Braintree Planning Board – April 9, 2019 – Cahill Auditorium

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

Melissa SantucciRozzi, Assistant Director
Connor Murphy, Staff Planner

Chair Harnais calls roll at 7:02 PM. Five (5) members and one (1) alternate are in attendance.

NEW BUSINESS/OLD BUSINESS - Zoning Board of Appeal Petitions – April 2019
7:02 PM – Five Planning Board Members participated.

Assistant Director SantucciRozzi explains that of the five petitions, three were forwarded on to the Planning Board for recommendation. Staff is still working on 175 Campanelli and 1501 Washington Street/Braxton.

Chair Harnais reminds the public that, as we have done for past months where the Planning Board has taken up the recommendation of Staff, for the April 2019 Zoning Board of Appeals Petitions, we will once again move forward the April Zoning Board of Appeals Petitions with the recommendations of the Zoning Administrator as the Planning Board’s recommendations. It is noted that Petitions 19-09 and 19-12 need further work prior to the Zoning Board of Appeals meeting on April 22, 2019.

Member Joyce MOTION to approve the Zoning Administrator’s recommendations for each of the Petitions shown below; seconded by Member Downey; voted 5:0:0.

Petition #19-08
238-310 Grove Street
John Fouracre c/o Unisign, 99 Pleasant Street, Northborough, MA 01532 (Owner, TRT Braintree II LLC) for relief from Bylaw requirements under Chapter 135, Sections 135-407 and 904.1 to install an 84 sq. ft. illuminated “Crunch Fitness” wall sign; proposed wall sign exceeds the allowable sign height. The applicant seeks a variance and/or findings that the proposed sign will not be more detrimental to the neighborhood. The property is located at 238-310 Grove Street, Braintree, MA 02184 and is within a General Business District Zone, as shown on Assessors Map 1084, Plot 10 and contains a total land area of +/- 16.48 acres.

Staff Recommendation
APPROVAL WITH CONDITIONS:
1.) No sign illumination from 1am-6am, pursuant to Section 135-905
Petition #19-10
30 Morrison Road
David W. Southwick, 39 Arnold Street, Quincy, MA 02184 (Owner: Anthony & Lisa Luneau) for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to raise existing rear detached garage, rear enclosed porch and side deck and construct two-story rear addition (additional 136 sq. ft. building footprint) at 30 Morrison Road; proposed project would intensify pre-existing nonconforming side and rear yard setbacks and is pre-existing nonconforming with regard to lot area, width, depth, side/front/rear yard setbacks and accessory structure (garage) setback. The applicant seeks a permit, variance and/or finding that the proposed project will not be more detrimental to the neighborhood. The property is located at 30 Morrison Road, Braintree, MA 02184 and is within a Residence B Zoning District, as shown on Assessors Map 2077, Plot 33 and contains a total land area of +/- 3,664 sq. ft.

Staff Recommendation
APPROVAL WITH CONDITIONS:
1.) Provide evidence of abutter support;
2.) Any changes to the approved plans will require ZBA approval;
3.) Certified foundation plan submitted to the Planning & Community Development Department prior to vertical construction; and
4.) As-built plan submitted to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy.

Petition #19-11
200-550 Grossman Drive
Katie Dusseault c/o Walton Signage, 10101 Reunion Place, Suite 500, San Antonio, TX 78216 (owner of 450 Grossman Drive: 450 GD, LLC) for relief from Bylaw requirements under Chapter 135, Sections 407 and 904.2 to install 379.8 sq. ft. illuminated wall sign and 49 sq. ft. ground sign panel for tenant PGA Warehouse (450 Grossman Drive); proposed wall sign exceeds the allowable sign height and sign area. The applicant seeks a permit, variance and/or finding that the proposed signage is not more detrimental to the neighborhood. The property is located at 200-550 Grossman Drive, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2019, Plot 4-1, and contains a land area of +/- 34.36 acres.

Staff Recommendation
APPROVAL WITH CONDITIONS:
1.) Front wall sign to not exceed 6.5 ft. in height (height of two rows proposed lettering); and
2.) No sign illumination from 1am-6am, pursuant to Section 135-905;

NEW BUSINESS/OLD BUSINESS
Approval of Planning Board Meeting Minutes for Monday, April 1, 2019
7:03 PM – Five Planning Board Members participated.

Member Joyce MOTION to approve the minutes from the Planning Board Meeting on April 1, 2019; seconded by Member Mikami; voted 5:0:0.

NEW BUSINESS/OLD BUSINESS
Request for Bond/Surety Reduction: Landing Apartments, LLC
File #15-11 - (Special Permit/Site Plan Review) Requested By: Josh Katzen
7:04 PM – Five Planning Board Members participated.
Staff Planner Connor Murphy explains that he is handling this item for Director Christine Stickney. We have a Status Report from Kelly Engineering, which provides detail as to what they have completed so far onsite, to reduce the bond. The second page includes a table which highlights the cost of each item and that status of completion for each item. The Department's recommendation is to go forward with the Bond Reduction request.

Member Joyce has a question regarding what is still outstanding on the Bond. She has noticed that there is a lot of dead landscaping remaining at the back of the development, and she wonders if there is still bond associated with landscaping and asks what is remaining. Staff Planner Connor Murphy explains that most of it is primarily site work in terms of landscaping; he doesn’t think there is much left. However, they are bound by their Special Permit to replace the plantings. The Applicant hasn’t gone for As-Built approval yet. When they go for As-Built approval, the remaining work, including Landscaping, will be part of As-Built approval.

