



Department of Planning and Community Development

Melissa M. Santucci Rozzi, Principal Planner
90 Pond Street – 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
Melissa B. McDonald, Member

Braintree Planning Board
September 10, 2013
Town Hall – Johnson Chambers

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 7:09 p.m. and took role call.
All members were present.

Zoning Board of Appeal Petitions – September

ZBA (13-35)
251 Union Street / UNIBRAINT, LLC
Frank Marinelli, Attorney for Applicant
Mike Gardner, Sr. and Mike Gardner, Jr.

Mr. Marinelli addressed the Board and introduced the owners of UNIBRAINT. He explained that the Gardners are changing the brand of the gas station from Sunoco to Citgo. The national brand change will affect the image for all signage on site.

This will upgrade the sign structures and present a neater appearance. Revised ground sign #1 measures 18FT in height and 19 +/- SF less than the current sign.

Proposed ground sign #2 measures 25 FT in height and is slightly larger than the existing sign.

Proposed ground sign #3 is visible from the highway and measures 56FT in height and is a 196 SF.

The existing wall signs located on the front, back and side of the canopy will be replaced and vary in size.

Ms. McDonald questioned the red LED display, Mr. Marinelli said these are more efficient and don't create glare.

Ms. McDonald then asked Staff if this is something we want to review with the increase of sign requests and use of sign lighting.

Ms. SantucciRozzi said most of the gas stations are changing to non-manual type of signs. When looking at the bylaw, we should incorporate language into the section on gas station signage that recognizes that the use of LED lighting, in this setting is different than other type of colored lighting for signage.

Mr. Mikami said everything looks in order and asked about the time frame.

Mr. Gardner said its contingent on approval from not only the Town, but also Citgo. All equipment involving the change has been ordered and is ready to install.

Mr. Mikami asked if they expect to be fully changed by the end of the year. Mr. Gardner said yes, including the signage.

Mr. Eng asked Staff if the red LED's require a variance.

Ms. SantucciRozzi said yes, a favorable recommendation that includes the "price" display.

Mr. Eng said that this change will create a long overdue upgrade to the appearance of the location.

Mr. Reynolds agreed that the red LED in this setting is workable, he had no objections.

Mr. Harnais agreed with all comments and called for a Motion for favorable recommendation.

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

Vote: 5:0:0

ZBA (13-34)

255 Grossman Drive (Five Below) / Anchor Sign, Inc.

Mr. Joe Funderburk of Anchor Sign addressed the Board. He explained he is asking for relief for a secondary sign on the western elevation. He said structural beams prevent the white 36 inch letters to be affixed directly to the building so a blue retaining backer was added to contain construction elements and wiring configurations that interface better with the building structure.

Mr. Funderburk noted that the channel letters are within compliance. However, with the backer, it measures 79 +/- SF necessitating a variance. In support, he provided a photo copy to the Board that showed a Leasing Banner currently on a neighboring building which measures 4FT x 25FT long, larger than the sign he is proposing. Mr. Funderburk said the location of the proposed sign is the buildings' main identification point.

Ms. McDonald had no questions.

Mr. Mikami said the backer is understandable and reasonable but stressed the backer is included in the area of the sign.

Mr. Funderburk said he doesn't dispute the backer is part of the sign, but he wanted to stress that it is necessary to facilitate fastening to the structure.

Mr. Mikami said he understands; it's almost a hardship.

Mr. Harnais asked how the sign is anchored. Mr. Funderburk said preferably by sleeve anchors or through bolts, depending on what they run into during installation.

Mr. Eng asked how much was actually over. Ms. SantucciRozzi answered 5.5 SF to which Mr. Eng said that it was minimal.

Mr. Reynolds stated there was a comment in the Staff Report suggesting a reduction of the left façade sign so that the aggregate total is less than 150 SF, he asked what the outcome of that discussion was.

Mr. Funderburk said he didn't consider the reduction because it is only a negligible difference. He explained that the extra visual impact does not comply with the letter of the code but it does comply with the intent of the code.

Mr. Harnais had no further questions or objections and called for a Motion for favorable recommendation.

