



Joseph C. Sullivan
Mayor

Department of Planning and Community Development

Melissa M. Santucci, Principal Planner
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PLANNING BOARD

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

APPROVED

Braintree Planning Board
December 14, 2010
Town Hall

Present:

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

Christine Stickney, Director
Melissa Santucci, Principal Planner

The Chair called the meeting to order at 7:05 P.M. and called the roll: Ms. Lauria, Mr. Mikami, Mr. Eng, Mr. Harnais all present. Mr. Reynolds arrived at 7:12 P.M.

Approval of Minutes

Motion by Mr. Eng, second by Mr. Mikami to approve the minutes of 9/13/10, 10/4/10 and 10/12/10.

Vote: 5/0

New Business/Old Business

Zoning Board of Appeal Petitions – December

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Sections 135-403, 407, Article 7, Section 701
#10-39

Applicant Chris Comoletti, of 29 Howie Road, Braintree, MA 02184, was present to request relief from the above Zoning Bylaw requirements to convert an existing non-conforming carport into a family room. Mr. Comoletti explained that there would be no additional foundation required and that the footprint of the carport would not be altered, and will not be detrimental to the neighborhood.

Mr. Reynolds commented that he did not see this alteration as being detrimental to the character of the neighborhood, and therefore sees no problem with the project.

The Chair was in agreement.

Motion by Mr. Reynolds, second by Mr. Eng to grant the variance to convert the existing carport.

Vote: 5/0

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Sections 135-403, 407, Article 7, Section 701

#10-40

Applicant Paul Reggio, of 119 Cleveland Avenue, Braintree, MA 02184, was present to request relief from the above Zoning Bylaw requirements to construct an addition connecting an existing garage to his house.

Ms. Lauria questioned the applicant if the garage is on the neighbor's property line. Mr. Reggio replied that it is 4 ½ feet from the line. The question was raised that the applicant was not actually moving the garage just connecting it to the existing house. Mr. Reggio confirmed that was the case, and he was looking for relief from the Zoning Bylaw requirements due to the closeness to the property line.

Mr. Reggio purchased the house in October 2008, and since that time has made various improvements to the property.

Mr. Eng pointed out that the Planning Board did acknowledge that the proximity to the property line was a pre-existing condition, however they did want to be certain that this condition is not made worse.

Mr. Reynolds stated this as well, but also commented that he did not foresee the connection of the garage to the house making the situation worse.

Motion by Mr. Eng, second by Mr. Reynolds to grant relief for the addition of the mud room to connect the existing garage to the existing house.

Vote: 5/0

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Sections 135-403, 407, Article 7, Section 701

#10-41

Applicant Eugene Caruso, of 282 Middle Street, Braintree, MA 02184, was present to request relief from above the Zoning Bylaw requirements to convert the attic of the existing dwelling to 3rd floor habitable space.

Mr. Caruso addressed the Planning Board expressing his plan to extend the existing dwelling vertically, not to exceed 35 feet. He wishes to remove the attic and add a livable 3rd floor to the house. He explained that currently he is being taxed for a 3 bedroom home, while one of the bedrooms does not have a closet and therefore technically he should only be taxed for a 2 bedroom. Mr. Caruso stated that he plans on keeping the dwelling in line with the architectural features of the neighborhood. He stated that he purchased the property in 2001 and since that time has invested a

considerable amount of money to improve it. He also apologized for his lack of pictures, as he had the wrong date for the meeting

The Chair inquired if the applicant had done the drawings provided to the Planning Board himself. Mr. Caruso replied that he had, and that he realized that they were not true architectural renderings.

Ms. Santucci explained that the existing dwelling is a non-conforming structure and expressed her concern over the lack of pitch in the proposed roof, causing the roof to seem almost flat. She would like to see a higher design, with more pitch and ornamental dormers etc. that would be more in keeping with the surrounding homes.

Mr. Caruso said that he would be willing to come back before the board with adjusted drawings.

Mr. Eng requested that the new drawings provided be to scale. Mr. Caruso stated that he is in the construction business and that the drawings were to scale. Mr. Eng still requested that when the applicant comes back before the board, that he provide better prepared drawings.

The Chair asked Mr. Caruso if he would come back before the Planning Board. He replied that he would come back with more details following the Planning Board recommendations.

The Chair stressed the Planning Board's recommendation that he go higher and make the dwelling aesthetically better in general.