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

Member Mikami MOTION to approve the Bond/Surety Reduction; seconded by Member Joyce; voted 5:0:0.

There is a short recess, and the meeting will reconvene to begin the Public Hearing process at 7:15 PM.

The Meeting re-opens at 7:15 PM.

PUBLIC HEARING
147 Peach Street – File #19-03
Special Permit and Site Plan Review (Two-Family Conversion)
Sean Sweeney, Applicant
7:15 PM – Five Planning Board Members participated.

Present for the Applicant:
Mike Modestino, Attorney for the Applicant
Sean Sweeney, Applicant
Kevin Sweeney, Project Member

Chair Hannais opens the Public Hearing and reads the Public Notice into record.

Attorney Mike Modestino explains that this is a request to convert a single-family home into a two-family home at 147 Peach Street. There is no anticipated change to the footprint of the building. The property was built prior to 1900 and existed prior to the enactment of Zoning in 1940. Currently the home contains six rooms, exclusive of halls and bathrooms. The living space has not been enlarged during the last ten year period. There exists adequate ingress and egress, off-street parking and no changes to existing site access. There are two existing driveways, and there is parking for at least six vehicles. The property has been vacant for a number of years and has fallen into disrepair. The applicants would renovate the property completely, as a two-family, while matching the existing structures in the area. The plan is to construct two three-bedroom/one bath units on each floor. There is an existing garage, which would remain in a somewhat smaller size (approximately 25' X 16' or 410 square feet). The applicant has met with staff at the property. They have gone over some of the changes staff has requested, which included lighting on the property. Attorney Modestino states there would be LED lighting at the rear and side of the property. A refuse removal area has been designated at the rear of the property, with a covered storage area. Attorney Modestino explains that staff wanted landscaping improved.
The landscaping on the property is currently very worn. The front lawn will be completely seeded, with mulch beds and new plantings; this is shown on their new plan.

Attorney Modestino emphasizes that both clients have lived in Braintree for their entire lives. They are familiar with the neighborhood. They have purchased other properties in town and have improved these properties greatly. They prefer to keep this property to rent out and use income to develop other properties. They are not absentee landlords. They are concerned about their neighbors, wherever they have property. This is a low density development. This will improve the neighborhood and create more tax revenue. Attorney Modestino states there is a need in this town for multiple-family housing that is affordable. Attorney Modestino suggests that the drain on resources and schools would be just the same with a single family home in this location. They have looked at town records, and they have seen that there have been two-families on Peach Street, although there are none currently. They have a map, which depicts other two-family housing in the general area. Attorney Modestino disputes that the economic impact would detrimentally affect schools. The structure, completed, would not change the footprint of the house and would greatly improve its appearance and be compatible and in harmony with the residential character of this neighborhood. Attorney Modestino refers to a statement made by a neighbor stating that there are ten other properties on Peach Street that could be converted to two-family. The applicant has looked at that carefully, and they would dispute that this will create all kinds of development on Peach Street.

Staff Planner, Connor Murphy, mentions, as stated in his Staff Report, there were several revisions to the site report that needed to be made. Mr. Murphy acknowledged that Mr. Sweeney had dropped off an updated plan this afternoon. Mr. Murphy stated, as far as staff concerns go, he is pretty much satisfied.

Chair Harnais opens the hearing up to the public for questions, concerns and comments.

Tim Carey, District 6 Town Councilor, is speaking at the request of 6-8 residents (a significant number) within the district to express that the residents desire that this remain a single-family neighborhood. Their concerns are related to the multiple parking spaces being requested, increased traffic on a school street and the strain on town resources and infrastructure. Residents have requested that this Special Permit be denied.

Ying Ng, 142 Peach Street, has similar concerns because this is a single-family neighborhood. He can get additional written support from neighbors that are in agreement with him.

There are no further comments from the public; therefore, Chair Harnais opens discussion up to the Planning Board.

Member Baker, grew up in the area, he is familiar with the house and notes that it is in disrepair. He also feels that it is an opportunity to make an improved single-family house, to renovate the existing house and get some of the concrete out to grass and more pervious materials. He doesn’t feel that you need parking in back and front. Member Baker asks about the reasoning behind creating a two-family. Attorney Modestino would dispute that there are no two-families in the general neighborhood. The applicant’s idea is to create affordable rental housing in Braintree. Attorney Modestino does not see any more drain on the neighborhood than a single family with 5 or 6 bedrooms.

Member Baker is seeing this as an increase in numbers by creating a two-family. He wonders if applicant considered creating an improved single-family. Attorney Modestino states there was a thought process about this, but they felt that this might be the best use of the property.
Member Downey asked about the increase to tax revenue for the Town. Attorney Modestino clarified that with the improvement to the property, the value of the property would increase and the tax assessment would be greater.

Member Mikami reminds Attorney Modestino about our last Planning Board Meeting where we had 400+ attendees and others watching on BCAM. The issue of the previous meeting was zoning. Member Mikami states there were a lot of good things in the zoning re-write, but clearly one of the items which came out is the concerns about density and two-family developments. Member Mikami mentions the Applicant’s plan to have affordable housing; however, he states the Applicant is going to go for market rate. Member Mikami refers to the stack of protests from the residents, including the Town Councilor, and states directly in that entire neighborhood there isn’t any two-family. If you go out a mile in other directions you might find two-family. Member Mikami states, trying to pursue two-family when there is a harsh outcry throughout the town, the Planning Board has to think about these issues. Member Mikami states we are trying to be forward thinking, but also responsive to the community. To echo what Member Baker said, it is difficult to think about a two-family conversion in this location.

