Braintree Planning Board – March 12, 2019 – Cahill Auditorium

Present:
Mr. Robert Harnais, Chair, absent
Ms. Erin Joyce, Vice Chair
Mr. Darryl Mikami, Clerk
Mr. James N. Downey
Mr. Phillip J. Baker
Mr. Hector Erinna, Alternate Member

Christine Stickney, Director
Melissa SantucciRozzi, Assistant Director
Connor Murphy, Staff Planner

Vice Chair Joyce calls roll at 7:05 PM. Four (4) members and one (1) alternate are in attendance.

NEW BUSINESS/OLD BUSINESS - Zoning Board of Appeal Petitions – March 2019
7:04 PM – Five Planning Board Members participated. Chair Harnais is absent; Alternate Member Erinna will participate in this vote.

Vice Chair Joyce reminds the public that, as we have done for past months where the Planning Board has taken up the recommendation of Staff, for the March 2019 Zoning Board of Appeals Petitions, we will once again move forward the March Zoning Board of Appeals Petitions with the recommendations of the Zoning Administrator as the Planning Board’s recommendations.

Member Mikami MOTION to approve the Zoning Administrator’s recommendations for each of the Petitions shown below; seconded by Member Downey; voted 5:0:0. Chair Harnais is absent; Alternate Member Erinna participated in this vote.

Petition #19-03
242 Hayward Street & Vacant Land
Kevin and Lauren Sweeney, 15 Grove Circle, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-306, 403, 407, 701 and 705 for 242 Hayward Street (Plot 145B) and adjacent vacant land (Plot 145C), which are combined for zoning purposes due to common ownership and can be separate lots with zoning relief. Plot 145B (#242 Hayward Street) would be 12,937 sq. ft. and maintain an existing three-family dwelling. Plot 145C (Vacant Land) would be 10,502 sq. ft. and provide a new two-family dwelling with attached two car garage (+/- 2,783 sq. ft. building footprint). The existing and proposed lots are deficient with regard to lot size, frontage, width and depth. The existing and proposed structures are deficient with regard to front and side yard setbacks, number of units allowed and open space per dwelling unit. The applicant seeks a permit, variance and/or finding that the proposed project is not substantially more detrimental to the neighborhood. The properties are located at 242 Hayward Street and Plot 145C, Braintree, MA 02184 and are within a Residence B/Residence C Zoning District, as shown on Assessors Map 3050, Plot 145B & 145C, and contains a combined land area of +/- 23,439 sq. ft.

Staff Recommendation
CONTINUANCE: The petitioner should seek to provide evidence of a hardship related to shape, soil or topography, in addition to providing evidence of community support.
Petition #19-04
22 Amherst Road
Robert G. McCarthy, 57 Susan Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to demolish existing two (2) story, single family dwelling (+/- 1,264 sq. ft. building footprint) at 22 Amherst Road and construct a new, two (2) story single family dwelling (+/- 1,968 sq. ft. building footprint); property is pre-existing nonconforming with regard to lot area and width. The applicant seeks a permit, variance and/or finding that the proposed project is not substantially more detrimental to the neighborhood. The property is located at 22 Amherst Road, Braintree, MA 02184 and is within a Residence B Zoning District, as shown on Assessors Map 1098, Plot 33, and contains a land area of +/- 8,103 sq. ft.

Staff Recommendation
CONTINUANCE: The petitioner should seek to address the following items:
1.) Update plot plan:
   a) Depict front “farmer’s porch” footprint and update building coverage accordingly;
   b) Provide building height calculation pursuant to Section 134-102; and
   c) Provide surveyor stamp.
2.) Provide evidence that the petitioner has ownership interest in the property or is authorized to act on behalf of property owner; and
3.) Updates plans accordingly to comply with proposed new zoning regulations, namely setback to building height and FAR.

Petition #19-05
62 Nicholas Road
Liberty Realty Development, Inc. (Robert Gabriel), 20 Christina Drive, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct a new, two (2) story single family dwelling (+/- 1,468 sq. ft. building footprint) at 62 Nicholas Road; property is pre-existing nonconforming with regard to lot area and width. The applicant seeks a permit, variance and/or finding that the proposed project is not more detrimental to the neighborhood. The property is located at 62 Nicholas Road, Braintree, MA 02184 and is within a Residence B Zoning District, as shown on Assessors Map 2087, Plot 54, and contains a land area of +/- 8,400 sq. ft.

Staff Recommendation
CONTINUANCE: The petitioner should seek to comply with the new proposed zoning regulations.

Petition #19-06
115 Messina Drive
Boston Air Systems c/o Jay Blazo, 115 Messina Drive, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-407, 609 and 701 to modify ZBA Decision No. 18-41 to allow for an increase in building coverage from 32.6% to 33.2% due to an increase in size of the rear warehouse addition. The applicant seeks a permit, variance and/or finding that the proposed project is not more detrimental to the neighborhood. The property is located at 115 Messina Drive, Braintree, MA 02184 and is within a Watershed Commercial Zoning District, as shown on Assessors Map 1059, Plot 5L, and contains a land area of +/- 53,760 sq. ft.

