

Joseph C. Sullivan
Mayor

Department of Planning and Community Development

90 Pond Street

Braintree, Massachusetts 02184

Phone: 781-794-8230 Fax: 781-794-8089

Christine Stickney, Director
Melissa M. Santucci, Principal Planner
Kelly Phelan, Conservation Planner

Braintree Planning Board
March 17, 2009
Town Hall – Johnson Memorial Chambers

APPROVED

Present:

Robert Harnais, Chair

Joseph Reynolds, Vice Chair

Linda Cusick Woodman, Clerk

James Eng

Darryl Mikami

Christine Stickney, Director

Melissa Santucci, Principal Planner

The Chair called the meeting to order at 7:00 P.M.

Roll Call: Mr. Reynolds [present], Ms. Cusick Woodman [not present, arrives at 7:15 P.M.], Mr. Eng [present], Mr. Mikami [present], Mr. Harnais [present]

New Business/Old Business

Zoning Board of Appeal Petition – March 2009

For details please see Ms. Santucci's report dated 3/16/09.

350 Granite Street/Liberty Bay Credit Union

Ms. Cusick Woodman arrives during discussion.

No one was in attendance to represent the applicant who has requested authorization to install a second wall sign [50.4 SF]. The Credit Union currently has a 27 SF sign over their main entrance. Ms. Santucci stated that she feels a second sign is unnecessary.

Discussion ensued on a number of points:

- Mr. Eng asked if temporary signs, such as “Now Open,” were allowed. [yes]
- Mr. Mikami noted that the Mayor is pursuing a course of action to increase compliance with the sign bylaw.
- Mr. Harnais stated he feels that signs bring business and when an enterprise looks into renting space in any building they will want to have the same amount of signage as other tenants. He added that the purpose of a sign ordinance is to prohibit outrageous signs and to promote uniformity and appropriateness of signs throughout the Town.
- Mr. Reynolds had a number of questions about the size of the sign and the sections of the Zoning Bylaw from which the applicant was requesting relief.

Mr. Eng's motion to recommend that the ZBA not grant the relief did not receive a second and was withdrawn.

Mr. Reynolds stated he felt the Bylaw was ambiguous and he wished more information about the square footage of the other signs on the premises.

Motion by Mr. Reynolds, second by Mr. Mikami to send no recommendation to the ZBA based on the fact the applicant has provided insufficient information on which to base a recommendation..

Vote: 4/0/1 [Ms. Cusick Woodman not voting]

Request for Bond Reduction/Release and As-Built Approval/Ashworth Avenue Extension
For details please see Ms. Santucci's staff report dated 3/17/09.

Attorney Frank Marinelli was in attendance representing the applicant, John Fleming, who was also present. Attorney Marinelli summarized the background of the small three-lot subdivision which was approved in 2003, with one of the lots deeded to the Conservation Commission. The applicant is before the Planning Board for several items: modification of the subdivision [change in elevation of the pavement, revised detention basin and utility locations/inverts] and a request for As-Built Approval. Attorney Marinelli said there are four conditions which staff noted remain outstanding: #18 [submission of a street acceptance plan and legal description - necessary should the applicant petition the Town for acceptance of Ashworth Avenue Extension.], #19 [submission of disk copies of As-Built plan], #30 [cleaning of the drainage system and submission of maintenance plan], and #34 [submission of the \$5,000 drainage bond to be held for three years].

Regarding the drainage system: there is only one catchbasin which the applicant has agreed to inspect and clean for three years or until the road is accepted by the Town. He has the agreement with him tonight.

Regarding the \$5,000 bond: Attorney Marinelli noted that during the site visit to the subject property on 3/16/09 [staff, Town Engineer, Mr. Fleming and Attorney Marinelli in attendance] the question of the bond did not arise.

Regarding the request for modifications: Attorney provided a detailed explanation of the need for the recently recorded driveway easements. Staff noted the need to change the roadway grades and make minor changes to the detention basin [approved by Town Engineer and earlier by the Planning Board].