Attorney Modestino recognizes that their timing is not the greatest and mentions that the applicant has thought about renovating this as a single-family, but they want to keep this as rental property. Attorney Modestino states when he says affordable housing, he means 3 bedrooms, 1 bathroom at a rate of $2100-$2200/month, which he feels is affordable in comparison to rates in Quincy and Boston. Member Mikami’s interpretation of $2200/month is market rate. Member Mikami’s suggestion is to go back and look at it because it doesn’t fit with what is going on now and what is going on in that neighborhood. Attorney Modestino will take that into consideration and states he knows the Town, as he has lived in Town for his entire life. Member Mikami does not see a lot of precedent or agreement with the neighbors. There are single-family homes along Peach Street. The message the Planning Board has been getting is to salvage single-family neighborhoods. Member Mikami states it doesn’t fit to him.

Member Joyce shares a lot of similar concerns that past members have expressed. She points out that Braintree is very unique in that our neighborhoods are very pocketed. When you get to the ends of them, they start to transition and sometimes quite abruptly. Member Joyce refers to the diagram that the Applicant provided showing two-family houses, and she comments they are very much on the outskirts of this neighborhood, if even in it. Looking very closely and trying to take into consideration the residents’ concerns and location of this project in that neighborhood, it is tough to look at the use as a two-family. Member Joyce has a question regarding the existing driveway going into the back parking area; it looks like that driveway encroaches on the neighbor’s property and there doesn’t seem to be a note for an easement. How is this going to be addressed? Mr. Sweeney states that driveway has been there for many years. Member Joyce states it is still encroaching on the neighbor’s property. Attorney Modestino states they will take a look at it.

Assistant Director SantucciRozzi asks where the Applicant obtained the information related to the map of two-family housing in the area shown by “x’s” on the plan. The Applicant states the information was obtained from Patriot Property website. Assistant Director SantucciRozzi clarifies that there are actually “x’s” on places where there aren’t any houses or the homes are no longer two-family. The Applicant will look at this closer.

Staff Planner, Connor Murphy, states that in terms of the requirements of Site Plan, it would have to be updated to remove the encroaching asphalt from the driveway. That is the only update.

Member Downey MOTION to accept the correspondence from November 1, 2018 to April 9, 2019 (14 items) into record; seconded by Member Baker; voted 5:0:0.

Member Joyce states it sounded like additional residents wanted time to submit comment or something in writing; Chair Harnais understands that it would be the same position as the resident that spoke, which is not in favor.
Braintree Planning Board  
April 9, 2019  
Cahill Auditorium  

Member Mikami asks if there is any chance your client would like to withdraw this and pursue it as a single family as opposed to a two-family. Attorney Modestino states that is certainly a consideration. Member Mikami clarifies that if we vote on this, it may get voted down.

Brian Smith, 73 Celia Road, mentions that there are a couple of things going on in the area with road run-off. Mr. Smith’s fear is that, with extending the new driveway, some debris from the soil will wash into his property. He just recently purchased his house; part of the reason he bought in Braintree was location and having a single-family house in a single-family neighborhood.

Member Mikami MOTION to close the Public Hearing; seconded by Member Baker; voted 5:0:0.

Member Mikami MOTION to deny this Special Permit/Site Plan Review for Planning Board File #19-03; seconded by Member Baker; voted 5:0:0.

Mr. Sweeney asks reason; Chair Harnais confirms that two-family is not preferred for neighborhood.

PUBLIC HEARING  
175 Campanelli Drive (Fireking Baking Company) – File #19-02  
Special Permit/Site Plan Review  
EIP Campanelli Parkway LLC, Applicant  
7:41 PM – Five Planning Board Members participated.

Present for the Applicant:  
David Kelly, Kelly Engineering Group  
Greg Acera, Fireking Baking Company-tenant  
Greg Cataldo, Fireking Baking Company-tenant  
John Hennessey, represents Ownership of EIP Campanelli Parkway  
Frank Marinelli, Attorney for the Applicant

Chair Harnais opens the Public Hearing and reads the Public Notice into record.

David Kelly, Engineer, states this is a fairly simple project. A Special Permit is being requested under 136-608. The property is 175 Campanelli at the end of Campanelli Drive; it is slightly under 21 acres in its entirety. There is a large building located at the site that was formerly utilized by United Liquors as a distribution facility. Fireking, the tenant, is going to occupy the northern end of the building at about 190,000 square feet. The site is essentially fully developed today. The northerly portion of the building does not have a physical access point. There are three pieces of work that they are proposing that would affect the floodplain district: Item 1 is an area where new utilities are being placed in the form of a new transformer and other utilities including a small generator to accommodate the new tenant; Item 2, on northeast corner, is to allow new entry, as there is a new office component being built into the back section of the building. There will be a new doorway added for that office and a landscaped area that will enhance that entry. Item 3, on the north side, is a concrete pad that will have two silos that will be used for flour for the baking operation. Number 4 is to the rear of the site, and it is the area where we will compensate for the floodplain on the site. Items 1, 2, and 3 include work that rises above the floodplain elevation and displace floodwaters. Mr. Kelly highlights that the floodplain is shown on the plan in purple. They are compensating by creating a new area in the rear of the building so there will be no negative impact on the floodplain in its entirety. Mr. Kelly explains that it is a really simple project, and they have done their best to limit any work above existing grade to the minimum necessary. An added benefit is that we are able to enhance the green area on the site in
the form of about 5000 square feet. At the request of the Conservation Commission, they are also removing some pavement at the back in the northwest corner of the site. This project was before the Conservation Commission, and they closed the hearing and issued an Order of Conditions last week. The Conservation Commission felt the Applicant has addressed all of their concerns.