Staff Recommendation
APPROVAL WITH CONDITIONS:
1.) Any changes to the approved plans will require ZBA approval.
Petition #19-07
9-11 Pond Street
Brian Tanguy, 15 Summer Street, Weymouth, MA 02188 (Property owner: Hau Nguyen) for relief from Bylaw requirements under Chapter 135, Sections 135-403, 601, 609 and 701 for rear addition (additional 192 sq. ft. building footprint) to a pre-existing nonconforming two-family dwelling; lot is pre-existing nonconforming with regard to lot area, width and front/left side yard setbacks. The applicant seeks variances and/or findings that the proposed project will not be more detrimental to the neighborhood. The property is located 9-11 Pond Street, Braintree, MA 02184 and is within Watershed Residence B/Residence B Zoning Districts, as shown on Assessors Map 1010, Plot 14, and contains a land area of +/- 10,829 sq. ft.

Staff Recommendation
APPROVAL WITH CONDITIONS:
4.) Any changes to the approved plans will require ZBA approval;
5.) Update plot plan:
   d) Label encroachment as “Encroachment to be removed;
   e) Depict rear deck as conforming to side yard setback per submitted architectural plans; and
   f) Depict off-street parking spaces pursuant to Braintree Bylaw Section 135-809.
6.) Certified foundation plan submitted to the Planning & Community Development Department prior to vertical construction; and
7.) Prior to issuance of a Certificate of Occupancy:
   a.) As-built plan submitted to the Planning & Community Development Department;
   b.) Encroachment onto adjacent Furlong Park removed/loamed/seeded per plans; and
   c.) Stripe/delineate off-street parking spaces per plans.

NEW BUSINESS/OLD BUSINESS
Approval of Planning Board Meeting Minutes for Thursday, February 21, 2019
7:06 PM – Five Planning Board Members participated. Chair Harnais is absent; Alternate Member Erinna will participate in this vote.

Member Downey MOTION to approve the minutes from the Planning Board Meeting on February 21, 2019; seconded by Member Baker; voted 5:0:0. Chair Harnais is absent; Alternate Member Erinna participated in this vote.

NEW BUSINESS/OLD BUSINESS
Discussion/Action: Open Space Plan
7:07 PM – Five Planning Board Members participated. Chair Harnais is absent; Alternate Member Erinna will participate in this endorsement.

Assistant Director Melissa Santucci-Rozzi explains that Kelly Phelan, Conservation Planner, is in the process of updating the Open Space Plan. The Assistant Director had circulated that Plan to all Planning Board Members, and part of the Conservation Planner’s submission to the Executive Office of Energy and Environmental Affairs is that the Planning Board has endorsed the Open Space Plan. This was done about four or five years ago. The Assistant Director has prepared a letter for endorsement by the Planning Board Chair that states that we met today and look forward to the goals and items outlined in the Plan.

There are no questions or comments from the Planning Board Members.

Member Mikami MOTION to endorse the Open Space Plan; seconded by Member Downey; voted 5:0:0.
UPDATES BY DIRECTOR CHRISTINE STICKNEY (7:09 PM):

Director Stickney provides an update on the Zoning Ordinance. The Director has provided each Planning Board Member a packet that includes the new, proposed Zoning Ordinance. She advises that it was advertised yesterday in the Patriot Ledger. Anyone that hasn’t received their Special Permit or Building Permit or Variance before yesterday (March 11, 2019) could be subject to the new Zoning Ordinance. Our public hearing is going to be March 25, 2019. There was a town-wide mailing to all property owners that went out yesterday, March 11, 2019. We are encouraging the public to go online, look at the materials, look at the map and, if they have questions, to either come to the meeting (March 25, 2019) or contact the office. The process is that it goes to the Town Council; it was submitted to the Town Council on Friday, March 8, 2019. The Planning Board’s hearing is Monday, March 25, 2019. The Planning Board makes their recommendation to the Council; the Council will most likely assign it to their Ordinance and Rules Subcommittee. Then it will go to the full Council for action. Director Stickney is uncertain how this will play out timewise.

Director Stickney provides an update on the Demolition Delay. It is a General Ordinance that the Historic Commission put forward. It has been before the Council; it received a favorable vote of 4:1 from the Subcommittee, and it will be going before the Council for full action on March 19. The Demolition Delay is if any structures are going to be completely raised that are 75 years or older, they will be subject to a review of Demolition Delay. The Chairperson of the Historical Commission will be able to decide if they need a public hearing, if it is a historically significant property based on records, or if it is not. If it is not, they can continue with their demolition and there is no delay. If the Historical Commission determines it needs a public hearing, the hearing is done within 35 days, and the Commission decides whether they impose a four-month delay on the actual destruction of the structure. It is a General Ordinance and not a Zoning Ordinance; therefore, the Planning Board did not have to provide a recommendation. Member Joyce asks if the Demolition Delay prevents the demolition of the structure, or does it just delay it. Director Stickney explains that it is a stay in time to see if there is something that could be done (such as relocating the structure). The Historical Commission in Braintree is more interested in the documentation and photographing of the structures.