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

Vote: 5:0:0

ZBA (13-33)

27 Business Terrace / Daniel Sullivan

Ms. SantucciRozzi explained to the Board that the Applicant, Mr. Sullivan could not make the meeting. Saying further that the Staff Report was missing an original Plan of the house making it difficult to do a proper evaluation. Mr. Sullivan did provide the staff with a copy available for review by the Board.

Ms. McDonald, Mr. Mikami and Mr. Reynolds had no questions.

Mr. Eng stated that after his review of the drawings he had no objections.

Mr. Harnais called for a Motion for favorable recommendation.

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

Vote: 5:0:0

11-04

405 Franklin Street / TD Bank
Request for As-Built Approval

Ms. SantucciRozzi explained that since the last meeting, TD Bank has submitted all outstanding items that were previously requested. They are in the process of arranging the traffic monitoring. They received a temporary Certificate of Occupancy in May of 2012; and a final in November 2012. To avoid number skewing from seasonal traffic, she said she will suggest doing their monitoring in October.

Staff is recommending As-Built Approval with the Conditions noted in the Staff Report

Ms. McDonald had no questions.

Mr. Mikami asked Staff if there have been any comments on traffic. Ms. SantucciRozzi answered that she has had none and further it appears the parking volume is extremely low. She said she hopes the monitoring shows no problems. They also completed a reallocation of some handicap parking spaces as directed by the AAB.

Mr. Eng had no questions.

Mr. Reynolds commented that this is his neighborhood and he has not experienced any problems or negative impacts.

Mr. Harnais called for a Motion to accept the As-Builts.

Mr. Reynolds made a Motion to accept the As-Builts; seconded by Mr. Mikami.

Vote: 5:0:0

Approval of Minutes for July, 2013

Mr. Harnais called for a Motion to accept the Minutes for July of 2013.

Ms. McDonald made a Motion to accept the Minutes for July of 2013; seconded by Mr. Eng.

Vote: 5:0:0

03-17

Oregon Avenue Extension Definitive Subdivision Update Discussion

(Member McDonald recused herself and did not participate in this matter).

Ms. SantucciRozzi explained she distributed a Memorandum to the Board outlining the update and action items on this matter. She said that since the last meeting she received the final report from Amory Engineering – full inspection of outstanding, complete, incomplete and partially completed items in the subdivision. She provided a copy to the Board. Included in the report is a copy of the Definitive Approval Subdivision and she said she spoke with Town Council to review brief action items.

She said at this point, she is seeking authorization from the Planning Board to send a copy of the report to the Applicant and the Surety Company, putting them on notice of the likelihood that this subdivision will be declared in default and that when that occurs, the Town will seek to capture the Bond.

Secondly, Ms. SantucciRozzi continued, she will meet with Town Council to determine the proper procedure and course of action to declare the subdivision in default; i.e. do we hold a public meeting, do we hold a formal public hearing as well as various notice requirements. Third, once the proper action is determined, to go forward with the procedures.

Record Note: Chairman Harnais recognized Mr. TJ McGrath who indicated he was affiliated with the Applicants, James and Daniel McGrath, but he was only there to take notes. He declined the opportunity to speak.

Ms. SantucciRozzi explained that the material is important for the Board to review to make future decisions that impact the subdivision. Further, that it is everyone's goal to get it complete, get all the proper Plans in and allow the residents to put this forward for acceptance in order to treat and service the subdivision as a public way.

Mr. Mikami asked if the bond will cover the remaining work that is undone. Ms. SantucciRozzi said the estimate received from Engineer is less than the \$78,000 Bond.

Mr. Eng questioned the completion of curbing and sidewalk. He asked if the engineer who reviewed this inspected the curbing and sidewalk (across the street / all broken up) outside of the subdivision.

Ms. SantucciRozzi said that that falls under Condition #57 (damage offsite), not part of the definitive plan, therefore, not part of the report. This is damage the applicant is responsible to repair pursuant to the Conditions.

Mr. Harnais said it will be a separate action. Ms. SantucciRozzi explained that the damaged curbing will have to be pursued in a few different ways. The bond cannot be used for this repair.

Mr. Reynolds had no questions.

Mr. Harnais spoke directly to TJ McGrath and asked him to relay his disappointment to the McGraths that they should have attended the meeting, further that it is shameful they were not present to answer for things they are accountable for. Mr. Harnais said he is troubled that this is a project the Board approved and now the Town has to take the Bond to complete things that have been left undone.