There are no comments or questions from the public.

Assistant Director SantucciRozzi states she has no detailed comments and explains that Mr. Kelly summarized this and it is extremely straight-forward. Compensatory storage being provided is in excess of that being displaced. There is a little bit of buffer, and they are also adding some landscaping to the site. The Assistant Director has prepared draft conditions.

Member Baker asks if ramp is existing right now or is it proposed; Mr. Kelly states it is proposed. Member Baker asks about handicap parking across from ramp. Mr. Kelly tried to put them in the closest proximity to the ramp.

Member Downey asks about the flour stack location and what kind of bakery. Mr. Kelly explains they currently occupy 101 Campanelli, but they have outgrown it. We are happy they are staying in the park and in Braintree. Member Downey asks about Item 2 and confirms there will be an office space.

Member Mikami asks if this is an expansion from where Fireking is currently located. Mr. Kelly explains that it is a larger facility. Mr. Acera, Fireking, states he is currently in 40,000 square feet at 101 Campanelli and he is moving into 190,000 square feet. Mr. Acera explains that Fireking makes wholesale fresh and frozen bakery products (bread) for nationwide delivery.

Member Mikami confirms that this is a nice expansion for Fireking and asks what the impact on water usage would be. The applicant is not that knowledgeable. Member Mikami states water aspect is an important resource. Member Mikami asks Mr. Kelly to respond. Mr. Kelly states it is a surprisingly low water usage, when they got their water meter readings from 101 Campanelli, in the range of 4-5000 gallons per day. They have a very efficient process. This was used to calculate peak-flow that would be expected at that pump station. Mr. Kelly states they assumed it would be 4 times plus or minus, if they were at full capacity and the processes were the same, or about 20,000 gallons per day. Member Mikami asks if they will be expanding staffing. Mr. Kelly has provision for 226 parking spaces for future expansion.

Member Mikami asks what the working hours are and are there multiple shifts. Mr. Acera will comment on shift operations. Mr. Kelly explains that this is a Floodplain District Permit only; they already have a Building Permit for working inside the building. It isn’t subject to Site Plan approval, which is why they didn’t focus on working hours. Mr. Kelly explains that they will have ample parking for the expansion. Mr. Acera states they operate the bakery 24 hours per day 7 days per week. He highlights the hours of each job function. They do not produce on Saturday; it is an engineering and maintenance day. Member Mikami asks if they have experienced any traffic problems. Member Mikami assumes the Applicant is going to have more trucks coming in and out. Mr. Acera states you can fit a lot of bread on one truck. Flour comes in on tanker trucks, and it is pumped like gasoline. They are not constantly getting small truck deliveries. There was a study done about the majority of staff that takes the “T”. The “T” is a great attraction for this location. Mr. Acera also states the electric rates are better in this town. Mr. Acera feels that his truck traffic will be better than United Liquors. FireKing is more a dock appointment type business. They do one-hour dock appointments. They are not an “all in/”all out” facility. Member Mikami recognizes the Applicant’s familiarity with the area and states the Planning Board wants to make sure traffic doesn’t worsen by 50%. Member Mikami confirms that the Applicant’s workflows, traffic and use can handle this area.
Mr. Acera discusses the move and having the new location two buildings down, which provides the convenience of not losing staff and not having to stop production.

Member Joyce confirms that the previous use was United Liquor but it is vacant now. Mr. Kelly reminds the Planning Board that this is an allowed use in this district, and the business is being constructed internally under a Building Permit already issued. We are here because this is a Special Permit in the Floodplain District.

Member Downey MOTION to accept the correspondence into record (13 items from February 25, 2019 to April 8, 2019); seconded by Member Baker; voted 5:0:0.

Member Downey MOTION to close the Public Hearing; seconded by Member Baker; voted 5:0:0.

David Kelly confirms draft conditions are acceptable.

Member Mikami MOTION for approval of the Special Permit Floodplain District/Site Plan Review for File 175 Campanelli File #19-02 with conditions set forth by staff; seconded by Member Downey; 5:0:0.

CONTINUED PUBLIC HEARING
236-240 Wood Road – File #17-12
Special Permit and Site Plan Review
Logan Communications, Applicant
8:06 PM – Five Planning Board Members participated.

Staff Planner Connor Murphy explains that the Applicant has asked for this hearing to be continued, without testimony to the next hearing date, Tuesday, May 14, 2019.

Member Downey MOTION to continue this Hearing to the next Planning Board Meeting on Tuesday, May 14, 2019, at 7:15 PM; seconded by Member Baker; voted 5:0:0.

PUBLIC HEARING
1515 Washington Street (Good Sports)
Major Modification of Special Permit/Site Plan Review and New Use Special Permit (File #18-15)
Foxrock 1500 Campus Realty LLC, Applicant
8:07 PM – Five Planning Board Members participated. Chair Harnais recuses himself from this hearing; Alternate Member Erinna will participate in this vote.