CONTINUED PUBLIC HEARING

216 Elm Street – File #18-23
Special Permit/Site Plan Review
Barry and Deborah Culkins
7:15 PM – Four Planning Board Members participated. Chair Harnais is absent; Member Baker has recused himself from this hearing. Alternate Member Erinna will participate in this vote.

Present for the Applicant:
Barry and Deborah Culkins, Applicants

The Vice Chair explains that the Public Hearing was opened at our last meeting, so this will be a Continued Public Hearing. The Vice Chair asks for a brief presentation by the Applicant to introduce the project.

The Applicant, Barry Culkin, states they are seeking a special permit to convert their residence at 216 Elm Street to a two-family; they intend to occupy one of the residences after the conversion. This project has been designed to have minimal impact on both the exterior and interior of the house. There is no change in the existing footprint.
The only change to the exterior will be the addition of an emergency egress, which will be at the back of the house. It will not be visible from the street. The interior renovations will be confined to two rooms. There is ample parking on the property. With regard to trash, there is an enclosed courtyard at the entrance to the second unit where the trash can be stored out-of-site. Overall, it is a very simple project; all of the information is included in the Staff Memo.

Vice Chair Joyce asks staff for an update.

Planning Staff, Connor Murphy, explains that, as detailed in the Staff Report, we did receive this application in November. We continued it because there needed to be corrections made to the Site Plan. Those corrections were made, and we advertised for the February 12 Public Hearing. February 12 was rescheduled to February 21, and this was continued without testimony at that meeting. Mr. Murphy explains there were simple revisions to the site plan needed. In projects like these, we look at parking and landscaping. There is very mature landscaping that is kept very well. There is no need for additional landscaping. The parking that is required for a two-family dwelling is provided onsite, as shown in the improved plans.

Vice Chair Joyce opens discussion to the public; there is no discussion from the public.

Discussion is open to the Planning Board; Member Baker has recused himself, and Alternate Member Erinna is sitting in on this application.

Member Downey has no questions or comments.

Member Mikami clarifies whether this is a condo arrangement; Mr. Murphy explains that it could be. Typically, with these types of developments, it can either be an apartment or a condo. It could be a condo if the Applicant were to seek that arrangement. Member Mikami asks how this qualifies as a two-family conversion in terms of zoning; Staff Planner Murphy explains that within the current zoning bylaws, within a Residence B zoning district, if you seek a two-family conversion by a Special Permit, there are preliminary requirements which include: (1) you need more than six rooms; (2) the dwelling has to be built prior to 1940; (3) there cannot be any expansion of the dwelling’s footprint; and (4) no additional volume between ten years prior to application and ten years after application.

Member Mikami states it is a large residence and wonders if it was ever a two-family in its history. Mr. Culkins explains it was a convent at one point, or essentially a boarding house. Member Mikami confirms that they will inhabit one of the residences and renting the other. Mr. Murphy confirms there is minor renovation to the interior, which includes demolition to create a kitchen on the second floor and reworking some of the rooms on the second floor to provide a living room, bedroom space and bathroom space. Member Mikami confirms it has to be registered as a two-family and taxed appropriately.

Member Erinna has no questions or comments.

Vice Chair Joyce confirms that there are no exterior changes other than the emergency egress. Vice Chair Joyce confirms that staff is all set with the information they needed. Staff confirms that they provide the Applicant with a copy of the Draft Conditions last week. Vice Chair Joyce asks if the Applicant has had a chance to review draft conditions. The Applicant confirms that they are acceptable. Vice Chair Joyce states everything seems in order.

Member Mikami MOTION to accept correspondence through March 7, 2019 into record; seconded by Member Downey; voted 4:0:0. Member Harnais is absent; Member Baker is recused; Member Erinna is participating.
Member Mikami MOTION to close the Public Hearing; seconded by Member Erinna; voted 4:0:0. Member Harnais is absent; Member Baker is recused; Member Erinna is participating.

Member Mikami MOTION to approve the Special Permit #18-23 with conditions set forth by Planning Staff; seconded by Member Downey; voted 4:0:0. Member Harnais is absent; Member Baker is recused; Member Erinna is participating.

Member Baker returns to the meeting.

PUBLIC HEARING
16-18 Pearl Street – File #05-06
Major Modification of Special Permit/Site Plan Review
McDonald’s USA LLC
7:23 PM – Five Planning Board Members participated. Chair Harnais is absent; Alternate Member Erinna will participate in this vote.

