construction that the playground is required to be on the same property as the primary use (school/daycare). They are seeking a Lot Size Variance to create a

parcel of land for the single family house to remain. The playground will be added to the primary use parcel; the playground will be located on the same lot as the primary use.

Ms. SantucciRozzi stated that the Planning Board does not make any determination on primary or accessory use of lots. She said she prepared a Staff Report only addressing the issue of a hardship. She stated she did not find a hardship relating to shape, soil or topography that would support creating a single family dwelling lot smaller than what is there now; she emphasized the Lot Size Variance is for the single family home, not the daycare.

Ms. McDonald had no questions.

Mr. Mikami asked Mr. Markoff for his comments on the Staff Report.

Mr. Markoff said the result of rejiggering of the boundary line will make 400 West Street more non-conforming which prompted the Lot Size Variance Request. The use of the Granite Street land is exempt and we have a license from the owner of the property at 400 West Street to use the playground that straddles the boundary line. He said the Building Inspector insisted on putting the playground on the same lot as the exempt use. He said the Applicant agreed to do this because that was the condition of occupancy. Further, he said that 400 West Street will be made more non-conforming because of the subdivision and needs a Lot Size Variance. He said the exempt use and the conditions of occupancy make this a hardship.

Mr. Mikami asked Mr. Markoff if the Applicant owned the educational facility property also off Granite Street.

Mr. Markoff said they are separate legal facilities but Mr. Radar owns both.

Mr. Reynolds clarified with Mr. Markoff the issue concerning the use of 400 West Street by the Granite Street business. He summarized the Applicant is asking forgiveness for something that was done previously without seeking review. He further noted that because it was not done properly, the property owner created the hardship.

Mr. Reynolds stated the owner chose not to take the necessary legal steps and should be willing to accept the determination.

Mr. Harnais asked where the playground was previously, Mr. Markoff said there wasn't a playground, and it was created as a requirement of the lease.

Mr. Bracken addressed the Chair, he pointed out the Plan that was submitted to the Building Department for the Building Permit indicated the playground at the location it was constructed. He continued to say that after the grading work was done, it was brought to their attention that a Grading Permit was required. At this point, the issue of accessory use and a variance arose. He said he did not believe anything was done intentionally to avoid the process.

Mr. Harnais asked Mr. Bracken where the Plans were submitted. Mr. Bracken said the Plans were submitted to the Building Department for the Building Permit. Mr. Harnais asked if they [Building Department] brought the need for a Lot Size Variance to his attention. Mr. Bracken said he wasn't part of that but he didn't believe so. Mr. Bracken learned of the Lot Size

Variance from Mr. Rader when he was asked to do some survey work in pursuit of the Grading Permit.

Mr. Harnais confirmed that there is a playground built there now. He asked Mr. Bracken if the Building Department inspected during construction. Mr. Bracken said that this is when they determined that they needed a Grading Permit.

Mr. Harnais asked about the grading that was done. Mr. Bracken said that a Grading Report was done, in total an approximate 6,500 SF area was graded which was what the Grading Permit was for.

When asked about the Lot Size Variance, Mr. Bracken said that he attended a meeting with Mr. Rader and two Building officials; they discussed the use being accessory and that a variance may be required. Mr. Harnais asked if at the time of the meeting, the playground was completed. Mr. Bracken said that he believed it was under construction but not sure how far along it was. Mr. Markoff answered that the playground was graded but not installed. He added that the tenant was very specific about the playground.

Mr. Harnais explained that he was simply trying to determine when they learned of the necessity of a Lot Size Variance. Mr. Markoff discussed concerns about the lease agreement and the need to have a playground constructed before the facility could open. Mr. Harnais explained that the lease agreements are between the Applicant and his Tenant, have no merit in this matter.

Mr. Markoff added that at that time, there was a license obtained from the owner of the 400 West Street property to use part of his property for the playground. He emphasized they obtained consent and that the property [400 West Street] was under a Purchase and Sale Agreement.