Present for the Applicant:
Mark Carroll, Chief Financial Officer for Foxrock Properties
Mark Pristawa, Asset Manager for Foxrock Properties
Frank Marinelli, Attorney
Melissa Harper, CEO of Good Sports
Tom Aiken, Real Estate Advisor

Vice Chair Joyce opens the Public Hearing and reads the Public Notice into record.

Attorney Frank Marinelli begins the presentation by describing the overall site comprised of 13.98 acres and the existing building approximately 270,000 square feet warehouse known as 1515 Washington. Attorney Marinelli seeks a modification of the Special Permit issued last year to Custom Space for 75,000 SF file #18-
15. The proposed new tenant Good Sports will use approximately 41,000 SF of the building and premises for warehousing and accessory offices. FoxRock is one of the area’s premier developers of commercial properties on the South Shore. In Braintree, FoxRock has improved 350 Granite Street and 55 Messina Drive - Citra Labs. Foxrock acquired this property in 2018 previously owned by Walorz and Flatley Companies that developed the other buildings within the commercial park.

The 1515 Washington Street building is approximately 270,000 SF in the highway business zone. Warehouse is special permit use in Highway Business zone. Attorney Marinelli provides history of commerce park in the highway business zone, and states that this is a classic warehouse building. Tonight, they are requesting a modification of existing special permit, which was for CustomSpace approved last year. Foxrock was not the owner when they applied for the Special Permit. This request modification is for that Special Permit for warehouse use by Good Sports, Inc. Attorney Marinelli describes the business of Good Sports and included a narrative in the application. The mission of Good Sports establish in 2003 is to donate sports equipment for children in need to promote play and activity that assists in their cognitive and social development. Good Sports currently has two locations in Quincy and Canton and have 21 employees they desire to consolidate all operations and staff at this location. Attorney Marinelli noted that other than employee and volunteers with personal vehicles, Fedex and UPS - box trucks make daily pick up and drop off. Only 2 or 3 times per month by large delivery tractor trailers and they are directed to the loading docks on the west side of the building. Attorney Marinelli added all department heads provided favorable recommendations and he has reviewed the draft conditions prepared by staff and they are acceptable to his client.

The Chair asked for public comment. Mr. Bill Needham, Peach Street asked about the hours of operation and Attorney Marinelli responded 8am to 6pm and Mr. Needham asked for clarification that it is warehouse not manufacturing and Attorney Marinelli responded that is correct. No further public comment.

Member Baker asked about the 21 employees if that accounted for all office and warehouse? Ms. Melissa Harper of Good Sports responded yes that is everyone. He also questioned if there was designated parking and if so where would it be? Attorney Marinelli responded the entire area has 295 parking spaces and this use requires only 45 parking spaces with 21 employees – in the proximity of the leasable frontage. Member Downey asked about the hours of operation – 8am to 6pm during the week.

Member Erinn asked if there are special events during the holidays like Christmas? Ms. Harper noted their donors are corporate entities and it is not based around holidays but all year round. She mentioned their charter does not allow for retail sales only donations and it is to school age children all year round.

Member Mikami asked what it the biggest donation and Ms. Harper responded four biggest sports are basketball, football, baseball and soccer – he clarified in size for equipment and Ms. Harper noted they do a drop ship from manufacturer to recipient for things like goal cages etc. Member Mikami asked about signage and Attorney Marinelli commented on a wayfinding system and directory that they will work with staff and if needed seek zoning board relief given it is a commercial park with multiple users. Discussion about the parking and the entry into the building was noted along with where deliveries occur to the rear.

Chair Joyce noted this was a unique business to come to Braintree – she asked if they are also international? Ms. Harper responded they originated in the Boston area 15 years ago and have gone national but not international due to the issues and requirements with Customs. She added an upcoming event this spring will be in Dorchester in collaboration with Franklin Sports to distribute 4,000 baseball gloves and baseball kits for the local schools. Chair Joyce asked how someone can donate or be a donor – Ms. Harper noted they have
an online application that is vetted by need – they also work proactively with other corporate entities to donate in high poverty communities.

When a worthy organization gets a grant of sports equipment the equipment is shipped out. Good Sports is currently in two locations. Vehicle operations will include personal vehicles for staff and volunteer. There are typical box truck deliveries and pickups. Two to three times per month there may be tractor/trailer deliveries. FM states all department heads have reported favorably. Draft conditions are acceptable. Attorney Marinelli states the other tenants in this facility are Iron Mountain and South Shore Elder Services.

Member Downey MOTION to enter into the record all correspondence up through today, seconded by Member Baker – unanimously voted.

Member Downey MOTION to close the public hearing; seconded by Member Erinna – unanimously voted.

Attorney Marinelli confirmed that the Conditions were acceptable.

Member Downey MOTION to approve the Major Modification of Special Permit #18-15 submitted by FoxRock Properties for their proposed tenant Good Sports at 1515 Washington Street with conditions; seconded by member Mikami – Unanimously voted (5:0:0). Robert Harnais is not participating.

NEW BUSINESS/OLD BUSINESS
Minor Modification and Request for Certificate of Occupancy: 7, 7R, and 11 Independence Avenue File #14-06 – (Special Permit/Site Plan Review) Requested By: Thomas Fitzgerald
8:34 PM – Four Planning Board Members participated. Chairman Harnais and Vice Chair Erin Joyce have recused themselves; Alternate Member Hector Erinna will participate in this vote.