Mr. Eng asked Staff to inquire with Council what action the Town can take to get the damage that was done outside of the subdivision repaired.

Ms. SantucciRozzi asked for a vote to allow Staff to move forward on Items 1, 2 and 3 of the Staff Report submitted to the Board.

Mr. Harnais moved to allow Staff to move forward on Items 1, 2 and 3 of the Staff Report submitted to the Board.

Mr. Eng made a Motion to allow Staff to move forward on Items 1, 2 and 3 of the Staff Report; seconded by Mr. Reynolds.

Vote: 4:0:0

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

Paul Mirabito, President, Ross Engineering for Franmar Properties of New England
Gregory Tansey, Senior Project Engineer

Mr. Harnais called for a Motion to accept the Correspondence dated February 7, 2013 through September 9, 2013.

Mr. Eng made a Motion to accept the Correspondence; seconded by Mr. Reynolds.

Vote: 4:0:0 (Member McDonald recused herself due to missed testimony).

Paul Mirabito introduced himself and Gregory Tansey to the Board; he displayed the revised Site Plan. Since the July meeting, they have had an opportunity to meet with Staff. A revised Site Plan was presented that incorporated items that were missing from the approvals in early 1997 and 2000 and some the proposed changes for 2013. Shown were proposed plantings that were previously approved but not installed and other plantings being proposed with this application. Also shown were proposed bus and employee parking spaces.

The Site Plan showed the area that will be asphalt paved; catchbasins and a Stormceptor plan. Mr. Mirabito explained that a Plan was submitted that showed there is a separation between the impervious pavement and the hard packed gravel. The Drainage Plan submitted indicates the whole area as paved asphalt. He continued saying the site has been graded to divert the water to two existing catchbasins and the path of the water for each on the proposed Plan.

Mr. Mirabito explained the addition to the office building, the wash bay extension and repair area. He noted that the parking changes comply with the requirements.

Mr. Mikami reminded Mr. Mirabito about the previous issue with haphazard employee parking. He asked what assurance is there that it will not occur again.

Mr. Mirabito explained that in their survey, they learned of a planter island (approved in 1997) had been removed. This area will be set with slope granite curbing set in concrete that is not likely to be removed. This is the area where they were stacking 2-3 vehicles which cannot occur with this plan.

Mr. Mikami asked where the current storm water treatment is. Mr. Mirabito said there is none currently which makes the proposed changes a 100% improvement.

Mr. Eng asked about the Stormceptor. Mr. Tansey explained that it is the "First Defense" unit (competitor of the Stormceptor) system that will separate sediment, trash, oils and hydrocarbons. Additionally, the existing catchbasins and the 2 new catchbasins will be fitted with filter packs that will separate and retain sediment, debris, sticks, trash and some hydrocarbons.

Mr. Eng asked about a maintenance program and in particular, how often will the system be cleaned.

Mr. Tansey said once a year is planned.

Ms. SantucciRozzi said that twice per year is required and explained that she recently informed Mr. Tansey about that and a couple of other maintenance reporting requirements.

Mr. Eng said that because hydrocarbons are dropped from the busses, a good maintenance program is necessary.

Mr. Reynolds asked about the sedimentation; he asked Mr. Tansey to clarify that the First Defense unit will capture up to 18" of sediment and then it requires cleaning.

Mr. Tansey said that is correct but regardless, it should be cleaned at least once per year and per a maintenance plan (documented monitoring) routine inspection will identify any problems in advance of any occurrence.

Mr. Reynolds asked if the snow runoff or snow storage would potentially reroute the runoff to an area you don't want it to go. Mr. Mirabito said the grading is designed to handle what is expected; Ms. SantucciRozzi clarified that the snow will be removed to offsite, in large storm events.

Ms. SantucciRozzi said Staff does not have the elevations. Staff will revise Condition #36 (Parking) to reflect the revised Site Plan. Staff will update the Draft Conditions incorporating the updated calculations provided by Ross Engineering.

Mr. Reynolds asked if the washing is done inside and if it runs into the drainage system. Mr. Tansey said yes.

Mr. Tansey informed the Board that he has the recording information from the As-Built Certificates to submit.