Mr. Harnais clarified that the Planning Board has to explore if the Applicant intended to do the work without following proper procedure.

Mr. Reynolds clarified with Mr. Markoff that at the time of the grading, the West Street property was not owned by Mr. Radar. Mr. Markoff emphasized that regardless, Mr. Rader had a license agreement in place to use the property as a playground. Mr. Reynolds said he had a problem with that approach. He noted that the zoning of these 2 parcels of land is different and didn't agree with the approach without approval or a Lot Size Variance.

Mr. Mikami asked why the Applicant did not check on the use prior to the conveyance. Mr. Markoff said the Applicant did not believe he needed approval. Mr. Mikami noted that the tenant is not the deciding factor of the playground. Mr. Mikami pointed out that the Applicant did not do due diligence. Further, he stressed that the property owner was required to make the correct decision regarding the property, not the tenant.

Mr. Harnais clarified that the Lot Size Variance is for the other lot because it is a Resident A zone. He also stressed that the lease is not a deciding issue. He said that the Lot Size Variance will make the West Street property even more non-conforming.

Mr. Markoff noted the Conditions of the Certificate of Occupancy issued by the Building Department. One of those Conditions requires getting a Variance after the Occupancy Permit. So, he said, the Applicant agreed in order to get the tenant in.

Mr. Harnais repeated that the lease has nothing to do with making an existing non-conforming lot more non-conforming.

Ms. Stickney commented on the Braintree Bylaw, Section 102; she said we define Accessory Use is that which is incidental to and customarily associated with principal use on the same site. This situation, she said, is on a different lot; the Applicant is dividing the lot making it undersized with no hardship except he put an Accessory use on another lot. Ms. Stickney advised that the Application does not meet any of the hardships under topography, soils or shape.

Attorney Carl Johnson addressed the Board on behalf of Brian Noble, an abutter at 376 West Street. He said he filed an update to a Memorandum In Opposition he filed earlier; he provided an aerial image of the location(s) and noted Mr. Noble's property.

Mr. Johnson referred to the aerial and indicated (West Street, Granite Street, 5 Corners); he also provided an Assessors' Plan of the same location. On each Map, he indicated the property that the Applicant owns and the property that the Applicant is using which is zoned partly commercial and partly Residence A; both are in a Watershed Protection District which requires a minimum of 43,560 FT (1 Acre). He also indicated where Brian Noble's property is located, containing 26,480 SF+/-; and where 400 West Street is located together with another abutting property.

Mr. Johnson said there was an Architectural Plan submitted by the Applicant dated August of 2013 that showed the subject playground located on 5400 SF of 400 West Street. This, he said, indicated the Applicant's initial intent to use that property.

Mr. Johnson referred to the Staff Report to note the extent of trees cut down in the Watershed district on this property [587 Granite Street] several years prior. Mr. Rader cut all the trees including the trees in the front. He pointed out that Mr. Rader had other options to locate a playground and the requirements of the lease are immaterial to the use of the land.

Mr. Johnson noted "Exhibit 3" of his Memorandum noting that a Temporary Building Permit was initially issued; a permanent Permit was conditioned on 8 items. There was no overview by the Building Department for the playground use because, he was told by the Building Department (Ref. "Exhibit 1"); the playground equipment and the like are exempt under the code, therefore no Building Permit was issued.

Mr. Johnson said concerning the construction, there was no overview from the Town. There was no Site Plan, no Grading Plan; no delineated method of drainage and no Impact Study on adjacent properties, including property owned by the Town of Braintree, Brian Noble of 376 West Street and Tao Nguyen of 388 West Street. Additionally, no parking requirements were set by the Building Department and other regulations were ignored. The Petitioner, Mr. Johnson said, seeks to intensify an already non-conforming lot within the Watershed District.