Present for the Applicant:
George Clements
Thomas Fitzgerald, Applicant
Joe McEhrin, Real Estate Broker

Assistant Director Melissa SantucciRozzi explains that she has two sets of revised drawings; she has provided the Planning Board copies of: (1) approved and proposed elevations; (2) approved and proposed landscaping; (3) approved and proposed site plan; and (4) approved and proposed garage plan.

George Clement, on behalf of Fitzgerald and Associates, explains that he was brought in about four months ago to assist Mr. Fitzgerald on some of the issues that have been experienced on this project. He would like to look beyond the issues and look for forward momentum. He understands that there was an issue regarding the Penthouse that delayed this process; he also recognizes that there were some minor modifications that were not acted upon timely. In working with Mr. Fitzgerald, they have taken a hard look at this project, and they have decided to not move forward with the penthouse. They have obtained a Demolition Permit and commenced with the demolition of the rooftop unit.

Mr. Clements wants to make a couple of points of clarification. Back in January, there was a question related to improper filing of condominium documents, and there was a question related to whether they properly removed. Mr. Clements went to the Registry of Deeds and was able to obtain the removal of those, and he has submitted a copy to the Planning Department. Mr. Clements concludes that the improper filing of the condominium documents was corrected in November 2018.
Mr. Clements states they are requesting several small items this evening. As the project went forward, a decision was made that this design could be improved. He would like to walk through the drawings to show what was originally approved and what was actually built on the site. Initially, they had a tri-colored building (brick, tan siding and a black roof). There was also a mansard roof on what is a contemporary style building. As the process developed, a decision was made that this style was more appropriate architecturally, and it was built that way. The result is a much better architecturally designed building. Mr. Clements states a testament to this is the sheer interest in this project. There are nine committed buyers, who have been sitting for the better part of eight months. Mr. Clements recognizes that the Assistant Director has put a lot of time on this project, as has he. A big part of the project is delivering on the commitment to affordable units, of which they have three. He feels it has been a great project for the community and explains that Mr. Fitzgerald took great risk and has remediated a toxic site. He has paid 20 years of back taxes on this property. Mr. Clements appreciates the Planning Board’s efforts, and he hopes the Planning Board will give the Applicant the opportunity to deliver on their commitments to the community and get this building occupied and back on the tax roll.

Member Mikami asks staff to provide an update. Assistant Director SantucciRozzi has prepared a Staff Report and spent significant time going over this with the Applicant; she has also made site visits and explains there are 19 items highlighted on the Staff Report where the Planning Board needs to take action on. Action is needed on the following conditions: Number 2, which relates to striping of interior garage; Number 3, which is modifications to the landscaping plan; Number 4, which is the elimination of the rooftop garden area with substitution of a ground level planting area; Number 7, which changes the exterior façade, as discussed by the applicant, the penthouse needs to be removed from the plans, if approved; Number 11, which is related to the Air Conditioning condensers, which have been relocated; Number 14, which is the request to show units and receive a temporary certificate of occupancy; Number 15, which is an area on a abutting property that has been graded, cleared and altered from its natural state; Number 19 is the lighting plan.

Staff made a recommendation that each item be taken up and voted separately. If the Planning Board prefers to take them all together, that is fine. There will need to be some future revisions to the plans, depending on how the Board votes this evening. The materials that the Planning Board has in front of them are sufficient for them to make a decision. She is ready to go over anything in any order that the Board would like.

Member Mikami opens this up to the public for discussion, comments or questions. There are no comments from the public.

Member Mikami asks what Mr. Clements role is? Mr. Clements explains that he also does real estate development in Braintree, and he was brought on to provide a fresh perspective; his position is to consult, overview and make sure the project gets back on track. He is not a contractor. Member Mikami mentions that this project may have had some items of architectural interest. The Planning Board laid out a clear path which was very detailed and specific, and many items were not followed through on. The applicant did not comply. Mr. Clements completely understands that and hopes open dialogue can resolve this. Member Mikami suggests taking each item individually.

The Assistant Director states Item 1 relates to Conditions 52 and 58. It is ongoing and not complete and will need to be fully completed or fully bonded at the time any Certificate of Occupancy is issued. Item 2 is the interior parking garage, which is not completed or constructed in accordance with the Approved Plans. The alignment of parking spaces was skewed. Staff has made a recommendation that the ADA spot be moved to space 21 and parking space 20 becomes the accessible isle. Also, spaces 12, 13, 14 and 15 do not have a 24
foot isle. The garage was originally striped for 45 spaces and currently is proposed for 47 spaces, but some spaces are not sufficient. The Planning Board will need to grant a Minor Modification for said changes, if they are inclined to do so.

Member Mikami confirms that staff does not support current layout nor does it comply with ADA, but by making suggested changes it will comply. Mr. Clements discusses the possibility of having as many parking spaces as they can. Staff confirms that the plan currently in front of the Board is not acceptable. Member Mikami states there has been a problem with plans being correct; if they are not correct, we are not moving forward. Mr. Clements states we will stick with originally approved plan of 45 spaces, with approval of removal of sprinkler room, which is minor in scope. Staff states the sprinkler room removal is not a big deal.

Item 3, staff explains they have updated the Landscaping Plan, and staff is in support of that. Member Mikami confirms that the plans currently in their possession correctly identify the updated landscaping.