The Planning Board members posed questions about the drainage bond [Mr. Fleming can submit the bond tomorrow.], the need for the \$2,000 to cover final site clean-up [catchbasin and roadway] and if the catchbasin and detention pond are working as planned [Town Engineer had no issues during yesterday's site visit.]

Motion by Mr. Eng, second by Ms. Cusick Woodman to grant the modifications.
Vote: 5/0

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Motion by Mr. Reynolds, second by Ms. Cusick Woodman to release the \$134,000 bond with the applicant's agreement to complete the clean-up by 5/1/09.

Vote: 5/0

Motion by Mr. Eng, second by Mr. Reynolds to grant As-Built Approval with surviving conditions #9, #18, #26, #28, #29, #30, #33, #34, #54, #58 and #60.

Vote: 5/0

Motion by Mr. Reynolds, second by Ms. Cusick Woodman to adjourn at 10:45 P.M.

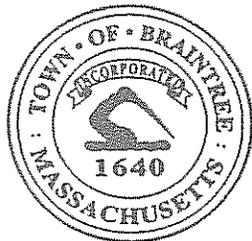
Respectfully submitted,
Linda Raiss

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Braintree Planning Board
March 17, 2009 Public Hearing @ 7:30 P.M.
Town Hall – Johnson Memorial Chambers

Present:

Robert Harnais, Chair	Christine Stickney, Director
Joseph Reynolds, Vice Chair	Melissa Santucci, Principal Planner
Linda Cusick Woodman, Clerk	
James Eng	
Darryl Mikami	

531-533 Pond Street and Rear Pond Street/RMT Braintree, LLC and McCourt Construction
Application for Major Modification to Planning Board Decision 93-4
For details please see Ms. Santucci's staff report dated 3/10/09.

The Chair opened the public hearing and read the legal notice.

Attorney Jeff Tocchio, representing the applicant, Ryan McCourt and Tom French, the applicant's engineer from Cubellis, were present.

Attorney Tocchio addressed the Board and distributed reduced copies of the November 2008 revised plan. He provided some background on the property and the 1994 Planning Board decision, which was crafted for the former property owner, Ainslie Corporation, to construct a 3,750 SF addition. RMT Braintree, LLC leased space from Ainslie for repair and maintenance activities and now has purchased the property. The applicant is before the Planning Board to modify two of the Conditions of Approval [1994]: Condition 18, which stipulates the kind of storage allowed in the 3,750 SF addition, storage which is different from that needed by the current owner, and Condition 31 relative to outdoor storage. As well, the applicant wishes to make striping changes on site.

Tom French addressed the Board with more detail on the site and the proposed modifications. The applicant has proposed that the Planning Board strike Condition 31 and replace it to allow outdoor storage per the plan notes. Storage would be more than 100' from the abutting residential properties and comply with the Special Permit and Site Plan Review criteria for storage in a Commercial zoning district. They wish to store items such as jersey barriers, plow blades and "dry" storage. The entire site is fenced for security purposes.

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Attorney Tocchio informed the Board that the applicant is working with DEP to install particulate filters on their equipment. This translates into all their equipment being "ahead of the curve" for emission controls and the cleanest in the Commonwealth.

The Chair asked for a motion to accept the summary of correspondence from 12/1/08 to 3/11/09. Motion by Mr. Reynolds, second by Ms. Cusick Woodman to accept the summary. Vote: 5/0

The Chair then asked for comment from those in attendance.

Attorney David Kellem, representing direct abutters Roger and Darlene Aiello [also present], addressed the Board. He stated that his clients are adamantly opposed to the proposed modifications. He has a memo and photos in support of their position which he wishes to submit to the members.

The Chair noted that submission of a considerable amount of material at this time was not appropriate as the Staff and the Board did not have review time. He suggested that Attorney Kellem distribute his binders and the Board continue the hearing. This would give the Board until the next meeting to digest the material.

Attorney Kellem was in agreement and made a very short presentation to explain the binder materials which include a memo, photos of the McCourt site taken by his client [from his client's property] which show storage and use of heavy equipment from 2003 through February 2009, photos of the Aiello property at the time Ainslie owned the property and at which time the area was quiet, photos of the Aiello property as it exists today, and reduced plans of the proposed modifications provided by McCourt which show the storm drain and the wetlands.