Mr. Johnson said the Petition filed by the Applicant, is void of any Municipal restrictions. Additionally, he said the Petition misstates facts and places the blame on the Building Department. Mr. Radar went ahead and destroyed property of the abutters as noted in "Exhibit 5" of his Memorandum. He noted his objections to the Lot Size Variance request, stating there is no hardship as defined by shape, soil or topography.

Mr. Johnson said that after the Building Permit was issued, upon inquiry, Mr. Noble was unable to get any of his questions answered in the Building Department and the Planning Department did not receive any copies of Plans.

Mr. Johnson said that the Petitioner is seeking relief after the fact when no hardship exists. The misplaced approval by the Building Official does not justify the zoning relief in this case.

Mr. Johnson said that this case was uniquely treated differently than any other that has come before the Planning Board in his experience. He said the time constraints of Lease Agreements between Mr. Radar and Children of America are not the Towns' problem. The Town should concern itself with the safety, welfare and health of its residents under zoning, not the deadlines of the Applicant.

Mr. Johnson further stated that the manner in which the Certificate of Occupancy was issued violates State Building Code. In this instance, Conditions were requested subsequent to the date the Certificate of Occupancy was issued. Typically, a list of items to be corrected may be issued prior to occupying premises with a 30 day deadline to complete.

He referred to (Exhibit #3) of his Memorandum, a copy of the Conditions of the Certificate of Occupancy that listed several items including obtaining a Variance and a Grading Permit. He said it was not signed by the Building Inspector; it was signed by James Radar as Manager of 400 West Street, LLC (not individually) and dated on or around July 12, 2014. The parcel at 400 West Street was conveyed later, on July 29, 2014.

Mr. Johnson stated his objection to the Variance based on a lack of hardship and he said other alternatives were not utilized; he urged the Board to deny the Application.

Mr. Markoff responded by noting to the Planning Board that the document Mr. Johnson is referring to is titled "Permanent Certificate of Occupancy".

Mr. Harnais read it; he said it says "Conditions of Certificate of Occupancy". He found this to be conflicting and confusing, to get a Certificate of Occupancy and complete the conditions after. He said if Occupancy is conditioned, then legally, one does not have occupancy until the standards are met.

Mr. Harnais read: "filing an Application for a Grading Permit" – he clarified that the Planning Board issues a Grading Permit.

Mr. Markoff argued that he interpreted the Building Department language to mean "*file*" for the Grading Permit, not "*obtain*" a Grading Permit. Mr. Harnais questioned Mr. Markoff, what would

happen if the Grading Permit is filed and denied? Mr. Markoff said then the Building Inspector could theoretically revoke the Certificate of Occupancy and there is litigation.

Mr. Harnais likened this to putting the cart before the horse. He continued stating his confusion to the language on the Conditions of Certificate of Occupancy issued by the Building Department that requested the Applicant file an Application for Grading Permit with the Planning and Community Development within 30 days of issuance of the Certificate of Occupancy. Mr. Harnais pointed to the ambiguity of the language: "*file*" instead of "*get an approval of ...*"

Mr. Markoff stated that the Town Solicitor was part of preparation of this document. Mr. Harnais suggested that likely Mr. Morin only reviewed the document.

Mr. Mikami asked Mr. Markoff why the Conditions of the Certificate of Occupancy were undated and why was it not signed by someone in the Building Department. Mr. Markoff did not have an answer. Mr. Mikami then asked what date Mr. Rader signed the copy of the Conditions of the Certificate of Occupancy that was in the public record. Mr. Markoff did not have an exact date, he said "last summer". Mr. Mikami asked why Mr. Radar did not submit an Application for Grading prior to all this confusing stuff and why didn't he apply to the Planning Board first.

Mr. Markoff deferred to Donald Bracken who believed that Mr. Radar did not know he needed a Grading Permit.

Mr. Bracken told Mr. Mikami that he was called in after Mr. Radar learned he needed a Grading Permit.

Mr. Mikami then asked why the Board shouldn't just shut them down now; they are doing work without a valid Grading Permit. He suggested a Cease and Desist Order.