Ms. SantucciRozzi said if the Board is comfortable allowing Staff to fill in some dates and update a few conditions, the Board could vote tonight.

Mr. Reynolds confirmed that all outstanding items will be complete before the Decision will be filed, Ms. SantucciRozzi said yes.

Mr. Harnais called for a Motion to close the Public Hearing.

Mr. Reynolds made a Motion to close the Public Hearing; seconded by Mr. Eng.

Vote: 4:0:0 (Member McDonald recused herself due to missed testimony).

Mr. Harnais called for a motion to approve the Site Plan Conditions.

Mr. Reynolds made a Motion to approve the Site Plan Conditions and Special Permit findings, pending Staff completion of all the outstanding additions to the Conditions; seconded by Mr. Eng.

Vote: 4:0:0 (Member McDonald recused herself due to missed testimony).

13-04 (Continued Public Hearing)

19A Commercial Street / FINIA II, LLC

(BWLD) Special Permit for Reduction of Parking (135-615) / Administrative Site Plan Review

Robert Hedlund, Applicant
Marko Piro Fani, Trio Partner
John Hardy, Engineer

Mr. Hedlund addressed the Board and introduced Mr. Fani and Mr. Hardy and explained that they are without council by choice. He gave a brief overview of the restaurant project, describing the space, the operational hours of 7 am – 10 pm. and said that since the August meeting, he had a discussion with Mr. Quirk (the building owner, landlord) regarding a parking situation that affects the proposed restaurant and the parking at Chair Fair.

Mr. Hedlund said that he is getting familiar with the Planning Board process and since the last meeting, he submitted a signage plan. Also since the last meeting, he and Barry Joseph, owner of Chair Fair reached an agreement on parking, maintenance, trespass signage, snow removal and access to the Municipal lot. Collectively, they also worked out suggestions for municipal parking.

Mr. Hedlund explained that the Building Department reviewed the physical site. They said the access is acceptable but the Handicap requirements came up short; specifically the painted parking space.

As Staff suggested, they are able to add parking at the rear of the lot; that totals 8 spaces including one Handicap space. Further, an external grease trap is required; it will be located in the basement of No. 19 Commercial Street. Mr. Hedlund clarified some confusion over the number of seats, stating the seating totals 87.

Mr. Hedlund, using the site plan, said the patio is closer than shown, allowing more public access around the patio. Additionally, he said he understands Staffs' concerns about where the drainage connects around the patio.

In conclusion Mr. Hedlund acknowledged that deliveries will be delivered in the rear, not on the street. He mentioned a health enforcement memo; dust, pest control, construction debris, asbestos & lead have been addressed.

Mr. Harnais opened questions and comments to the public:

Len Arabia, a neighborhood resident and retired Engineer said he experienced 20 years of development in the Landing. He said he is excited about the infrastructure changes and the future plans.

He said Four Square came to the Landing several years ago and he was encouraged with the improvement. The Landing is becoming a much safer place but he had not seen as much change as he hoped.

He commented on this proposed second location as a positive improvement and urged the Planning Board to approve the project.

Mr. Harnais opened questions and comments to the Board.

Ms. McDonald thanked Mr. Arabia for his comments. She said Mr. Hedlund addressed much of the previous concerns and said the parking agreement is great. She asked further if one Handicap parking

space is sufficient. Ms. Stickney said the Building Department approved the one. Mr. Hedlund clarified direction from the Building Department and the Planning Department and the plan changes that were made to accommodate the changes. Ms. McDonald had no other concerns about parking.

Ms. McDonald also asked Mr. Hedlund about the drainage. Ms. Stickney also asked Mr. Hedlund about the roof leaders, specifically, where they tie in. Mr. Hardy said the roof drains into the municipal system drainage. Ms. Stickney asked if the drainage ultimately ties into the Smelt Brook or the Town system. Mr. Hardy said he believes it drains into the Town system.

Mr. Eng added that it is important that it does not drain into Smelt Brook.

Ms. McDonald commented to Mr. Hedlund that overall, the plans look great and commended the project.

Mr. Mikami said the drainage discussion was raised at the last meeting and reminded Mr. Hedlund to get things in on time.

Mr. Hedlund acknowledged Mr. Mikami's comments and explained about some previous miscommunication.