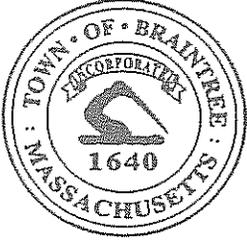
Mr. McCourt said they would provide additional information for the next meeting.

Motion by Mr. Eng, second by Mr. Reynolds to continue the hearing to April 6, 2009 at 7:00 P.M. [with materials to be considered at the next hearing submitted by March 24, 2009].

Vote: 5/0

Respectfully submitted,

Linda Raiss



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Braintree Planning Board
March 17, 2009
Public Hearing @ 8:00 P.M.
Town Hall – Johnson Memorial Chambers

Present:

Robert Harnais, Chair	Christine Stickney, Director
Joseph Reynolds, Vice Chair	Melissa Santucci, Principal Planner
Linda Cusick Woodman, Clerk	
James Eng	
Darryl Mikami	

20 Mill Lane/S. Zeboski

Application for Special Permit and Site Plan Review

For details please see Ms. Santucci's staff report dated 3/12/09.

The Chair opened the public hearing and read the legal notice.

Attorney Frank Marinelli, Stephen Zeboski and Al Trakimas, applicant's engineer, were present. Attorney Marinelli addressed the Board and provided background information regarding the property and the proposed construction. The existing warehouse [33,000 SF] to will be torn down and replaced with a smaller structure [23,000 SF] of one story with seven contractor units on Mill Lane and a second story under at the rear with an additional seven contractor units. They have received relief from the Zoning Board of Appeal for their proposal which improves many of the zoning deficiencies [Open Space will go from 5.7% to 12%; front setback from 2.6' to 28'; rear setback from 28.9% to 36%; lot coverage from 94% to 88%; and parking spaces will be increased from 11 to 31. The applicant has filed with the Conservation Commission and is working with them. Mr. Trakimas will work with Planning staff on the issues raised in the staff report. There are four aspects to the project which trigger Special Permits: crossing a zone line, development in a floodplain, development of more that 500 SF and development in a transition area [100' buffer]. Utilities are available on the property, which is served by town sewer and water. Currently the storm water is unrestrained as it leaves the property. Post-development the roof and pavement runoff will be directed to a storm water treatment unit before being released into the Monaquot River. In addition there will be less runoff post-development because of the additional plantings and green space.

The Chair asked for a motion to accept the summary of correspondence from 2/19-3/12/09. Motion by Mr. Reynolds, second by Ms. Cusick Woodman to accept the summary. Vote: 5/0

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Attorney Marinelli presented letters from two abutters [Holland and O'Brien].

Ms. Cusick Woodman asked if the building had to be sprinkled? [yes]

Motion by Mr. Reynolds, second by Ms. Cusick Woodman to continue the hearing to April 21, 2009 at 7:30 P.M.

Vote: 5/0

Respectfully submitted,

Linda Raiss

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Braintree Planning Board
March 17, 2009
Public Hearing @ 8:30 P.M.
Town Hall – Johnson Memorial Chambers

Present:

Robert Harnais, Chair	Christine Stickney, Director
Joseph Reynolds, Vice Chair	Melissa Santucci, Principal Planner
Linda Cusick Woodman, Clerk	
James Eng	
Darryl Mikami	

39 Lantern Lane/R, and M. Dirrane

Application under Braintree Zoning bylaw Section 135-711

For details please see Ms. Santucci's staff report dated 3/12/09.

Although this was a continued hearing, the Chair opened the hearing and read the legal notice.

David Kelly, Kelly Engineering Group, and Martin and Rita Dirrane were present.

Mr. Kelly thanked everyone in attendance for their patience in light of the various and unique circumstances which have forced the hearing to be continued since the application was submitted in November [2008]. He distributed hand-outs to the Board before commencing his technical presentation which consisted of background information on the property and the proposal before the Board.