Item 4, staff states this is the elimination of the Rooftop Garden; they are proposing small exterior area with picnic tables at ground level. Staff felt the roof was a nice feature, but she doesn't have an opinion. Mr. Clements states there are no plans to do anything on the roof. Member Baker asks why remove the rooftop garden. Mr. Clements states, in taking things in consideration, what would residents use more and gain more enjoyment from. Mr. Clements state everything is a cost. Mr. Clements feels the alternative is a fairly good compromise that residents would enjoy more. Member Mikami observes that the units are advertised as “Boston Living” in the suburbs.

Item 7 is related to modifications to the façade; Mr. Clements will need to provide a drawing without the penthouse. Mr. Clements confirms. Member Downey asks how long it will take to get drawings. Mr. Clements thinks about a week before it gets back to Staff. Staff does not want any more plans until the Planning Board votes.

Member Baker states he is okay with the new façade, but he was curious because the general base for the whole project was transparency, why the change to façade? Member Baker felt that the mansard was a good idea at the start, and he wondered why the change of heart. Mr. Clements states that he wasn't involved, but architecturally it is a better overall design. Putting a mansard design on this building would not have been appropriate. Mr. Clements agrees that this should have been addressed earlier. Member Mikami summarizes that the Planning Board is looking for quality and suggests that, because Member Baker is an architect, he wants to confirm that it will look okay.

Item 11 is about the condensers. There was a discussion about screening those. The Assistant Director was questioning whether there were any units on the roof. Mr. Clements states there are 25 on the ground level and 10 on the roof; the reason for the location is shorter pipe runs. They looked at screen guard, which is basically a fence with slats. This was emailed to the Assistant Director. Member Mikami asks if putting more condenser units on the ground interferes with green space. The Assistant Director states probably not. The same amount is on the ground, but in a different location on the side of the building. Member Mikami asks Mr. Clements to confirm any change in square footage in pavement. Mr. Clements highlights the location of condensers and explains the visual impact and change in landscaping. Member Mikami asks if the coverage ratio is okay for this project, and staff explains that the Applicant has variances. Member Baker confirms that there are adequate screenings from neighbor(s).

Item 14 is related to showing the units with a Temporary Certificate of Occupancy. The Assistant Director reminds the Board that there was a Cease and Desist on this matter due to numerous incomplete items. There
are no Certificates of Occupancy for the entire building. The Assistant Director spoke with the Building Inspector to ask what the Applicant could be provided to show units. The Building Inspector clarified that there were only two items that could be provided: (1) a Temporary Certificate of Occupancy or (2) a Certificate of Occupancy. When you consider these options, this starts triggering Bonds and everything being complete. Staff has no objection to the Board allowing units to be shown; they are not ready to be closed on and to transfer title. It is important that the Applicant understand that everything that isn’t completed needs to be bonded. Staff is recommending bonds at 120% of cost. This work includes re-doing Oak Grove Terrace, and it also includes bonding for the affordable units that are not ready at this time. Staff has reviewed 75% of the draft application for the affordable units. The Assistant Director clarifies that the Planning Board does not have to approve removal of the penthouse because they never approved it, and it never existed in the paperwork.

Mr. Clements states that Item 14 is a big item for the Applicant. He has with him the Building Cards for each of the 12 units they are asking to have the ability to obtain Occupancy Certificates for. Mr. Clements agrees that there is some work that has to be done, but he has prepared a construction schedule. Mr. Clements had mentioned that part of the lending team was at this meeting, and he points out that no lender is going to fund a project with a “Cease and Desist”. This has created a perfect vacuum. Mr. Clements states that Mr. Fitzgerald has tried his best. Mr. Clements wants to make it clear that people are not moving into the building anytime soon. He feels 120% of a bond is a bit oppressive. They have financial constraints with the time delays. He feels that he would rather spend money to get the project done. The only way to do that is obtaining a favorable vote. Mr. Clements feels we need to open a line of trust. He is a Braintree resident and wants to get this project done. He feels we should look at the construction schedule and set up bi-weekly updates. Member Mikami states “actions speak louder than words”. In Member Mikami’s opinion 120% is too easy. The Applicant has not followed through on any of these items. Member Mikami states the Planning Board has laid out on numerous occasions a path to get things done. Member Mikami states this has been a total embarrassment. This is the worst project he has seen since he has been on the Planning Board.

Mr. Clements feels it hasn’t been five years, but he doesn’t want to debate. Assistant Director SantucciRozzi clarifies the way it works is you do the projects and get them done or you post bonds. Assistant Director SantucciRozzi states there are quite a bit of recon that needs to be done on some other site items. Assistant Director SantucciRozzi states, as far as the site being in compliance with conditions, we are not there. So the alternative is to post bonds. Assistant Director SantucciRozzi clarifies for Member Downey that the Applicant got the Cease and Desist from the Building Department because he was having Open Houses on an ongoing basis and showing units without a Certificates of Occupancy. Staff confirms that her responsibility is to make sure that the project is completed in accordance with the plans.

Member Baker recalls that in winter the Applicant stated work was unable to be done because of the weather, and, in good faith, the Planning Board agreed that things would be done in early spring (April 1st timeframe). Member Baker states the Applicant has had all winter to line contractors up. Member Baker agrees that if you want Temporary Certificates of Occupancy, you need to post bonds. Mr. Clements states they have been working towards getting things done; they don’t have an issue posting a bond for the specific items, but they have prepaid the contractors for this work, he is concerned with duplication of costs. Mr. Clements states they want to have a better understanding, and he has confidence that he can work with staff on this. Assistant Director SantucciRozzi recognizes that Mr. Clements has put a lot of effort into this, but she needs direction from the Planning Board on what we should be bonding. She states that it is everything that is not completed, and we should not pick and choose. Given the situation, Assistant Director SantucciRozzi thinks that the Planning Board should be providing the direction.
Member Erinna states the Planning Board has been quite lenient for a number of years; it seems that every time a plan is laid out, it is not followed by the Applicant. There has been complete disregard, and there is a breakdown of trust. Member Erinna states that the Planning Board has bent over backwards, and this has been in front of the public. There are other projects that have followed their plans to the letter. Either this project follows the plan to the letter or it doesn’t get done. Mr. Clements completely agrees and states that he wants to move forward and get this project behind us, and if bonds need to be posted, we will have that discussion.