Present for the Applicant:
Jim Cranston, Bohler Engineering

Vice Chair Joyce explains that we had read the Public Notice into record at the last meeting; therefore, we will start with an explanation of the project and presentation from the Applicant.

Jim Cranston, Bohler Engineering, explains that they are here for two matters. They are hoping to modify the existing Special Permit and also need Site Plan Review. The project is a remodel of the existing store, as well as bringing the site into compliance for ADA, both inside the building and on the site itself. As part of the project, a survey was conducted inside the restaurant and outside. There were some deficiencies for ADA code compliance. The facade will be updated; the building will be repainted; the mansard roof on the restaurant will go away; they are proposing new signage on the site; they will be enhancing the drive-thru and replacing the menu-board; a digital menu-board will be implemented. The Applicant went over the project with Director Stickney back in December 2018. At that time, there was an As-Built Certificate obtained for the 2005 changes, but they learned that it was never recorded. They took care of that, so that they are starting with a clean slate on this project.

Mr. Cranston highlights the survey and explains that the site has one-way circulation and angled parking. The menu-board is 41 square feet. They are making the new one smaller. He highlights where the two spaces for ADA parking are located. The slopes in the parking area are non-compliant, and they will be fixing that. There are two sidewalks that go from the front of the building out to the street. Both sidewalks have slope issues and are above 7%. They do not comply. The existing site has 38 parking spaces; 31 parking spaces are required by zoning. Mr. Cranston presents the proposed site plan. The parking is not getting reconfigured; the ADA parking works well where it is; it is the closest to the restaurant. There will be new concrete sidewalks with new ramps. All sidewalks are getting removed and replaced. He explains that the biggest change is the ADA connection to the road. In order to make the grades work and get from the sidewalk and the street up to the restaurant, they need to provide railings and landings. In order to do that based on the distance, it is called a switchback, which meanders in an “S” configuration, as shown on the rendering. There is no loss in parking, and 38 parking spaces will be maintained. The new menu-board is 20 square feet and will go in the same location. They can change the menu from breakfast to lunch and dinner by using the computer. Another feature added is a “pre-browse” board, which is 10 square feet and also is digital.
Mr. Cranston presents the proposed building changes with a color rendering. It will look like a whole new building. It will screen the rooftop units. The footprint of the existing building will be reduced. The bay windows will be removed. The paint scheme is a ceramic tile. There will be some interior décor changes to freshen up the inside, and they will be fixing some of the ADA matters within the restaurant. They did get a Health Department review letter in January, and they responded early in February. They coordinated with the District 5 Councilor to get his review and feedback. They received that letter from the Councilor today.

They have a solution to the abutter with concern about pruning of their tree. There are limbs that overhang the abutter’s property. The Applicant proposes allowing the abutter to trim back the branches, and they would like the abutter to coordinate this with the operator.

Director Christine Stickney explains there is a picture of the tree in the materials. Director Stickney can include this as part of the Modification to ensure there is communication and coordination. Vice Chair Joyce wants to prevent pruning by shaving it up the side. As this is the first presentation by the Applicant, Director Stickney would like to continue this hearing to address some of these issues in more detail. She also included in the materials an email that Mr. Cranston responded to related to some of our concerns, including the construction schedule. Mr. Cranston said it will probably begin in February 2020 and last about 7 weeks. She would want to condition that item for public safety reasons. She wants to address some zoning issues at a staff level. They are at about 91% coverage. One thing Director Stickney brought up regarding the entrance into the property was the curb cut, which is 35 feet in length. The other side, which has it exiting left and right, is also 35 feet. She suggests reducing the curb cut in. Director Stickney suggests talking to DPW and our Traffic Engineer. Director Stickney feels at 91% coverage, there are opportunities to “beef up” the landscaping. Director Stickney certainly doesn’t see any reason why they cannot be ready for a draft decision at the next meeting.

Vice Chair Joyce opens discussion to the public; there are no comments or questions from the public.

Vice Chair Joyce opens discussion to the Planning Board.

Member Baker confirms that there are 38 parking spaces with 31 spaces required, and he clarifies that the reserved spots are included in the 38 parking spaces. Member Baker agrees with Director Stickney and feels there is an opportunity to provide a green space where the reserved spots are. Mr. Cranston clarifies that is the “pull forward” area if the order is not ready. He agrees that more greenery should be provided, but he likes the pathway with the new ramp that was created.

Member Downey asks if there are any plans for giant McDonald’s sign to go away. Mr. Cranston states there is no plan for a change to the sign at this point. Member Downey confirms the picture of the tree and states it looks like the tree has grown onto the abutter’s property. As such the abutter has the ability to trim the tree that has overgrown onto the abutter’s property. Sometimes when neighbors take things into their own hands it doesn’t work out for the tree. Member Downey suggests that the Applicant work with the neighbor on this issue.

Member Erinna has no comments or questions.