Mr. Mikami stressed that they submit complete plans with all the details so that the Board and view and discuss one conclusive set of plans. Ms. Stickney clarified to Mr. Mikami that the signage was submitted by Mr. Baldassini, however the Site Plan had to be edited and was only submitted yesterday.

Mr. Mikami then asked about the parking. Referring to Item #5 of an agreement between the Applicant and Chair Fair, he asked if they remedied parking signage.

Mr. Hedlund clarified to Mr. Mikami that Item #5 does not relate to the parking; rather, it concerns the area that the parking borders (the municipal parking lot). The municipal lot has been unattended by Town maintenance and it looks terrible. Mr. Hedlund is willing to do the work to enhance the Town property but wants clarification concerning liability.

Mr. Mikami encouraged Mr. Hedlund to rethink the handicap parking space relative to the building entrance. He questioned if this was the best solution since it seems close to the traffic aisle.

Mr. Hardy responded by pointing out that it is no different than as seen at Stop N Shop. A person has to cross a traffic lane to enter the building.

Mr. Mikami reiterated that all the changes, revisions and all other details should be compiled and submitted all together. He asked about the cooler in the rear, he wants to see a plan on construction.

Ms. Stickney raised the point that the parking agreement is not between both of the property owners. It is actually between a tenant and a neighboring owner. As written, it is simply a gentleman's agreement with liability concerns; there is no recorded easement and therefore not enforceable.

Mr. Harnais agreed and said the agreement should lie with the land, he agreed, it is not enforceable.

Mr. Hedlund said the parking lot is being used by multiple businesses, at least the agreement between him and Mr. Joseph, is at least some order.

Ms. Stickney clarified the last discussion by saying the Town cannot approve access over someone else's property.

Mr. Eng suggested Mr. Hedlund approach Mr. Quirk (the landlord) to design some protective language.

Mr. Hedlund said Mr. Quirk has not seen the agreement (as presented).

Ms. Stickney said the Town needs a formal easement. She said she was surprised that Mr. Quirk did not give himself an easement when he sold to the MBTA to protect the parking that is there. Again saying, the Town cannot approve access over someone else's property.

Mr. Eng suggested to Mr. Hedlund that he approach Quirk for an agreement that would apply to future tenants.

Mr. Harnais encourages and supports the idea of making Mr. Quirk a part of this; otherwise what they have currently agreed is not enforceable.

Mr. Mikami said the Landing was his neighborhood and asked the Applicant to focus on doing a quality job.

Mr. Eng had two questions. He asked if Mr. Hedlund considered putting an opening in the patio, perhaps in a corner to permit easier handicap access. Mr. Hardy pointed out the 1.5 FT grade change.

Secondly, Mr. Mikami asked if the landscaping and the railing surrounding the patio will protect patrons from a moving car at that height. Mr. Hardy said the wall is 6" higher than the pavement, typical of a sidewalk height.

Mr. Eng suggested to think about this and if you are not confident about the safety of this area, you might consider installing a wheel stop.

Ms. Stickney questioned the actual dimensions between the Site and the Architectural Plans. Mr. Hardy confirmed that the revised plan was a bit off.

Mr. Reynolds asked about the grease pit location. Mr. Hardy clarified that the utilities are located in a basement under H&R Block but the grease pit is located in his basement rental space. He commented on all the positive changes, he commended Mr. Hedlund is working things out with Mr. Joseph despite the outstanding issues and said he hopes the legal issues will get settled.

Mr. Harnais commended the Applicants for having done such a great job with Four Square in the Landing and although this project is going slow, he anticipated they will do equally well. He reinforced that the Applicant clarify the parking agreement.

Mr. Reynolds made a Motion to Continue to October 8, 2014 and directed Staff to prepare Draft Conditions; seconded by Mr. Eng.

Vote: 4:0:0 (Mr. Harnais did not vote due to missed testimony.)

(T.C.O. 13-029) (Public Hearing)
Medical Marijuana / Mayor Sullivan
Zoning Moratorium

(The matter was opened and immediately tabled to end of the meeting).

13-05 (Public Hearing)
155 – 199 Bay State Drive / Crossfit-93
Special Permit – Site Plan Review

Andrew DeMore, Applicant, owner

James Marathas

Taber Kealy

Attorney John Molloy

Craig Robertson

Mr. Harnais read the Public Notice.

