



Department of Planning and Community Development

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PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
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Melissa B. McDonald, Member

Joseph C. Sullivan
Mayor

Braintree Planning Board
May 14, 2013
Town Hall – Johnson Chambers

APPROVED

Present:

Mr. Joseph Reynolds, Vice Chair
Mr. Darryl Mikami, Member
Ms. Melissa McDonald, Member
Mr. James Eng, Clerk

Melissa SantucciRozzi, Principal Planner

Joseph Reynolds, Vice Chair, opened the meeting and called the roll at 7:00 P.M.
Chairman, Robert Harnais was absent.

New Business/Old Business

Zoning Board of Appeal Petitions – May

ZBA (13-15)

53 Joseph Road / Mento Enterprises Inc.

Joseph Mento

Ms. SantucciRozzi introduced the matter and Joseph Mento of Mento Enterprises was present.

Mr. Mento explained that the project is located at 53 Joseph Road. Currently, it is a legal pre-existing non-conforming lot in a neighborhood of similar ranch style, one level homes, all built around 1953.

He proposed to remove the existing building and build a new, 2 story colonial style home (26x36) with a 1 car garage (12x24).

The footprint of the new house will be smaller than what presently exists so the setbacks will increase. The front, rear and right sides will remain the same but 6.5 FT will be added to the left side setback. Mr. Mento is seeking approval to build on the undersized lot.

Ms. McDonald said she previously reviewed the petition and did not have any questions. She said she has seen his work and commented that it would be a nice addition.

Mr. Mikami asked if the existing foundation would be removed, if there is any ledge that would be blasted, if there will be any disturbance to the neighbors and what is planned for the garage that will be raised.

Mr. Mento explained that currently, there is no foundation, it is a slab that will be cut out and a new 8 FT foundation will be formed. There is no ledge, nothing needs to be blasted, and the garage and slab it sits on will be removed and become grass.

Mr. Eng commented that the plan looked excellent and will improve the neighborhood. He supported a favorable recommendation.

Mr. Reynolds asked if this was an old Campanelli house. Mr. Mento answered yes. Are there any other houses in the neighborhood that were also a tear down? Mr. Mento said there is a couple in the area that has added 2nd stories.

The Chairman called for a motion.

Mr. Eng motioned to recommend favorably the demolition of the existing single family dwelling, replaced with a 3 Bedroom single family dwelling with a one-car garage; seconded by Ms. McDonald

Vote: 4:0:0

ZBA (13-06)

7-11 Independence Avenue / Thomas Fitzgerald

Attorney Jack Garland, represented Thomas Fitzgerald and Scott Palmer

Architect: Arthur Choo, Choo Architects of Quincy

Steve DesRoche, Neponset Valley Survey Associates, Quincy

Mr. Garland explained that they are continuing from the last Planning Board meeting on April 9, 2013. Based on unfavorable comments from the Planning Board previously, the plans have been revised.

He further explained that the building has been reduced from 4 levels to 3 levels of living space with a Penthouse unit above. The overall Square Footage has been reduced by nearly 17%. Mr. Garland said that essentially, they attempted to comply with the staff concerns.

Mr. Garland did not have a revised site plan to present to the Board that showed a drainage plan or the rear guest parking spaces that were removed. He said the rear parking spaces noted in the Staff Report, have been removed. Some of the revisions relative to the comments in the Staff Report are reflected in the revised Site Plan (not available at this meeting) and the Architectural Plan.

Also removed (per #9 of the Staff Report) are all parallel parking spaces on Bennett Lane. The variances that concerned those parking spaces are no longer relevant.

Ms. SantucciRozzi clarified that the variances he referenced were not for the parallel parking spaces, they were for the spots drawn head-in to the back of the building (which are removed). Mr. Garland stated that now, the only parking in the building for the project are those parking spaces within the garage on the ground level.

Mr. Garland further stated that the lot is 26,779 SF and the footprint is 18,646 SF. Emphasizing that the building has been reduced by removing a floor, Mr. Garland deferred to the Architect, Mr. Choo, to explain the architectural changes.