Mr. Harnais said because they completed it and said the situation is unique. Mr. Mikami said its' not a unique situation, it's wrong. The Grading Permit Application is asking for something after the fact.

Peter Morin, Town Solicitor, clarified his role and the difficulties of the issue between the parties involved. He recognized there are issues concerning whether or not the Dover Amendment applies to a daycare center's accessory use of a playground. Mr. Morin said in his opinion, it is not in the Town's best interest to get into litigation to decide this. He said the Building Inspector in this instance, attempted to provide a compromise and he took responsibility for its' unfolding, although, not very artful.

Ms. McDonald clarified with Mr. Morin that Children of America were talking about seeking Injunctive Relief, but, Mr. Morin explained that it did not happen. Ms. McDonald pointed out to the Chairman that the Zoning Board makes the final decision and suggested that they take no action.

Mr. Johnson argued that there has been no public input in this process. He disagreed with Mr. Morin that this is clearly about abutters. Additionally, he emphasized the un-remedied damage

to the abutter's property and argued that if a Petitioner does not meet the elements of a Variance, it should be a negative recommendation.

Mr. Harnais stated that in this case, anything the Planning Board does with the Variance has no bearing.

Peter Morin addressed the Board and stated his disagreement, and said these hearings are to make sure that nothing is done in the dark.

Mr. Harnais called for a Motion for the Variance.

Ms. McDonald made a Motion for No Action; seconded by Mr. Reynolds.
Vote: 4:0:0

PUBLIC HEARINGS

8:38 p.m.

**400 West Street and 579-587 Granite Street / 400 West Street, LLC, c/o Rader Properties
Grading Permit / Special Permit(s) 135-609, 135-702 & MGL Ch. 40A Sec. 3 (File 14-09)**

Gary Markoff, Attorney for the Applicant, (400 West Street, LLC);

Sherin & Lodgen, 101 Federal Street, Boston, MA

Donald Bracken, Jr., P.E., Bracken Engineering, Inc., 49 Herring Pond Road, Buzzards Bay, MA

Chair Harnais read the Public Notice for the record.

Mr. Bracken explained the grading project and the drainage system for the playground. He presented an aerial indicating the property.

Mr. Bracken said that the grading covers about 6500 SF with cuts between 2.5-3.5 FT; 433 CY of earth was removed. There was a subsurface drainage system installed. It consisted of leaching trenches under the pervious surface that drain into a drywell. It was installed according to the architect's plan and no drainage issues in the playground have been reported thus far.

Mr. Bracken said he reviewed the Staff Report and other Town Department Reports. He said there are issues to address with the Planning and Building Departments and also understood that the matter will likely be continued based on those items that need to be addressed.

Mr. Bracken further said that the drainage system was designed to recharge all the runoff in the subsurface system. He said the other Special Permit being sought is to use the Commercial/Residential A 100 FT buffer zone located where the playground is. Mr. Bracken said the property is set lower, there is a 6 FT fence around it and the Ariel indicates a natural buffer of trees.

Chair opened questions to the public.

Carl Johnson addressed the Board and highlighted items from the Planning and Community Development Staff Report. He noted Mr. Noble's property damage was not part of the Staff Report that dealt only with 400 West Street. The Report does not concern the abutting properties that incurred substantial damage from construction. He said the damage that occurred during construction includes excavation that removed a historic base of a wall; removal of a fence and excavated 630 SF of disturbed area.

Mr. Johnson submitted a Memorandum of Opposition for the record. He referenced (Exhibit 5#) of his opposition in which debris is shown being deposited onto Mr. Nobles' property and Mr. Nguyen's property, also located on West Street. Mr. Noble asked the Town to intervene; he addressed a letter to both the Town Administration and the Building Department requesting a Cease and Desist Order to which he did not receive a response.

Mr. Johnson explained that there was substantial damage done to Mr. Nobel's property during excavation. Trees and vegetation were removed, a wall and fence was removed and construction debris and material were placed on his property, all of which has not been remedied.