Member Mikami asks Director Stickney what is reasonable lot coverage. Assistant Director SantucciRozzi states that applicant did some work in 2005 and they were not over lot coverage at that point. Mr. Cranston states existing lot coverage is 91.3%; the changes they are making will be reducing lot coverage and making it better. Director Stickney states they need to go back through permits; she feels they can get 1% back with staff working with the Applicant.
Member Mikami adds that they should take every opportunity to get below the 90% and make it as nice as you can because it is located in the middle of everything. Member Mikami strongly encourages the Applicant to examine coverage. Member Mikami asks if there are plans to restripe the parking lot as part of this project. Mr. Cranston states it is limited to update. There are no plans for restriping. Member Mikami feels that it is an opportunity to freshen up. Director Stickney feels perhaps it could be seal-coated rather than patched. Director Stickney will speak with the operator. Director Stickney did have a discussion with the Traffic Engineer, who didn’t feel it warranted any mitigation, and she is not in complete agreement with the Traffic Engineer. Perhaps there could be hatching on the street to ensure that the opening is kept opened. The Traffic Engineer did not think that was necessary.

Director Stickney acknowledges that there is a better presentation at the front of the building and asks about the landscaping and whether it just called for grass. Mr. Cranston states that, for any changes regarding landscaping, this decision is done by the Operator. Director Stickney asks to be put in touch with the Operator. Member Mikami states the message is to make it the best project, rather than make it look half done. Member Mikami encourages Mr. Cranston to look strongly at all of these recommendations.

Vice Chair Joyce wants to add to what has already been stated, and asks about a tree that is no longer there. Vice Chair Joyce asks if the hedges are in good condition, and Mr. Cranston confirms they are. Vice Chair Joyce asks if the side lot is used by McDonald’s patrons or people accessing the square, and she wonders if there are any opportunities for improving that area. Mr. Cranston acknowledges that the area is McDonald’s property and the operator has been putting up a barrier to prevent people from parking there and running errands in the square. Vice Chair Joyce suggests stripping the area more clearly noting that the area is for McDonald’s patrons. Director Stickney’s concern was that the spaces were being subleased to other businesses. Mr. Cranston assumes that is where employees would park. Vice Chair Joyce asks about the possibility of getting a parking explanation from the Operator. Vice Chair Joyce feels that the wider curb-cut is a better idea for the entranceway, and she feels we may make it a problem by narrowing it. Director Stickney suggests going out to look during peak times to see how it is functioning. Vice Chair Joyce suggests that the que be evaluated at peak times. Director Stickney discusses the Condition from the original Permit related to que and its affect out into the street. That condition would be carried forward into this application.

Member Joyce states it sounds like there is more evaluating to do with regards to a couple of zoning issues, and we would like the applicant to look at some potential landscaping improvements. Therefore, we are looking to continue this hearing. Director Stickney states the next meeting is April 9th, and March 27th would be cut-off for the Applicant to submit revised plans or would the applicant prefer the meeting in May. Jim Cranston suggests going to the May meeting (May 14, 2019).

Member Downey MOTION to continue this Public Hearing to May 14, 2019; seconded by Member Mikami; voted 5:0:0.

CONTINUED PUBLIC HEARING
236-240 Wood Road – File #17-12
Special Permit and Site Plan Review
Logan Communications, Applicant
7:55 PM – Five Planning Board Members participated. Chair Harnais is absent; Alternate Member Erinna will participate in this vote.

Vice Chair Joyce explains that the Applicant has asked for this hearing to be continued, without testimony, to the next hearing.
Member Downey **MOTION** to continue this hearing to the Planning Board Meeting on April 9, 2019 at 7:15 PM; seconded by Member Baker; voted 5:0:0.

**CONTINUED PUBLIC HEARING**

4 Sunset Road – File #19-01

Grading Permit

Joseph and Deborah Cerilli, Applicant

7:55 PM – Five Planning Board Members participated. Chair Harvais is absent; Member Baker is not participating in this hearing, as he was absent from the previous meeting. Alternate Member Erinna will participate in this vote.

Present for the Applicant:

Shawn Hardy, Engineer, Hardy + Man Design Group

Joseph and Deborah Cerilli, Applicant

Chaz Fisher, Attorney

Shawn Hardy, Engineer from Hardy + Man Design Group, begins by mentioning that they had received the previous Staff Report, modified the plans and provided responses. There were a few issues that we had not addressed. There were four issues in the Staff Report that the Applicant had questions on and wanted to bring them before the Board for clarification. They have shown some infiltration for runoff, sized Cultec chambers to infiltrate a 100 year storm based on the roof area, they modified and showed a construction entrance, as requested by the Stormwater Manager, and they added erosion control clarification and details, as well as a representative detail of the retaining wall. The Applicant notes that is for representative purposes because of the height; there will be a chain-link fence added to the top of the wall, which was noted. They have asked a question of the Building Department about converting the garage to a shed or installing a shed there. There was a question about how the garage would be accessed from the existing residence. The man-door that initially was proposed on the side of the garage will be in the rear of the garage. They will walk from the house to the garage through the yard. There was question about screening of the retaining wall, but this retaining wall is not visible to neighbors. The Applicant wanted to revisit the requirement on replacement of trees. It was noted that some of those trees that came down were dead or dying and had fallen because of storms. The Applicant’s intent was to remove them regardless of whether a garage was being proposed or not.