Mr. Choo began by identifying the drawing of the building that now consists of 36 units. He explained that there are 3 main living levels; 11 units on the first floor; 12 units on the second floor; 12 units on the third and a penthouse on top. They are all 2 bedroom units. There are a total of 72 parking spaces; 43 regular spaces and 29 utilizing a "lift". Because the ground slopes, the height was determined by the average mean grade on the 4 corners because of the change of grade around the building. The exterior material is brick base and hardy board similar to clapboard with a Mansard style roof to diminish the height of the building. The Penthouse is substantially set back to reduce its appearance from a distance.

Mr. Reynolds asked what the square footage of the penthouse was, Mr. Choo said nearly 2,000 SF. Additionally, there is a fairly large roof deck designed to act as a green feature to the project and to increase the open space. All units are handicap accessible.

Ms. McDonald said that it's a huge improvement, there are still staff issues to work out but she said overall, there is improvement and held her questions at that time.

Mr. Mikami asked if the plans, numbers and figures are precise, explaining that the applicant is asking the Board to decide something without providing all the exact information.

Mr. Garland answered that the Staff's concern was primarily the height of the building. He explained that the architect followed the Braintree Bylaw zoning computation from the mean grade to determine the height of 47 FT.

Ms. SantucciRozzi pointed out that there are parking spaces and walkways on the Site Plan that are not shown on the Architectural Plans. The height has been raised on a couple of occasions. A revised plan was delivered to the Planning Department on Friday (5/10/13) which was reviewed with the Building Inspector. She said it was puzzling why the penthouse is shown but not used in any of the calculations.

Mr. Mikami questioned why the penthouse is not considered a separate story?

Mr. Garland said the penthouse is included in the overall height of the 47 FT building. He clarified that he described it as 3 floors of living space plus a penthouse.

Mr. Mikami recalled that Mr. Garland described the building as 3 stories of living space.

Mr. Choo then explained the parking is situated below grade.

Mr. Mikami returned to the penthouse issue, he wanted to know why the penthouse is not identified as a fourth floor. It is not colored in on the plan – Mr. Mikami found this confusing and unclear.

Mr. Garland explained that on the Plan submitted, the Drawing A 1.5, submitted previously, shows the penthouse; Drawing A 2.1 also shows the penthouse.

Mr. Mikami stated that this is one example of the many things that are unclear. He stressed that all details have to be on the plans and consistent before submitting to the Planning Board and Staff.

Ms. SantucciRozzi acknowledged Mr. Mikami's concerns. She pointed out the inconsistent plan submission that contained different figures. She stressed the importance of submitting plans that are clear and

accurate. She explained that the roof deck is a great revision but the actual materials are unclear which would be helpful to know about the treatment of that area. Other unsettled issues include the roof drain, lift system parking legalities, (Staff is suggesting that the Zoning Board seek an opinion from Council since the Planning Board is only making a recommendation.) The issue Staff has with the lift system is that the Bylaw specifically says that you have to be able to access every car without moving a car.

Mr. Mikami stated that we do want redevelopment of the property, but was uncertain that this is the right project. He expressed that similar projects have been proposed – they went through a similar process, unable to reach a balance between the neighborhoods.

Mr. Mikami further stated that it is unfair to evaluate this project without proper documentation. It is incumbent on the applicant to provide the proper dimensions and plans.

Mr. Reynolds paused at 7:38 pm to note that the Public Hearing scheduled for 7:30 pm will not be heard.

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

The Chairman stated that the Applicant has requested this matter be continued without testimony, and called for a Motion.

Mr. Eng Motioned that the hearing be continued to June 11, 2013 at 7:45 pm; seconded by Ms. McDonald

Vote: 4:0:0

The discussion continued, ZBA (13-06) ...

Mr. Eng questioned some views on the plans that were unclear – concerning the North Elevation (A-2.1) He asked what is on the deck of the penthouse, questioning if there were trees and railing on top of the building. Mr. Choo answered yes, trees with grass.

Mr. Eng pointed out that the back of the building seemed incomplete - is this the latest plan version? Choo – yes, March 19th was the last revision.

Mr. Eng asked how much SF was reduced with the penthouse changes. Mr. Choo said it was reduced by a little over 16,000 SF, an overall reduction of nearly 17%.

Mr. Eng then asked about Staff Report Comment #11 concerning the removal of underground storage tanks and if the DEP report was formerly submitted to the Planning Board.

Mr. Garland said yes, the report was submitted and that it states that Phase I and II are not completed.

Mr. Eng asked if there was any ground leakage now or any leakage from the past.