Ms. Santucci instructed Mr. Caruso to contact Russ Forsberg and to come to the January 11, 2011 meeting with revised materials.

Request for Relief from Bylaw Requirements under Chapter 135, Article 4, Sections 135-403, 407, Article 7, Section 701 #10-42

The applicant Dennis Malloy, of 10 Song Sparrow Lane, Duxbury, MA 02332, was present to seek relief from the above Zoning Bylaw requirements to tear down the existing dwelling located at 45 Fountain Street, Braintree, MA 02184, and replace it with a new modular home structure.

It was explained to the Planning Board that the existing structure is non-conforming and that the new modular dwelling proposed by the applicant will meet the setback requirements.

Mr. Reynolds stated that he feels this proposed new structure will be an improvement over the existing structure. The Chair was in agreement.

Motion by Mr. Reynolds, second by Mr. Eng to grant relief for the demolition of the existing non-conforming dwelling and the erection of a new modular structure.

Vote: 5/0

Request for As-Built Approval – 238-300 Grove Street/Town Fair Tire

File: Modification 89-17

For details please see Ms. Santucci's Staff report.

Mr. Seth Ahern (Regional Manager) for Town Fair Tire was present to represent the applicant.

Ms. Santucci addressed Mr. Ahern stating that while on a site inspection on Tuesday, November 30, 2010 she witnessed the violation of the following two conditions: 1) A staff member washing vehicles in the rear parking lot and 2) Storage of tires outside the Tire Cage. She contacted Mr. Ahern who assured her that these violations would be addressed.

Mr. Mikami expressed concern that the Chief Planner had seen these violations and wanted to know if the washing of vehicles was against company policy. Mr. Ahern stated that it was. Mr. Mikami stated that the Planning Board would appreciate if this was followed up on and enforced.

Mr. Eng asked Mr. Ahern if he could write the Planning Board a letter explaining that the violations would be addressed. Mr. Ahern replied that he would supply such a letter.

The Chair further stated that there should be continued follow up on these issues.

Motion by Mr. Eng, second by Mr. Mikami to grant As-Built Approval with Conditions #1, 9, 10, 14, 16, 17, 18, 21, 31, 42 and 51 to survive.

Vote: 5/0

Request for As-Built Approval – 376 Franklin Street/Messina Residential Properties

File: 09-7

For details please see Ms. Santucci's staff report dated 12/2/2010.

Attorney Carl Johnson and Ronald G. Marshall, ESQ. General Counsel were present to represent the Applicant.

Ms. Santucci stated that the Planning staff has reviewed the As-Built plans for the parking lot extension for Panera Bread, and recommends the Planning Board vote to grant As-Built approval.

Mr. Reynolds stated that he would like to thank the Applicant for supplying the Planning Board with Trip-Generation Assessment.

Motion by Mr. Reynolds, second by Mr. Eng to grant As-Built Approval with conditions #1, 12, 24, 33, 40, 41, 43, 44, 45, 48, 49, 50, 51, 53, 57, 58, 59, 60, 61 and 62 to survive.

Vote: 5/0

Application for Endorsement of an Approval Not Required Plan under the Subdivision Control Law and pursuant to MGL Chapter 41, Section 81-P
For details please see Ms. Santucci's staff report dated 12/14/10

Attorney Carl Johnson and Ronald G. Marshall, ESQ. General Counsel were present to represent the Applicant, Messina Commercial Properties, LLC., to request Endorsement of an Approval Not Required Plan for the property located at 405 Franklin Street/326 and 330 West Street, Map 2047, Plot 11 and 11-D/Messina Enterprises.

Atty. Johnson addressed the Planning Board giving the overview of the proposed subdivision to generally make 5 existing lots into 2.

Ms. Santucci point out to that there was a small plan included in the Planning Board packets with color crosshatching for exhibit purposes.

Mr. Mikami mentioned that there was to be some discussion with the potential new tenants and was wondering how that was progressing.

Mr. Marshall said that there was the possibility of a small TD Bank branch and a small retail establishment, in keeping with a General Business Zoning District.

Mr. Eng clarified that lot A-1 and A-2 would be left alone, while the property at 405 Franklin (Jimbos) would be torn down. Also that the applicant would be rectifying encroachments.