Lantern Lane provides access to one house on an 81,000 SF parcel off Hewmason Road. The property was purchased by the Dirranes in 2002. Although there is a subdivision on record coming off Prescott and Avery Roads, constructing the subdivision would be more detrimental to the area and require a number of waivers. With this application the Dirranes have taken advantage of one of the tools for non-traditional development provided in Braintree Zoning Bylaw Chp. 135-710 [More than One Dwelling on a Lot]. He asked and was granted permission to read that section of the Bylaw into the record. He then provided information about two earlier filings: In 2004 the applicant came before the Planning Board with a Definitive Plan to improve a paper street for a conventional subdivision roadway to access three lots. During the design process and hearing there was much opposition due to the grade of the property and the environmental impacts. The application was withdrawn and in 2006 a second application was submitted under Braintree Zoning Bylaw 135-710. That application also prompted neighborhood opposition and was withdrawn the following year at the request of the Planning Board and staff. Some of the reasons for withdrawal at that time were because the plans depicted

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no definite location for the proposed homes [The current plan depicts locations.] and concerns in the neighborhood about the water supply. Since withdrawal of the later application an 8" water main has been installed in the road with access to the Dirranes' property.

Driveway: The current proposal addresses earlier concerns that the driveway was too narrow to support the additional dwellings and improves Lantern Lane from 10' wide to an 18' driveway with sloped granite curbing. The proposed driveway will be 3' wider than Hewmason Road and 2' wider than Prescott Lane. To address parking concerns the applicant proposes to construct a garage for each unit and provide two parking spaces for each. There will be no parking on Lantern Lane.

Drainage: Regarding concerns on drainage, there will be no increase in flow from the site. The storm water management system will include recharge on site.

Safety [BFD]: Mr. Kelly has met with Fire Department personnel and the Department's file contains a letter stating that Lantern Lane is sufficient for fire apparatus. In addition, the applicant has agreed to install sprinklers in each dwelling.

Utilities: Utilities will be coming from Hewmason Road, with a sewer easement from Elm Knoll Road.

Landscaping: The applicant proposed substantial landscaping to improve the current insufficient buffering between the subject property and properties on Bellevue Road.

Limit of Clearing: A Limit of Clearing line will delineate how much clearing can be done on site.

This proposal to develop a back lot is a novel one. The proposal of four units on 81,000 SF equates to 20,000 SF per unit and is consistent with the density in the neighborhood. Of all the abutting properties only one is greater than 15,000 SF. All the others are between 5,000 SF and 12,000 SF.

Concluding his presentation, Mr. Kelly stated that the project before the Board has been thoroughly reviewed by appropriate Town Departments.

The Chair asked for a motion to accept the summary of correspondence from 11/4/08 – 3/13/09. Motion by Mr. Reynolds, second by Ms. Cusick Woodman to accept the summary. Vote: 5/0

The Chair then announced that the Planning Board would entertain comment from those in attendance, assuring the audience that everyone would be heard. He added that he would not tolerate any disruption whatsoever nor side conversations. Everyone wishing to speak would address the Board at the microphone provided.

Audience participation

William Johnson, 32 Prescott Lane, came forward to introduce David Crispin of the BSC Group, who has been hired by some neighbors to review the proposed development at 39 Lantern Lane.

Mr. Crispin stated that he reviewed the plans which have been revised through February 2009. His remarks were based on his 3/17/09 letter to the Planning Board which he submitted to staff at the end of his presentation. In his "Summary of the Project," Mr. Crispin states that the proposal "meets the definition of a CLUSTER DEVELOPMENT" in Braintree's Zoning Bylaw and is prohibited in a Residence B zoning district [opinion of the Building Inspector]. Much of the content of the presentation was focused on zoning issues. Mr. Crispin took parts of the "Purpose" section of the Zoning Bylaw and commented on how the project derogated from these "purposes" [lessening congestion, securing safety, preventing overcrowding of land, conserving the value of lands and buildings, conserving natural resources, preventing blight and the pollution of the environment]. He addressed other issues, as well: the "multi-family" character of the proposal, the previous common ownership of the site and an adjacent 14,000 SF parcel and the "street vs. driveway" issue. **[Regarding this issue, the Chair excused his interruption and asked if in legal terms access to the Dirranes' home is a driveway or a road. Mr. Crispin responded that it is a driveway. The Chair continued and asked rhetorically if it would be any different now and then.]** Mr. Crispin's comments on storm drainage specifically stated that "It is unlikely that the storm drainage system at the northern end of the site will have any effect in controlling runoff" because the engineer's calculations are based on his determination that the seasonal high water table is 5' below grade, while the presence of sump pumps in abutting homes indicate high water tables during "certain seasons of the year." In view of the high water table, the leaching system designed 8' below grade will not recharge because it will be full of water. Since the test pit to the south is only 8' deep, it is possible that the 10' deep storm drainage system [south side] could be within the water table or bedrock. The percolation tests were done at 2' to 3'. This is 5' to 6' above where leaching could occur.