Mr. Garland said the report identified leakage from the past that was found when the tanks were removed.

Mr. Eng asked when the DEP Application will be complete. Mr. Garland stated that it was ongoing because of the lengthy project and necessary funding.

He further explained that the project is running out of time, the property has been in decay for a long time, there are funding issues, substantial taxes owed to Quincy and Braintree and environmental issues. He stated that further delays may terminate the project.

Mr. Garland clarified the Applicant's understanding that no Building Permit will be issued by the Town or State until the DEP work is complete. He offered that a substantial amount of dirt has been removed.

Mr. Eng referred to the Applicants' Summary noting all the open land in Quincy but the entire building and its parking is planned for Braintree and asked Mr. Garland what was the reason?

Mr. Garland – explained that two thirds of the property is in Braintree; one third in Quincy. In the early stages of the project, he heard rumors indicating that any project proposed on that site would encounter much opposition from Quincy.

Mr. Eng stated that they are doing everything to make this happen, the committee wants something nice but they are responsible for protecting the community to ensure it gets built right. There are additional environmental concerns which, as some past projects have shown, never go away.

Mr. Eng also asked if the Applicant has gone before Quincy yet. Mr. Garland answered, that he went before a public meeting with District Councilor Palmucci on March 9th or 10th – at that time the plan presented showed a 4th floor.

Mr. Eng asked Mr. Garland if he got a sense of Quincy's view of this project. Mr. Garland said that he believed they want something done with the eyesore and to collect taxes on the property again. Mr. Garland explained that Quincy has serious legal concerns about zoning review of abutting town properties.

Mr. Eng explained his concern about spending time and resources on reviewing a project that Quincy will not approve, nor did he want to get in a conflict with Quincy.

Mr. Garland said that Quincy does not have any legal authority to act on the Braintree side of the project. Eventually, there will be some kind of filing concerning the demolition of the old warehouse only, which is on the Quincy portion of the property.

Mr. Eng reiterated the necessity of accuracy, complete plans and answers to all of the concerns noted in the Staff Report so that they are on record.

Mr. Garland explained that he responded to all of the staff report concerns except the "Capitalized Comments" under Additional Comments because he received the report a few days prior to the meeting. He asked the Board if he could respond at this time during the meeting.

Mr. Eng stated he did not want answers during the meeting; he wanted his response in writing and submitted.

Mr. Reynolds asked Mr. Garland to put his responses in writing and submit them but he could also respond verbally and he was asked to reference the Comment number.

Mr. Garland began to answer No. 1, stating that the 36 Units have not been reduced. He then mentioned the parking issue noted on the Staff Report has been resolved.

Mr. Mikami then asked why the number of units has not been reduced to perhaps 12 units. He explained a small number of units would require less variances, less scrutiny and more favorable to the town and potential residents.

Mr. Garland said that the original project was 48 units; it has been reduced to 36 units. The developer has considered the environmental cleanup costs that are now nearing \$800,000.00.

Mr. Mikami stated that those are the client's problems, not the Planning Board. That is why Quincy should be considered. The entire burden is placed on Braintree, creating a density intended to resolve the cleanup expense. He stated that he thought this project is still too large.

Mr. Garland reminded the Board that Braintree profits from the tax collection.

Mr. Mikami stated that Braintree has not profited at all from the lost taxes of this property.

Mr. Garland said the developer listened to the community and the Board; he eliminated the commercial space and reduced the unit number.

Mr. Mikami said it's still too big.

Mr. Reynolds directed Mr. Garland to continue to answer the questions:

Response to Comment 3. Regarding the five parking spaces that were added have been removed as previously mentioned.

Response to Comment 4. Why are the units so big? Answer: the unit size has been reduced.

Response to Comment 5 Why is the dumpster so small – Answer: whatever size is necessary to accommodate, will be provided.

Response to Comment 6. The overall square footage of the building should be reduced – Answer: the size has been reduced

Response to Comment 7. Does the Applicant have legal right of access. Answer: yes, however, the abutter to the rear does not want his section improved. (Please see attached letter from Mr. Gramm who was in the audience.) Mr. Garland said he will review Mr. Gramms' letter further for the Board's consideration.

Response to Comment 8. Inconsistencies depicted on the Architectural and Site Plans should be corrected – Answer: the Board has made this clear, any "to be submitted" Plans will be completely consistent.