Attorney John Molloy addressed the Board and explained that the Applicant is seeking a permit for an indoor recreational gym. He said the Applicant currently operates another gym at 288 Wood Road for 27 years. Specifically, he will be doing crossfit training which is a cross between lifting weights and cardio vascular exercise. This is a new concept that began with Reebok.

Andrew DeMore addressed the Board confirming that he has operated the gym at 288 Wood Road. He asked if the Board had any questions for him.

Ms. Stickney addressed the Board and said she distributed to the Members a copy of the Application with a narrative addressing the criteria of 503; Site Plan, floor layout indicating the placement of the equipment, aerial view of the building; they plan to occupy 18,000 FT in the rear of the (former ABC) building on Bay State Drive. Late in the afternoon (9-13-13), she received a Traffic Memo from McMahon Associates indicating traffic numbers based on his current business on Wood Road with the ITE Manual Land-Use Code for a Health Club / Fitness Centers. He does appear to exceed the "50 new trips" in the by-law, but ended up with approximately 73. Ms. Stickney further stated that more review is needed and that it could be conditioned by the size of the classes.

Ms. McDonald had no questions but commented that it is a great idea for this location.

Mr. Mikami questioned the excessive trips and asked for a sense of the volume at your current location.

Mr. DeMore said that his peak hours are after 5 PM; his peak class is 5:30 PM. He plans on daily schedule class hours: 6 AM, 7am, 9am, Noon, 4:30, 5:30 & 6:30. The 6AM (peak) class has 16 people; the other classes have about 6-8 people.

Mr. Eng referenced the parking concerns and asked if he had a contingency plan if he expanded the number of classes.

Mr. DeMore said that not all the spots are being utilized for the occupancy of the building, he observed that of the 498 parking spots, typically about 100 spots are not used. He assured the Board that his class size will not exceed 16 people.

Mr. Reynolds said he had no objections to the proposal.

Ms. Stickney said that the Conditions will be ready for the October 8, 2014 meeting.

Mr. Harnais called for a motion to continue to October 8, 2013.

Mr. Reynolds made a motion to continue to October 8, 2013; seconded by Mr. Eng.

Vote: 5:0:0

(T.C.O. 13-029) (Public Hearing)
Medical Marijuana / Mayor Sullivan
Zoning Moratorium

Present was Christine Stickney for the Mayor's Office
Town Councilor John Mullaney of District 2

Ms. Stickney addressed the Board and said the Staff Report was distributed previously at the last meeting. She explained that it is a moratorium for a year from whenever the Town Council will endorse it. The Department of Public Health issued the regulations on May 18, 2013. The state has gone into Phase I whereas they have received some applications for potential (501-3C) dispensary entities (not a defined site location) but they still have more physical review.

Mr. Harnais explained that Phase one was only an application fee of \$59.00. They did not have to state where a dispensary would be located, they could change Counties, and some applied in dual Counties.

On September 22, 2013, the state will release a list of applicants that can move to Phase II, the fee for this Phase is \$30,000.00. Mr. Harnais further explained that the moratorium is ineffective because if the Town does not support dispensaries, you will not get a dispensary. The state does not want a controversial dispensaries or cultivation centers going to a town that does not want it.

Mr. Harnais plans on asking the Town Council why there hasn't been a moratorium on Oxytocin or Vicodin sold in our pharmacies. He does not agree that there is a connection between Marijuana and teen deaths, unlike Heroin. Doctors and dentists cannot give a prescription for Marijuana without certifications but they routinely prescribe Oxytocin or Vicodin which is just as bad as Heroin and those drugs destroys lives. Yet there seems to be an excessive concern about this Marijuana moratorium.

Ms. Stickney said that the Moratorium is in response to the ballot question.

Mr. Harnais said any dispensary has to go through a Site Plan Review, if they build it they have to have a change of use because there is no dispensary right now.

Ms. Stickney said it depends, if it comes in as an agricultural use, it could be exempt.

Mr. Harnais said it would be difficult to prove an agricultural use, its purpose is medicinal.

Mr. Reynolds asked Ms. Stickney if cultivation is defined in the by-laws.