Assistant Director SantucciRozzi explains that she had put together draft conditions. The Assistant Director has put together a condition for one-to-one ratio on the replanting. The issue about the garage becoming a shed is news to the Assistant Director. The Assistant Director states that she was pretty clear to Mrs. Cerilli in that you can have one shed, one garage and one swimming pool. It is important to note that the Applicant did not have their building permit prior to when the proposed Zoning Ordinance was advertised. This size garage will not be allowed in the new bylaw, and this is something for the Applicant to consider, as we have restricted the size of garages going forward. As far as taking down the existing garage and replacing it with a shed, we will need the plans updated because the plans now say that the garage is to be demolished. The setbacks for accessory structures are also going to be changing. There are other things that could potentially come into play with that situation. The Assistant Director mentions that the Applicant wants to make sure we are aware of their intentions. The Assistant Director explains the reason she noted the comment related to access hasn’t been addressed was because there wasn’t the submission of a revised elevation; she has conditioned that be submitted, as she is just trying to understand the snow-removal issue. She feels like you couldn’t get the snow removal equipment from one side of the property to this side of the property.
The Assistant Director states that Canal Street is already eroded, as it is a gravel road with massive depressions in it. That is a private way, and she is not sure what the people abutting do to maintain the road. She has added some conditions to make sure that, during construction, if road degrades more, the applicant fills those depressions in. The Assistant Director mentions that no portion of the garage is for accessory living purposes. This other garage must be removed because if there are four garages on the property, they are in violation of the bylaw. Also, the snow needs to be stored not to impact the roadway.

Chaz Fisher, with Fisher Legal, representing the Applicant has noted in the material the reference pertaining to a shed vs. garage. He asks for clarification on record, as his office could not find any reference in any of the bylaws to the shed. If there is a bylaw reference number pertaining to sheds and the size of sheds, he would appreciate getting that clarification.

Vice Chair Joyce states we will look into that, and she opens discussion to the public; there are no comments or questions from the public. She then opens discussion to Planning Board Members.

Member Baker asks about snow storage when there is almost an 8 foot depression. He also asks if there is a pathway from one side of the property to the other. Mr. Hardy states the comment came initially because there was a man-door on the side, but that was not going to work. The man-door is being moved to the back, and they will just walk through the yard to get to it. They are aware of the heights of the wall and grades and are prepared to deal with snow removal. Member Baker refers to Building Code, he thinks it states anything over 200 or 400 square feet requires a building permit. Anything under, you can build a shed “by right”. Member Baker wonders what the second floor would be used for; it cannot be as an accessory dwelling. Attorney Fisher explains the intention is the same as what the Planning Board has approved for other neighboring properties. Several of the abutting neighbors have other structures, which have come before this Board and were fully approved, and within those dwelling areas or areas above their garage, they were used for additional rooms – one was used as a yoga studio. Director Stickney provides clarification that other neighboring properties went before the Zoning Board of Appeals not the Planning Board, and it was a detached garage that had issues with construction that exceeded the setback that was approved; it was for non-habitable space.

The Assistant Director states our local bylaw only restricts the number of structures; you can have one shed, one garage with up to three cars and one swimming pool. This property currently has one shed and one garage, and they are proposing another three garages. The current garage is 372 square feet; it meets the accessory setbacks now. In the new ordinance, there are quite a few limitations on accessory structures. People are putting up accessory structures that are fairly large and mimic a dwelling. If you have a 2000 square foot house, you don’t put up a 2000 square foot garage. If the bylaw does get approved, this size garage would not be permitted and that detached garage would become non-conforming.

Director Stickney states the reference to the one shed is found under Section 603 in the Bylaw, and a shed has a definition of a small accessory structure (under Section 102 for definitions). Member Baker was referring to Local Building Codes. Mr. Fisher states, for informational purposes, the current shed on the property is coming down; it is a small structure that does not have a foundation. Member Baker asks if the plan is to remove the non-permanent shed, and repurpose the existing garage, as a shed. Attorney Fisher states that, by removing the non-permitted shed and repurposing the existing garage so that it complies with the local building code, he thinks it would be in the best interest of the Town of Braintree. The tax code is to the benefit of the town related to the existing garage. Attorney Fisher’s suggestion is to cut the building back so that it complies with shed requirements. This maintains it as a taxable structure, which is better for the town, than the conditions suggest.
Member Downey asks about Canal Street being a private way, which is already in bad shape; Assistant Director SantucciRozzi states it is a gravel road. Member Downey asks if there is any plan for improvement of this road. Assistant Director SantucciRozzi states it is a private way; so, the people that own on either side own to the center line. It is not an approved way. She mentions that as they bring in equipment, pour foundations and excavate, it may affect the road. Staff does not want it to degrade any further, and they don’t want construction to impede anyone’s rights to pass.