Mr. Crispin raised twelve reasons that the project should be denied: the proposed non-conforming lot; the intensification of the use of said lot; the density, non-conforming frontage, lot width and area; the substandard access and frontage, roadway cross section and storm water drainage system; the legal hardships for abutters; the unsafe location of the "street" in close proximity to buildings. The twelve reasons include the fact that multi-family use is prohibited, cluster development is not permitted, the construction of the wall and fence leave no room for snow removal and the "massive retaining wall creates blight." On behalf of his clients he requested that the Board deny the project because it is counter to years of planning in Braintree, is in violation of the zoning and subdivision regulations, is considered unsafe and detrimental to the neighborhood and there is clearly a better option.

William Johnson, 32 Prescott Lane

Mr. Johnson presented photos to the Board and outlined his numerous concerns. During his remarks he noted the following:

- The earlier subdivision application was a better alternative for the neighborhood.
- After the last hearing [of an earlier application], Mr. Dirrane told him in the parking lot of Town Hall that there would be "a new mayor and a new Planning Board who will pass" his project.
- The Dirranes purchased the property for development purposes.
- The Dirrane's driveway is about 5' from the Carmody house.
- The Dirrane's property is higher than others' and water drains down to their properties causing flooding problems.

- The proposal is similar to two subdivisions: Buker Corners and Whites Hill.
- The plowing of the driveway will increase water problems for him in winter. The proposed driveway is too close to his property and will devalue his property, posing difficulties for them should they wish to sell.
- The proposed retaining wall is against the property lines and needs a construction easement, which he assured the Board that neighbors would not grant.
- The Berniers' garage is on the property line, too close to the Dirrane's driveway, and they have a tree close to the property line. The construction of the retaining wall could damage the roots and weaken the tree which is important to the family for summer shade.
- The length and width of the driveway is a danger for children to walk up and down, especially in bad weather when snow might be pushed to the sides and reduce the width of the 18' driveway. This winter Mr. Dirrane plowed his driveway to approximately 7' wide. Safety is a major concern for the neighbors. He added a New Year's Eve scenario when partygoers would block the cul de sac and prevent emergency vehicles from access.

The development will negatively affect the neighborhood. His many comments ended with his asking the Planning Board to deny the proposal as approval would set a dangerous precedent for neighborhood overdevelopment.

Edward Cassidy, 71 Bellevue Road

Mr. Cassidy began by telling the Board that he can now see the sunset from his property. The construction of a wall at the property line will prevent that in future. The runoff from the Dirranes' property goes through his yard, to the Collins property and the McCarthy property before entering the wetlands in Faxon Park. Although the Deputy Chief of the Fire Department has no unaddressed concerns with the proposal, a ladder truck cannot get in to the property. The Fire Department did not do a test run. [He saw what happened in Quincy and does not want "it" in his backyard.]

Larry McCarthy, 46 Prescott Road

Mr. McCarthy read from a lengthy statement in which he quoted local Bylaws and Massachusetts General Laws from which the project "derogates." He raised issues of safety, density, land use, cluster development, subdivisions, shared driveways, the project being outside the purview of the Planning Board, the health and welfare of the neighbors. He concluded by asking the Planning Board to fulfill their responsibilities and requesting they "enforce" the laws.