Motion by Mr. Reynolds, second by Mr. Eng to endorse the ANR.
Vote: 5/0

Grove Heights (Stonecrest Drive) Definitive Subdivision - Review & request for extension of time to complete Public Improvements
File: 06-15

For details please see Ms. Santucci's staff report dated 12/14/10

Mr. George Lang, Landowner and Mr. Charles D. Toohey appeared to address the Planning Board regarding the extension of time to complete Public Improvements.

Ms. Santucci stated the Planning Staff was agreeable to an extension of May 1, 2011.

Mr. Mikami wanted an update on the snow removal plans that were to be put in place. Ms. Santucci replied that Mr. Lang will hire a professional snow removal contractor. Mr. Lang confirmed that he had already been in touch with a contractor to handle the snow removal.

Motion by Mr. Reynolds, second by Mr. Eng to approve the extension of time to complete Public Improvements.
Vote: 5/0

Discussion – Request to Release Surety – Liberty Park Apts. 1 Matthew Lane
File: 97-03

Discussion to release 3 bonds being held pursuant to the Conditions of Approval.

Ms. Santucci addressed the Planning Board stating that the staff supports the release of the two \$100,000.00 bonds (#104401891 and #1044018920) posted pursuant to Condition 90b.

Ms. Santucci went on to state that regarding the 3rd \$100,000.00 bond (#104401893) being held in conjunction with Condition 96, at this time the Planning Staff would like more time to review the traffic report submitted. She would like to see the discussion regarding this bond brought back to the January 11th Planning Board meeting.

Motion by Mr. Reynolds, second by Mr. Eng to release bonds #104401891 and #1044018920 and to continue discussion of the release of bond #104401893 until the January 11th Planning Board meeting.

Vote: 5/0

Discussion – Zoning Bylaw Update

Ms. Stickney addressed the Planning Board expressing her wish to see the town's Zoning Bylaws be brought up to date. She also feels that it should be done by an outside consultant due to department and time constraints. Ms. Stickney explained that many of the bylaws date back to the late 1970's which do not pertain to the current status of the town. She again stated that she does not feel that such a large overhaul can be done in house and she would like to approach the Council for an appropriation of funds for an outside consultant. Ms. Stickney feels that such a comprehensive rewrite could run in the neighborhood of \$75,000.00 (which she did state was a best guess estimate).

The Chair expressed his opinion that this update is long overdue. He agreed with Ms. Stickney that an in house overhaul doesn't always help. Outsiders are more objective.

Mr. Reynolds stated that while he does not like to spend public funds, he feels that the current system in the town has outgrown the zoning bylaws, and they need to be adjusted to adequately equip the community to face the many changes occurring in the town.

Mr. Mikami, also in agreement feels that this update should be done as soon as possible.

Mr. Eng questioned how the process of getting an outside consultant proceeds.

Ms. Stickney said that it would have to go out for public bid. She again stressed that the estimates that she gave were not firm figures, just ballpark.

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The Chair again stressed the need to update.

Ms. Santucci informed the Planning Board that she believes that the last comprehensive update was done in 1994 and that it had been reaction driven.

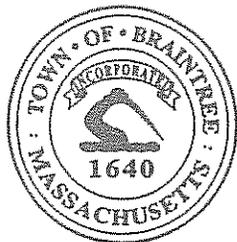
The Chair said that he could not foresee any problem with this proposal.

Ms. Stickney did state that more research was needed before going forward and that the staff would come back before the Planning Board with a more concrete proposal. She also stated that no motion was needed, that the Planning Staff just wanted to get a sense of direction of the feeling of the Planning Board.

Motion by Ms. Lauria, second by Mr. Reynolds to adjourn at 9:50 P.M.

Respectfully submitted,

Beth A. Herlihy



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Mayor

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Braintree Planning Department
December 14, 2010 – Public Hearing @ 7:50 P.M.
Town Hall

Present:

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Joseph Reynolds, Vice Chair
James Eng, Clerk
Darryl Mikami
Michelle Lauria

Christine Stickney, Director
Melissa Santucci, Principal Planner

50 Forbes Road/Karma Nominee Trust
Application for Special Permit and Site Plan Review – Modification of Former
Sheraton Hotel Site

The Chair opened the public hearing.

Attorney Frank Marinelli, representing the applicant, addressed the Planning Board. Atty. Marinelli gave a brief review of the discussion from the October 12, 2010 hearing. He outlined the redevelopment plan, with the property being Highway Business zoned. The property would be mixed use, having a hotel, health club, retail and restaurant. The current tenants, Friday's Restaurant and the existing Health Club are to remain.