Member Erinna has no questions.

Member Mikami asks staff, if all comprehensive zoning is going to be changing, and this structure will not qualify, should we wait for them to readjust their plans so that they fit with new zoning laws. Director Stickney states all we can do is to notify applicants because they don’t have the Building Permit or the Special Permit or the Grading Permit in hand. Member Mikami mentions that we have a Comprehensive Zoning rewrite, and it is difficult to evaluate this project, which would not qualify under new zoning. Member Mikami asks how many sheds sit on concrete foundations or are converted garages. Assistant Director SantucciRozzi states there are a variety of different sized sheds. Typically people don’t have a shed at the end of their driveway with an overhead door, but they can file with ZBA because the structure would become non-conforming. They can alter the structure and remove the door. Assistant Director SantucciRozzi states they filed with the plan of the garage being demolished until this evening. The Applicant has decided to change their plan. Member Baker clarified that there is a 200 square foot limit on accessory dwellings. Assistant Director SantucciRozzi states 372 square feet is a substantial shed, and she is not certain what purpose it serves. She states there is a condition stating that the existing garage needs to be demolished before they get a Building Permit for the new garage. Member Mikami feels there are a number of open questions that have not been resolved prior to coming to the meeting. Member Mikami feels we need to continue this until we get some issues resolved. Director Stickney states this is a question for the Applicant to answer. Mr. Hardy states in preparing his response, he wanted to have a discussion with regards to the shed before completing his response. He wanted to see if zoning would allow using a portion of the existing garage as a shed and still comply with zoning. The Applicant wants to construct a shed that complies with Zoning in the general area of the existing garage. Member Mikami states that is just one issue; there are a number of other issues that have not been resolved.

Vice Chair Joyce makes a point of clarification and states that, regardless of how you move forward, because you don’t have a Building Permit or your Special Permit in hand right now, you would be subject to new zoning, if approved; Attorney Fisher states that the date of the application starts the clock ticking, under case law in Massachusetts. Attorney Fisher states that his understanding is the new zoning rules are being suggested but they have not been codified. For the Planning Board to restrict its obligation to address an application because the rules may change in the future review; Vice Chair Joyce doesn’t think that is intent of what they are doing. Vice Chair Joyce was just asking for clarification to figure out the timing on those rules applying to this project, and she personally is not taking that into consideration on how she views this project. Director Stickney retains an opinion from the Town Solicitor who states that if they don’t have their Special Permit or Building Permit in hand prior to the first advertisement of new zoning, they are subject to new zoning. That is all on the presumption that it passes. The Town Solicitor said there could be retroactive action going back, and Applicants are proceeding at their own risk. Vice Chair Joyce discusses the conflict in plans vs. Applicant’s intention, and she feels we need to clarify these items before moving forward. Director Stickney mentions this is a Grading Permit; the Applicant does not have their Building Permit in hand because the Building Inspector said you need to get your Grading Permit first. If zoning passes, the Building Permit will be subject to the new zoning. Director Stickney explains, as far as the Grading Permit is concerned, you need to show us what you are doing on the property. If the Applicant is indecisive about what they are doing on the property, how can the Planning Board approve a Grading Permit?
Attorney Fisher states that they have a list of conditions, 42 in total, most of which are acceptable. The only aspect that was of concern was Condition 41. Because of the way the condition is written, they needed clarification on that one issue. Attorney Fisher states we can go ahead and comply with that condition and remove the building, but he wants the Planning Board to be aware that they are taking tax dollars away from the Town of Braintree because that is no longer a taxable structure. The Applicant thought it was a better approach to preserve the tax dollars for the town. Vice Chair Joyce confirms that your proposal is to remove the garage. Vice Chair Joyce confirms that Condition 41 is a clarification on what would be in the place of the existing garage. Was it going to be restored to grass, or will it be an extension of the parking area? Assistant Director SantucciRozzi discusses ZBA approval and mentions that plan shows four garages, which is a zoning violation. If the Cerilli’s wanted to pursue a shed at some time in the future, demolishing that garage now to be in compliance with zoning will not prohibit them from doing something in the future. For the purposes of this application, is it going to be grass or driveway? Attorney Fisher asks for clarification, should this Grading Permit be approved, the Cerilli’s will have to come back to the Town for a Building Permit. Assistant Director SantucciRozzi confirms that they will need a Building Permits for the walls and the structure. Attorney Fisher wonders if, at that point, it would be a fair assessment to address the existing structure. At this point, Attorney Fisher hasn’t seen any demonstration where this item, a pre-existing garage or potential shed in the future, would be applicable to a grading decision on the rear part of the lot. Assistant Director SantucciRozzi states, with all due respect, that she has talked about this with Mrs. Cerilli multiple times, and Assistant Director SantucciRozzi has talked about this with Engineer Hardy when he filed the application. She confirmed with Engineer Hardy that she would add a note that the existing garage will be demolished, and he confirmed that was good. Assistant Director SantucciRozzi feels this is going around in a circle, and she doesn’t know what has changed since she had discussions with the Applicant and her engineer. There has never been talk about the existing garage being rehabbed for something else. Assistant Director SantucciRozzi has been done this road before, and she would appreciate the ability to either follow through with the plan that currently exists or submit a different plan for review. We reviewed the existing plan to make sure that it was in compliance with zoning, and that existing garage was coming down. That is exactly what was conditioned, and it is tied to the construction of the garage. We do not want to have four garages on this property. That is not allowed.