Ms. Stickney said there are two different definitions; cultivation and dispensary. The cultivation could be somewhere else or part of the dispensary according to state regulation definitions.

Mr. Harnais said wherever it is located; it cannot be within 1500 LF of where a number of children congregate.

Ms. Stickney said that the regulations are pretty broad as to definition of "where children congregate"; she asked does a household where "a number of children live" qualify under this language.

Mr. Harnais said there are extensive regulations for marijuana that do not apply to other more powerful addictive prescription drugs.

Town Councilor Mullaney attended the meeting, commented on a story printed in the Boston Globe on this issue that detailed Mr. Harnais' position. Further, he said 59% of the residents of Braintree and the surrounding towns voted in favor of medical Marijuana; 63% of residents of Massachusetts voted in favor.

He said he visited a dispensary in Denver, Colorado this past May. He said driving down the street, you cannot detect it is even there. In the hour and a half he was there, only two customers came in and that their by-law keeps the doctors and sellers separate.

Mr. Harnais emphasized that kids aren't dying from Marijuana, there is no certification to sell drugs narcotics that are highly addictive and do kill people. We don't have police detail for pharmacies that deal with prescriptions for all kinds of narcotics, pharmacies have no restrictions on locations to children, such as schools; the hysteria surrounding Marijuana doesn't make sense.

Councilor Mullaney brought up a point about cash vs. credit card payment, considering dispensary theft. Since the Federal Government does not recognize Marijuana as a legal substance, the credit card companies prohibit purchases of it with a credit card. It will become a cash business and the fear of theft is greater.

Mr. Harnais said that the surrounding towns will benefit from the mitigation contribution of a Marijuana facility. Comparatively, in three years, Quincy will be receiving a \$500,000. Braintree is missing out on the window of economic opportunity.

Mr. Harnais added that there will not be a spike in getting prescriptions for Marijuana use; it will just be more comfortable getting them.

Mr. Harnais doesn't agree with the moratorium and called for a Motion for favorable recommendation for a moratorium.

Mr. Reynolds asked what the charge of the Planning Board was for this matter.

Mr. Harnais said the Board is charged with giving a recommendation as to a moratorium because it is a zoning amendment. He's not in agreement with the delay, further, the zoning should have been done earlier.

Ms. Stickney reminded the Board that a recommendation to the Town Council has to be given or no action can be taken for a specified time. She said it could be no recommendation, a favorable recommendation with comments; or a negative recommendation.

Mr. Reynolds asked the duration of the moratorium. Ms. Stickney answered it would be in effect for one year from the date it is signed by the Council.

Mr. Harnais said the moratorium is not going to impact anything because no person wanting to open a dispensary will look to Braintree.

Mr. Reynolds questioned if a moratorium is put in place, the issue will be addressed and it will result in a by-law.

Mr. Harnais said you cannot outlaw it, you can only zone it.

Mr. Reynolds said he assumes there may be lawsuits down the road challenging the constitutionality of measures that have been taken after the law was approved.

Ms. McDonald asked if there have been any ideas on where it may be zoned in Braintree.

Mr. Harnais suggested past Braintree 5 Corners in the warehouse area.

Ms. Stickney explained that this is a 2-step process, first the zoning has to be passed; and then the town has to zone it to a particular zoning district.

Mr. Harnais called for a motion to close the Public Hearing.

Mr. Reynolds made a motion to close the public hearing; seconded by Mr. Eng.

Vote: 5:0:0

Mr. Harnais called for a motion for a favorable recommendation to the Town Council for a Moratorium to allow Medical Marijuana.

Mr. Reynolds said that there has been information shared that there is no action that the Board can take based on the deadlines of the state's Phase One which has passed and Phase Two approaching in 45 days.

Ms. McDonald motioned for a favorable recommendation to the Town Council for a Moratorium; seconded by Mr. Reynolds.

Vote: 3:2:0 (Mr. Eng and Mr. Mikami voted against)

With no further business, Mr. Harnais called for a Motion to adjourn the meeting.
Mr. Reynolds made a Motion to adjourn; seconded by Mr. Mikami.

Vote: 5:0:0

The meeting adjourned at 10:15 P.M.

Respectfully Submitted by,
Elizabeth Schaffer