Mr. Johnson continued, he said the Staff Report noted the number of occasions that this was brought to the Developer. He said Paragraph 13 of the Staff Report points out that the property at 376 West Street and potentially others have been negatively impacted by work of the Applicant.

Mr. Johnson agreed with Staff that this matter should be continued to have an opportunity to address this. It is important that the Board be involved to mediate and resolve this with Mr. Rader with a good Grading Plan that remedies the impact.

The Chair asked if anyone had any comments, Mr. Harnais commented that what Mr. Johnson asked for is reasonable.

The Chair suggested the Hearing be continued.

Mr. Mikami made a Motion to Continue to January 13, 2015 at 7:30 p.m.; seconded by Ms. McDonald.
Vote: 4:0:0

Chair Harnais excused himself from the meeting at 9 p.m.

9:00 p.m.

**Quincy Avenue, Patten Avenue, Lancaster Road, Cliff Road and Columbia Terrace
Harry White, LLC, Book She LLC and K. Spillane, LLC
Major Modification to Grading Permit (File 13-02)**

Frank Marinelli, Esq., 439 Washington Street, Braintree, MA, for the Applicant
Jim Burke, P.E., DeCelle Burke & Associates, 1266 Furnace Brook Pkwy, Quincy, MA

The Chair read the Public Notice for the record.
Mr. Reynolds chaired in Mr. Harnais' absence.

Mr. Marinelli addressed the Board and explained the improvement to the Quirk properties since obtaining the Class I Automotive Storage License in 2003 and that the property has been graded for that purpose. He said this Petition concerns an approval previously granted at Planning Board File # 13-02. He explained that in July of 2013, the Planning Board granted permission for a Grading Permit to which Conditions were attached, those Conditions have been met.

Mr. Marinelli continued to say that per Condition 21 of the Grading Permit, this Application relates to the separate issue of paving. He referred to an aerial, and explained the underground retention and recharge system planned as part of the current Application. Mr. Marinelli said a Class I License was obtained in 2003 to park cars on this property and the work to achieve this has been completed.

Ms. SantucciRozzi said she had no further comments, that she had discussions with Mr. Marinelli prior to the meeting and a Revised Plan will be submitted.

Mr. Phil Smith a neighbor, commented about the history of Lancaster Avenue. He questioned how a street could be discontinued.

Ms. SantucciRozzi stated that she never saw a physical road there; there is a layout on paper that includes a portion of Lancaster that is proposed to be discontinued. Mr. Smith indicated on an aerial where there used to be houses.

Mr. Reynolds suggested Mr. Smith confer with the Town Council who will ultimately vote on the Proposal. Mr. Smith asked if the public will be able to see the Plan for this property prior to approval. Mr. Marinelli assured him they will come before the Planning Board for site plan review.

Mr. Reynolds explained to Mr. Smith that the property has been graded; this is a Plan for paving and infrastructure for drainage. When that plan is devised the Planning Board will make sure the neighbors and abutters are well informed and will not be impacted.

Lucia Smith of 11 Patten Avenue asked where they are putting the drainage and paving. She also expressed her dissatisfaction with the use of the zoning term "non-conforming" since the house Mr. and Mrs. Smith live in, predates any commercial business that moved in. Mr. Marinelli clarified that the term non-conforming is not personal.

Jim Burke explained the grading, the catch basins planned consisting of 4 large subsurface detention basins, paving and curbing. Mr. Smith asked how deep the tanks will be and if they will do more blasting. Mr. Burke thought that all the blasting is completed. If there is further grading it will likely be ripped and backhoed.

Mr. Julius Digaetano addressed the Board and said he has had a business at 65 Columbia Terrace since 1959. He said he used Lancaster Road every day until Quirk purchased the property. He concurred with Mr. Smith that Lancaster was not just a paper street; he used to

use the street every day. He said he wanted to let the Board know that these were all real streets.