Member Mikami has not seen any projects where we haven’t had complete information, plot plans that clearly identify what is being retained and not, and resolution of these issues before the meeting so that we can proceed on them. Member Mikami proposes to continue the hearing, and hopefully the Applicant can resolve what they are going to do with the various structures on the property.

Attorney Fisher request a point of order and states they will comply with all 42 conditions, making the existing garage a driveway. At that point, they would be in full compliance with the conditions.

Assistant Director SantucciRozzi asks to address Condition 24, which is a question she raised regarding a driveway with a 5% slope coming down into a gravel road that is already significantly deteriorating. Is there any concern with the run-off from that driveway and how it is going to be hitting the roadway? This is the condition related to “Transition and Treatment between the Driveway and the Gravel Road”. Mr. Hardy wasn’t concerned about it. It is a 20 foot stretch and is not significant. Mr. Hardy states if there is a problem getting in and out of the driveway, the Applicant has to fix it. Vice Chair Joyce asks how Canal Street pitches. Mr. Hardy states the road in that section is pretty flat. It didn’t qualify to make contours as far as the grading goes across the street. Assistant Director SantucciRozzi states they are the second to last house on the right. It is fairly level. Assistant Director SantucciRozzi states they have standard erosion conditions that will survive; she wanted to check to see if there should be something implemented to prevent this in the future.
Mr. Hardy refers to staff’s and Stormwater Manager’s comments about the proposed cultec chambers. The roof run-off drops out of the equation, and it is only the flow coming off the driveway. Assistant Director SantucciRozzi doesn’t have a lot of experience with a driveway coming down into a gravel street. She wants to make sure there are not any off-site impacts from this proposal. Vice Chair Joyce asks where the two proposed cultec chambers are located. Mr. Hardy highlights where they are located on the plan and states the cultec is only going to be a couple feet below the grade. It will be in and around the area of excavation for the foundation wall. Vice Chair Joyce asks about floodplain; Assistant Director SantucciRozzi states this was checked with the Conservation Planner, Kelly Phelan; filing was not required with Conservation. Vice Chair Joyce asks about the condition related to tree removal and tree replacement. Assistant Director SantucciRozzi states this is Condition 36, and they haven’t added any proposed plantings on their plan. Assistant Director SantucciRozzi has asked for six trees minimum – 4 inch caliper if they are deciduous or 8 feet tall if they are coniferous to be placed wherever the applicant likes on the property. Attorney Fisher states that is accepted and agreed. Assistant Director SantucciRozzi discusses existing trees and adding a condition protecting them during construction. Assistant Director SantucciRozzi states this wall may require geogrid. Vice Chair Joyce suggests adding a condition stating they are protected or replaced.

Vice Chair Joyce asks if there are any other conditions the Applicant wishes to discuss.

Member Baker confirms there will be updated architectural plans to reflect finished grades. Assistant Director SantucciRozzi explains that is on page 7, Condition 3, lists the revisions that are required, and she confirms access to the garage on the second floor. The Assistant Director confirms that outstanding items have been addressed and/or resolved. Vice Chair Joyce asks if there is a patio behind the existing garage. The Applicant states no.

Member Downey MOTION to accept correspondence into record; seconded by Member Erinna; voted 4:0:0.

Member Downey MOTION to close the hearing; seconded by Member Erinna; voted 4:0:0.

There is a point of clarification related to who is voting on this matter. Staff clarifies that the vote is done by majority, and the members voting are Members Joyce, Mikami, Downey and Erinna.

Member Mikami asks staff if she feels that all issues have been addressed. Assistant Director SantucciRozzi is clear with the Planning Board’s direction and the conditions. Member Mikami confirms that the existing garage is to be taken down and the current shed is to be taken down or it may stay.

Member Downey MOTION to approve the Grading Permit for File #19-01 as discussed at this meeting and subject to conditions; seconded by Member Erinna; voted 4:0:0.

Member Downey MOTION to adjourn the meeting; seconded by Member Baker; voted 5:0:0.

The meeting adjourned at 8:51 PM.

Respectfully submitted,
Louise Quinlan,
Planning/Community Development