Response to Comment 9. All parallel parking spaces shall be removed. Answer: as previously mentioned, they have been removed

Response to Comment 10. All drainage system designed will be fully contained without discharge into the municipal system. Answer: the comments were that it was not shown on the new site plans submitted; that has been corrected.

Response to Comment 11. All environmental reports of any underground storage tank should be submitted. Answer: a report prepared by Green Environmental was submitted, no phase I or II are complete as previously addressed.

Response to Comment 12. The Applicant shall be made aware of Braintree General Ordinance S. 405. Answer: Mr. Garland stated his client, Mr. Fitzgerald, had discussions with the Town concerning Section 504 but they have not been addressed formerly and in writing.

He further stated that Mr. Fitzgerald was available for the Board's questions, if not; he will address this in a letter.

Response to Comment 13. The building elevations present a very boxy building with an unusual shape without features that would create dimension to take away from massing.

Answer: it was stated in the Staff Report that it has improved slightly.

Mr. Garland stated that he will address the 13 other concerns in a letter to the Board.

Ms. SantucciRozzi advised Mr. Garland that if he prevailed at the Zoning Board, he then would proceed to the Braintree Planning Board for a Special Permit; the first thing he will need is an ANR Plan to create a lot in Quincy and a lot in Braintree, signed by both Communities.

She asked about the Quincy property that is zoned Industrial A – will the balance of the land left in Quincy be buildable? Does it meet the minimum lot size?

Further, she said, assuming what is there now is non-conforming, would the Applicant go to the Quincy Zoning Board of Appeals before demolishing the existing building to protect any rights you have before demolishing?

Mr. Fitzgerald addressed the Board stating that he has no intension to build on the Quincy lot. Quincy gave him such a difficult time, he has no intention to build in Quincy, and it will be an open space.

Melissa SantucciRozzi clarified for the Applicant and the record, that the Applicant cannot use land in another community to satisfy Braintree's zoning requirements.

Mr. Reynolds paused at 8:00 pm to note that the Public Hearing scheduled for 8:00 pm will not be heard.

(12-09) (Continued Public Hearing)
370 Shaw Street / William and Linda Jablonski
Site Plan Review / Multiple Dwellings (135 & 710)

The Chairman stated that the Applicant has requested this matter be continued without testimony, and stated a formal vote will follow. (See page 10)

**The discussion continued –
ZBA (13-06) Independence Avenue / Thomas Fitzgerald**

Mr. Reynolds said he liked the building appearance; he liked the top floor green space. He further stated his concern for the density and the parking. He was encouraged by project because of the environmental cleanup of the property but emphasized the extreme number of units proposed. He said he is concerned about the precedence it may set. Regarding the parking, he explained that in Braintree, you cannot move one vehicle in order to park another to count as a parking space. Mr. Reynolds invited Mr. Garland to comment.

Mr. Garland pointed to two similar buildings in Boston that used a lift system in a residential setting. Further, he said that the Staff Report notes that the ZBA is the deciding board regarding the lift system.

Mr. Garland stated that the Massachusetts State Board of Elevators has authority over the lifts. The only other alternative for parking for the proposed project is too costly and involves excavating an additional level, potentially running into further contaminated soil.

Mr. Reynolds said that he hoped the ZBA requests a legal opinion on this issue from the Town Solicitor. He said he would like to see a legal opinion to increase the parking without setting a precedent for other projects around town. He expressed that he would like to see all these things align to make the project a feasible endeavor. The town has an interest in that it cleans and brightens the site and brings additional revenue.

Mr. Reynolds said he was also interested in drainage calculations and the run off concerning the neighbors it effects and he looks forward to the submission of clear revised plans.

He asked Mr. Garland if they are scheduled for a May Zoning Board vote. Mr. Garland said no, they are scheduled for June 25, 2013.

Ms. McDonald asked if there have been any neighborhood comments in either Braintree or Quincy. Mr. Garland said there was a meeting that was chaired by the Quincy City Council, attended by 50-60 people. There was also a meeting in January (2013) in Braintree at which there was no substantial opposition.

Ms. McDonald asked when the Quincy City Council meeting took place. Mr. Garland clarified the Quincy meeting was January, and there was a meeting in Braintree with about 10 abutters in attendance; there were no objections. Ms. McDonald had no further questions.