Mr. Smith asked about the time frame for the paving. Mr. Burke answered that he estimated it would take place within a month or two after approval. Mr. Smith also discussed the poor condition of Patten Avenue which he believes was caused by Mr. Quirk's construction. Ms. SantucciRozzi explained that that has been discussed with Quirk; she said it will be done as part of the dealership development and in a timely manner. Ms. Stickney directed Mr. Smith to speak with the Mayor's Office to request Patten Avenue be paved.

Mrs. Smith commented about the lighting; she said it is casting the equivalent of daylight in her yard in the evening hours. Ms. SantucciRozzi informed her that she previously spoke with Mr. Smith about the lighting and encouraged the Smiths to point out adjustments that can be made to the lighting when the Approved Lighting Plan is discussed.

Mr. Marinelli provided a plan showing the portion of Patten Avenue that is being proposed for discontinuance.

Ms. McDonald asked if the grading modification could move forward. Mr. Reynolds informed her that Staff needs more time to review

Mr. Mikami made a Motion to Continue to January 13th at 8 p.m.; seconded by Ms. McDonald
Vote: 3:0:0

Mr. Harnais returned to the meeting at 9:40 p.m. and chaired the meeting.

9:40 p.m.

**4 and 44 Allen Street (Map 3004 – Plots 7, 8, 9 and 11) / Braintree Planning Board,
Braintree Mayor Joseph C. Sullivan and George P. Williams
Rezoning (TCO #14-068)**

Christine Stickney, Town of Braintree Director of Planning & Community Development
David Gamble; Architect and Planner, Gamble and Associates, Boston, MA

The Chair read the Public Notice.

Ms. Stickney addressed the Board and explained that she brought this matter on behalf of the Mayor. She asked the Board to consider a rezone of the subject property. Currently the property is zoned Commercial; this proposal request is to rezone the property and incorporate into the Weymouth Landing Zoning adopted in 2011.

John Wong, 11 Edgehill Road, Past Commodore of Braintree Yacht Club, said he was curious about what was going to happen to the property. He wanted to understand the purpose of rezoning. Ms. Stickney addressed his question and said this effort began about 2 years ago with public outreach asking the neighborhood what they would like to happen with the property. Additionally, due diligence was done to determine what the property could accommodate. Most

Residential development with public access along the river. There is a master plan for the Monatiquot River Walkway and this will just continue with that effort. Mr. Wong was satisfied and thanked the Board.

David Gamble addressed the Board and said he has been working on this project for about 5 years with the Mayor and Christine Stickney. He said that in 2010 the East Braintree Civic Association and neighbors were concerned that the inclusion in that would result in a great deal of density. In 2011 National Park Service Grant identified the potential for a river walk which could connect to the existing trails in town. In 2014 a predevelopment study environmental, social, economic aspects of this sites redevelopment was completed. He stressed to the Board that this is a remarkable opportunity for growth.

Ms. McDonald had no questions.

Mr. Mikami asked who will redevelopment the property, the Town or a private developer. Ms. Stickney said there is a formal process of disposition, it is regulated by the state and put out for public bid but the Town will be able to put some restrictions on the use.

No questions from Mr. Reynolds or Mr. Harnais.

John Sullivan, partial owner and abutter of 50 Allen Street asked about the zoning. He asked what the term Weymouth Landing Braintree Historic District and how does it affect an abutter. Ms. Stickney explained the purpose of the new zoning called Braintree Weymouth Landing District that was created in 2011. Specifically, she said, it was designed to promote development. She clarified that it does not affect abutting properties, only the former BELD property located at No. 44 and No. 4 Allen Street.

Mr. Reynolds further explained the intent of the commercial use.

Mr. Wong asked if the Baynes property will be included; Ms. Stickney said, yes, the property referred to as the Baynes property was sold to George Williams a number of years ago and he has requested to be included in this rezone request.

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

Mr. Reynolds made a Motion for Favorable Recommendation for Rezoning; seconded by Mr. Mikami.
Vote: 4:0:0

9:55 p.m.