Atty. Marinelli introduced individuals involved in the project also in attendance.

Mr. Richard L. Friedman:	President and CEO, Carpenter & Co.
Mr. Peter Diana:	Vice President and General Counsel, Carpenter & Co.
Mr. Darren D. Messina:	Vice President Design & Construction, Carpenter & Co.
Mr. David Morency:	Carpenter & Co.
Mr. Brian P. Dundon, PE:	R. J. O'Connell & Associates
Mr. Randall C. Hart:	Vanasse Hangen Brustlin, Inc.

Atty. Marinelli explained that Carpenter & Co. has been involved in many hotel development projects including, The Liberty Hotel, The Charles Hotel and the Logan Hilton.

Atty. Marinelli told the Planning Board that the hotel has been closed for about a year and that the existing structure was deemed to run down to carry The Sheraton Flag. He went on to outline that the new redevelopment will result in reduced building mass with a retail pavilion housing 4 to 6 stores/boutiques and a restaurant. There would also be a free standing retail building. Atty. Marinelli wanted to know that if no tenant could be found for the restaurant portion, would the Planning Board be willing to allow additional retail space. He also said that overall the existing building would be aesthetically improved.

There will be an increase in open space, drainage improvements and the project would bring the parking into conformance. Additionally, the traffic, pedestrian and delivery flow will also be improved.

The Chair opened the floor to the public.

James McNeil, a representative for Local 26 (Hotel Workers Union – with approximately 30 workers present) addressed the Planning Board. He presented a letter from Janice Loux, the President of Local 26, and voiced concern over the reduction in overall hotel size and food/beverage services under the redevelopment plan.

As the issues outlined in the letter do not fall under Planning Board jurisdiction there was no resolution between the two parties.

There were no other public comments.

Mr. Mikami requested an outline of the construction schedule. Atty. Marinelli turned this discussion over to Darren Messina. Mr. Messina said that construction should last around 6 to 8 months. They plan on coordinating the demolition and construction of the hotel and retail in order for both to wrap up together. Mr. Mikami wanted to clarify that the current hotel was to be gutted and refurbished. Mr. Messina said yes that was the case. Mr. Mikami wanted to know how long the demolition phase would last. Mr. Messina replied that should last around 60 days with construction to begin immediately following. Mr. Mikami stated that the timeline would then be 2 months for demolition and 4 to 6 months for construction.

Atty. Marinelli then informed the Planning Board that they were going to work with Friday's and the Health Club in order to keep them open during the redevelopment project. Ms. Stickney questioned this as it had been the Planning Staff's understanding that the site would be shut down. She referenced R.J.O'Connell communication stating that this would be a single phase construction project with current operations at the site being suspended. Atty. Marinelli stated that had been amended and they wanted to keep the existing operation open.

Ms. Stickney pointed out that the conditions for tonight's meeting had been prepared based on single phase construction. She said that they had been led to believe that the site would be closed and that the Planning Staff would now have to take another look at the conditions. Mr. Mikami read from a letter stating that this was to be single phased and existing operations would be closed. Mr. Marinelli replied that from a tenant aspect they wanted to keep the existing businesses open. Mr. Mikami requested that the Chair yield to the Planning Staff if they need additional clarification on this issue.

Mr. Mikami then questioned if the neighbors concerns had been addressed. He was informed that there had been a meeting September 29th at Thayer Public Library for the neighbors in the Granite Park area at which time it was decided that as part of the redevelopment project they would replace the fence.

Mr. Messina informed the Planning Board that financing for the project was in place and that they were actively soliciting both regional and national tenants. Mr. Mikami raised the question of drive – thru windows. Mr. Messina replied that there was no interest in them at this point.

Mr. Mikami wanted to know if any consideration had been given to increasing the width of the parking spaces from 8 ½ ft. to 9 ft. Atty. Marinelli said that 8 ½ is legal by zoning bylaws. It was also stated that Mr. Dundon had reported that larger spots would result in less spots overall, and the loss of spots would not meet requirements, so therefore they will stay with the 8 ½ ft. spot size.

Mr. Mikami also inquired about energy efficiency and “green” building. Mr. Gary Johnson with Cambridge 7 Architects will be working on sustainability and energy/heat recovery.

The discussion moved to the downsizing of the hotel (specifically the number of rooms). Mr. Eng wanted to know if this was a dollar and cents decision. Both Atty. Marinelli and Mr. Friedman explained that the project had to work with the economy and the supply and demand of hotel rooms in the area.