Mr. Eng suggested the applicant return at the June Planning Board meeting to answer all concerns that were raised and provide a revised Elevation and a Site Plan.

Mr. Reynolds asked for any other Board opinions.

Mr. Mikami agreed with Mr. Eng and hopes the Board comments will help.

Mr. Eng explained that the applicant would benefit from a favorable recommendation.

Ms. SantucciRozzi said that the matter can be tabled to June 11th, 2013 without a vote.

Mr. Reynolds tabled the issue to June 11, 2013.

(11-08)

825 Granite Street / B&R Partners, LLC

As-Built Approval

Mr. Richard L. Goodick, VP of Operations, Seal Coat

Ms. SantucciRozzi explained that she toured the site with Mayor Sullivan and the project turned out to be exactly as Mr. Goodick said it would be. This is a very nice redevelopment project for the community. The As-Built disks are provided from Tom French, the project engineer. Staff is recommending approval with surviving conditions as noted.

Ms. McDonald – had no questions.

Mr. Mikami said that he and Ms. SantucciRozzi toured their facility in Hingham and it appeared to be an impressively clean facility; void of noise, odor, traffic, etc. He was very pleased and wished Seal Coat much success.

Mr. Eng mirrored Mr. Mikami's comments, further saying that he lives nearby and has not had any complaints from the neighbors and no disagreeable odors. He commended Mr. Goodick for a job well done.

Ms. SantucciRozzi explained As-Built approval with conditions.

Mr. Reynolds agreed with the Planning Board members and asked for any other comments, no further comments, he called for a Motion.

Mr. Mikami Motioned to accept As-Built Approval per the recommendation of Staff with Surviving Conditions, seconded by Mr. Eng.

Vote: 4:0:0

(11-07)

101 Wildwood Avenue / Steven Charbonnier

Request for As-Built Approval

Ms. SantucciRozzi addressed the Board and stated that the project is complete. She suggested recommending As-Built approval with Conditions.

Mr. Reynolds called for a Motion.

Mr. Eng Motioned to Gramm As-Built Approval and issue an As-Built Certificate with Surviving Conditions: 1, 8, 12, 13, 14, 15, 16 and 17; Motion was seconded by Ms. McDonald.

Vote: 4:0:0

**(10-08) Drainage and Floodplain Storage
(02-10) Showroom Expansion
75 Granite Street / Kelly Engineering Group, for Herb Chambers
Request for As-Built Approval**

Ms. SantucciRozzi announced that this matter was originally on the May Agenda; however it is tabled to June, 2013.

**(12-09) (8:00 pm Continued Public Hearing)
370 Shaw Street / William and Linda Jablonski
Site Plan Review (135 & 710)**

The Chair stated, as previously noted, the Public Hearing scheduled for 8:00 PM was not heard because the Applicant requested this matter be continued without testimony; he called for a formal Motion to Continue.

Ms. McDonald Motioned to continue the matter to June 11, 2013 at 8:00 pm, seconded by Mr. Mikami

Vote: 4:0:0

Discussion

(03-17) Oregon Avenue Extension / Permission to Proceed with Default
Mr. Mikami – Mr. Reynolds – Mr. Eng participating, Ms. McDonald recused herself.

Ms. SantucciRozzi addressed the Board requesting the Board use inspection fees to hire an independent consultant to do the leg work and inspections that are necessary to move towards declaring the subdivision in default.

Mr. Eng asked Ms. SantucciRozzi if there have been written letters of communication.
Ms. SantucciRozzi answered yes.
Mr. Eng said they will need all the information to review.

Ms. SantucciRozzi will put together a full packet for the Board to review prior to any Public Hearing.

Mr. Eng Motioned to make an informal decision, to allow staff to start the work required for a default; seconded by Mr. Mikami.

Vote: 3:0:0

Minutes (Approval of March, 2013) 8:32 pm

Mr. Mikami motioned to approve the Planning Board Minutes of March 12, 2013; seconded by Mr. Eng

Vote: 4:0:0

Mr. Reynolds called for a Motion to adjourn.
Mr. Eng Motioned to adjourn the meeting; seconded by Ms. McDonald.

Vote: 4:0:0

The meeting adjourned at 8:36 P.M.

Respectfully submitted,

Elizabeth Schaffer