Section 135-904.2(B) Billboards / Braintree Mayor Sullivan
Zoning Ordinance Text Amendment (TCO #14-066)

Peter Morin, Town of Braintree Town Solicitor

The Chair read the Public Notice for the record and then Staff announced that the matter has been continued by request to January 13th, 2015 at 9 p.m.

Vote: 4:0:0

NEW / OLD BUSINESS

Request for As-Built Approval and Release of Surety:

1. **20 Pond Street / MSMM LLC (#12-04)** was tabled to December 15, 2014.

2. **700 West Street / Crematorium, Blue Hills Cemetery Inc. (#11-05)**

Michael Modestino, 100 Grandview Rd, Braintree, represented the Applicant
David Crispin, P.E., PLS., BSC Group, Inc., 15 Elkins Street, Boston, MA

Mr. Modestino said he has provided all the required information that was requested from the Planning Department. He noted a letter from the MWRA was provided and the issue of compensatory storage was discussed with the Engineering Department and offered to answer any questions there may be.

Ms. Stickney said all the requested material was submitted and asked David Crispin to explain how the compensatory storage of the floodplain has changed.

Mr. Crispin explained 430 CF of the designed plans was difficult to obtain with heavy equipment. They constructed 250 CF (110 CF or 4 CY), a small difference. He met with the Engineering Department and both agreed that the numbers meet the standard performance.

Ms. Stickney said that the Planning Department recommended Approval with Surviving Conditions.

Ms. McDonald had no questions.

Mr. Mikami asked about the completion time; Mr. Modestino said it is ready to operate now, they obtained the Building Permit, and they are just waiting for testing. He estimated being operational within 45 days.

Mr. Reynolds had no questions.

Mr. Harnais had no questions and read the Condition Numbers 1, 2, 13, 15, 18, 19, 22, 25, 30, 34, 37, 43, 48, 49, 51, 52, 55, 57, 58, 64, 65, 68, 69, 70 and 77.

Mr. Reynolds made a Motion to Approve the As-Built Approval and release the Surety; seconded by Mr. Mikami.

Vote: 4:0:0

3. **19A Commercial Street / Finia II LLC (#13-04)**

Robert Hedlund, owner of Finia II LLC d/b/a Trio Restaurant

Ms. Stickney informed the Board that Mr. Hedlund is open and operational; she prepared a Staff Report and recommended issuing the As Built. Ms. Stickney called upon Mr. Hedlund to discuss the parking situation occurring on-site.

Mr. Hedlund addressed the Board and explained the efforts he is taking to get customers to not park in the private areas. He said they are informing his customers, threatening to tow area vehicles who continue to park at the restaurant designated parking. He explained that people from the area don't know that it's private parking despite the painted lines.

Ms. McDonald had no questions.

Mr. Mikami wished Mr. Hedlund well in the Landing redevelopment area.

Mr. Reynolds had no questions and wished him well also.

Mr. Reynolds made a Motion to Approve the As-Built with Surviving Conditions; seconded by Mr. Mikami.

Vote: 4:0:0

**Release of Drainage Surety / Grove Street Braintree, LLC
Grove Heights Definitive Subdivision (#6-15)**

Ms. SantucciRozzi explained that Mr. Lang posted a drainage surety for the definitive subdivision located off of Grove Street. She said there have been no problems with the drainage within three years. The Staff is requesting that the \$10,000 Surety be released.

Ms. McDonald made a Motion to Release the Surety; seconded by Mr. Reynolds.

Vote: 4:0:0

**Request to Remove Vegetation / Liberty Ridge Cluster Development
1730-1746 Liberty Street (#93-6)**

Staff said that there is no one present from Liberty Ridge. Ms. SantucciRozzi said she will attempt to contact the residents and inform them again about what they have to prepare and the matter was rescheduled to December 15, 2014.

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

Vote: 4:0:0

Meeting adjourned at 10:10 p.m.

Respectfully Submitted,
Elizabeth Schaffer