Jack O'Connor, 52 Elm Knoll Road

Mr. O'Connor stated that he has lived in his home for 10 years and has always had water problems. The previous owners as well had water problems and constructed a French drain and installed a sump pump to rectify the flooding. He has done additional work: built drywells and brought roof runoff into the drywells. But during the construction he encountered ledge. Last winter [2007/08] the Dirranes constructed a skating rink in their yard and when the ice melted it all came down the embankment to his basement. He has no problem dealing with the roof runoff, but the rink runoff from the Dirranes' property was excessive. If his property decreases in value, would his taxes be reduced?

Sara Zwicker, 98 Stetson Street

Ms. Zwicker lives downhill from the Dirranes and has serious concerns about drainage, which is a big problem for the neighbors, all of whom live down from the Dirranes. The drainage causes flooding in the street, flooding and water problems which will be exacerbated by the additional pavement and house construction. Currently she has two sump pumps running much of the time and her yard is dry only in July and August. She has an additional concern about safety as there are two blind turns at the end of Lantern Lane.

Tina Fuller, 50 Hewmason Road

Ms. Fuller lives with her eight year old son and her parents, the Carmodys. She has serious safety concerns, noting that the proposed fence will create a blind spot. She also mentioned problems of access to the side and rear of the house.

Jim Frechette, 16 Prescott Lane

Mr. Frechette spoke briefly about safety, snow removal and drainage. He replaces his sump pump every year and does not feel the plans adequately address the drainage problems.

Craig Rotz, 31 Prescott Lane

Mr. Rotz has concerns about the fact the Town has continual water shortages, but continues to allow development, about snow plowing and storage, the presence of ledge on the property and possible damage to his basement during construction. He added that "space in the neighborhood is needed."

The Chair announced that this evening's hearing would conclude at 10:30 P.M. and be continued to another evening.

Jean York, 58 Bellevue Road

Ms. York expressed concerns about the dangers of living on a hill, adding that with the MBTA development in Weymouth Landing there has been much cut-through traffic on Bellevue Road and exiting onto Commercial Street is much more difficult. Prescott Lane is one of the most dangerous in Braintree.

George Collins, 79 Bellevue Road

Mr. Collins identified himself as a Registered Professional Civil Engineer. He began by congratulating the members on their appointments, adding that Mayor's appointment of a completely new board puts these members at a disadvantage as they have no history of the previous proposals. **The Chair asked that speakers should restrict their comments to the project since the Board members have ample experience to sit on the hearing.**

Mr. Collins continued by noting the following:

- He did not receive notice by certified mail of the hearing. [Staff responded that the Board follows the law. Notice by Certified Mail is not required.]
- The proposed development needs zoning relief. The frontage of the parcel is only 26'.
- The declaration that the development equates to 20,000 SF per "lot" [four units on 80,000 SF]is deceptive as the "roadway" is included in the calculation. The "lots" are undersized if the cul de sac is discounted.

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- The land should remain as a “retreat lot.”
- The drainage system has been designed below the water table. The detail of the retaining wall, a key element of the development, indicates it was to be 1.5’ off the property line and construction and maintenance easements will be necessary.
- There is a question of the effect the development will have on neighbors’ property values. There are severe adverse impacts to the Carmodys’ property.
- There will be liability issues [associated with safety and emergency access] and repeated the New Year’s Eve scenario.
- The Zoning Board of Appeal could not act on the Dirranes’ petition because no application had yet been submitted to the Building Division.
- There is a need for a rock-solid landscaping plan.

Mr. Collins also asked the following:

- Why are the subdivision regulations not being applied?
- How will the “work limit” [Limit of Clearing line mentioned by the applicant’s engineer] be defined in the long term?
- How will the long-term maintenance of the Stormceptors be ensured?

He concluded by stating if something is to be done there he wants to make sure it is done right, that safety is a primary concern and that the Planning Board should take the neighbors into consideration.

Motion by Mr. Eng, second by Mr. Reynolds to continue the hearing to April 21, 2009 @ 8:00 P.M.

Vote: 5/0

Respectfully submitted,

Linda Raiss