Mr. Reynolds thanked the group for their presentation. He did raise the question of drainage and what affects there may be on the neighborhood. Atty. Marinelli said that this was addressed in October, and the study showed that there would be improvement over the existing situation. There will also be an operational maintenance plan that will outline certain procedures/measures that need to be kept up. Mr. Reynolds feels that the town will benefit from the project, and that they should be commended for the improvements proposed for the area. He said that there is a good balance between commercial development and the quality of residential life. Mr. Reynolds stated that he felt that any

outstanding issues will be addressed by the Planning Staff. Atty. Marinelli said that they had no problems with the conditions.

Mr. Reynolds then addressed the Representative and members of Local 26. He said that he did not want to diminish their concerns, however this was not the correct forum for their discussion as that is not something that the Planning Board is charged to perform.

Ms. Lauria referenced the November 30th letter and asked that this be revised since it is not totally accurate.

The Chair asked for confirmation that the issue with the fence would be addressed. He also stated that the project was where it should be, and wanted to know if the revisions should be put in the conditions. Ms. Stickney said the understanding would be that they would work towards keeping the existing businesses open. The Chair questioned if the meeting would need to be continued. Ms. Stickney said it can be worked with as a misunderstanding. Atty. Marinelli said that everyone would work with the Planning Board on any conditions.

Motion by Mr. Mikami, second by Mr. Reynolds to accept the correspondence list.
Vote: 5/0

Mr. Mikami said that in terms of the conditions, this is a busy intersection and neighborhood and that consideration must be given to the neighbors.

Motion by Mr. Reynolds, second by Mr. Eng to close the Public Hearing.
Vote: 5/0

Motion by Mr. Reynolds, second by Mr. Eng to approve the application with comments regarding the phased construction (keeping in mind the safety of patrons and employees).
Vote: 5/0

Respectfully submitted,

Beth A. Herlihy



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75 Granite Street/Herb Chambers 125 West Service Road, Inc.
Application for Special Permit and Site Plan Review – Drainage and Grading
Improvement

The Chair opened the public hearing.

Attorney. Marinelli addressed the Planning Board. He gave a brief overview of the Herb Chambers company and an explanation of the project. They are working with David Mackwell of Kelly Engineering. It was explained that in 2000 the filling of an open swale was approved, however the owners did work without permits.

Mr. Mikami pointed out to Atty. Marinelli that in 2002 no as-built plans were submitted on work done and wanted to know what he knew about this? Atty. Marinelli said that the Applicant had applied for an Application to construct a 2,860 addition to its existing showroom and as Ms. Santucci pointed out the conditions have not been met.

Mr. Eng stated that the Applicant was not made to do what they were supposed to do and he wanted to know why there was a lack of communication. He wanted Atty. Marinelli to be sure to let his client know that the Planning Board was not happy. He wanted to know why the culvert was never constructed. Atty. Marinelli said that 2 pipes were installed in lieu of the box culvert and that he did not dispute that the contractor did not do the work as it had been approved.

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December 14, 2010 Public Hearing @ 9:00 P.M.

Due to weather conditions (winter, spring rain etc.) there has been a request for an extension on the completion of the project to July 31, 2011. Mr. Eng confirmed that this is going to be a private job and is not going out to public build.

Motion by Mr. Reynolds, second by Ms. Lauria to accept the correspondence list.
Vote: 5/0

Ms. Santucci questioned if the Planning Board would be including the condition of the completion date. The Chair said he would like that included.

Mr. Eng would like in the conditions that if the date can not be met that the Applicant come back before the Planning Board and explain why. Mr. Mikami agreed. He wants a specific date, and if a continuance is needed they come back before the Planning Board for it. Ms. Santucci stated that the Staff suggests a date of October 31, 2011 for the As-Builts.

The Chair questioned Atty. Marinelli if the Applicant would be agreeable to the July 31, 2011 date. He said that as long as the flexibility to come back for an extension if one was needed remained, that would be fine.

Motion by Mr. Eng, second by Mr. Reynolds to approve the conditions with the July 31, 2011 date.
Vote: 5/0

Motion by Mr. Eng, second by Mr. Reynolds to approve the application for special permit.
Vote: 5/0

Motion by Mr. Reynolds, second by Ms. Lauria to close the public hearing.
Vote: 5/0

Respectfully submitted,

Beth A. Herlihy