Member Mikami states we have laid out a roadmap for getting this done. When the Applicant has an Open House with people walking through a construction zone, this is horrifying. Member Mikami feels that “good faith” is meaningless in this situation. Member Mikami asks if 120% is enough for the bond. Assistant Director SantucciRozzi states, given the timeframe and the Applicant’s need to get going, she sees us holding the bonds for a maximum of 4 months so that they can get all the work done and the As-Buils done. Staff mentions that Mr. Fitzgerald did not have Planning Staff come out and do inspections. This has hurt the applicant because there are some things that have been inspected that need to be corrected. Staff thinks that 120% is more than sufficient; however, it is the Planning Board’s decision. Member Mikami is also going to recommend that we make any Temporary Certificate of Occupancy contingent upon the Building Inspector making a final review.

Member Baker asks, if Temporary Certificates of Occupancy are allowed, how many units would be shown. Mr. Clements explains that they are asking for 12 Occupancies, but they are not being occupied any time soon. They need the buyers to be able to start the process of obtaining mortgages; banks will not underwrite a loan without that documentation. Mr. Clements has 12 Building Permits fully signed off, with all utilities, that he is happy to share. Mr. Forsberg brought the individual inspectors, and each inspector signed each of their disciplines. This is still an involved process. They are hoping to move things forward with the State so that they can give priority to Braintree residents for the affordable units.

Mr. Clements discusses the process for getting the Master Deed finalized through the Planning Department and then the State. He is hoping for a thirty-day process, but it could be a ninety-day process.

Member Downey asks the total cost of the bonds. Assistant Director SantucciRozzi explains how the cost is calculated for the bonds based upon all work that is outstanding; in addition, there is a $1,000 cost per unit, which is not at 120%. Assistant Director SantucciRozzi states if everything was done it would be $1,000 per unit for the Certificates of Occupancy. However, a lot of things haven’t been done. Assistant Director SantucciRozzi states she wouldn’t be surprised if the bond was close to $1Million. Mr. Clements agrees that the project needs to be done, but $1Million bond is not feasible. Mr. Clements states that Oak Grove Terrace is a Quincy jurisdictional street and doesn’t seem practical. Mr. Clements states there is an Order of Conditions for a project being done at that location through the City of Quincy.

Member Mikami reiterates that there was a simple roadmap laid out, and the Applicant needs to follow the rules. Mr. Clements understands the message but feels that with a $1Million the project would be out of business.

Assistant Director SantucciRozzi states Item 15 is work done on abutting property by the contractor; this work was discovered in the field last week. The area needs to be restored, with plantings on a two-to-one ratio. The area doesn’t have much green space, and it was disturbed. Mr. Clements recognizes that restoration needs to be done and a Restoration Plan will be provided by April 19.
Member Mikami wants to make a note that under Item 16 Mr. Fitzgerald is $37,000 behind on his taxes, and he is on a payment plan with the Tax Collector.

Assistant Director SantucciRozzi states Item 19 is related to lighting; the parking lot lighting is installed, and Mr. Fitzgerald did some wall-packs that shine down. Staff has that plan, it is accurate and staff has no comments.

Member Mikami states that all other items seem minor; however, Item 14 seems to be the major item to address. The other items are just noted as items that have not been completed to date or not completed satisfactorily. Assistant Director SantucciRozzi summarizes the smaller items.

Assistant Director SantucciRozzi brings up the subject of Oak Grove Terrace. When the permitting was going on for this project, she contacted the Quincy Planning Department and spoke to the Director, at the time, Mr. Harrington. Emails are in the record. Because it is a Quincy street and they might have different requirements for roadway construction and different DPW specifications, the condition says that the road needs to be done with sidewalks and whatever Quincy is going to require. That work hasn’t been done. Mr. Clements brought to staff’s attention that at 11 Oak Grove Terrace the residence has been demolished, and they are putting in 13 units on that property. Staff discusses the requirements of the Quincy project, which do not supercede or negate Mr. Fitzgerald’s requirements. They are in conjunction with. The road either needs to be completed or be bonded. We cannot just pick and choose what conditions need to be complied with. This needs to be done prior to a building permit and certificate of occupancy.

Mr. Clements states he doesn’t think they differ if it is a matter of posting money for roadway; part of his shock is the $1 Million bond. Mr. Clements feels we need to get to a finite number. Mr. Clements has a construction schedule, which is task driven. Members Downey and Baker ask if we can address all of the other items (other than Item 14) tonight, and address Item 14 later. Assistant Director SantucciRozzi explains that the Applicant makes the request; therefore, it is up to them. It has to be on the Planning Board’s and the Applicant’s terms at the same time.

Mr. Clements feels it is clear. Member Downey states if you don’t want to put up a bond, how quickly can you get the work done? Mr. Clements explains that the construction schedules states that all items would be 100% complete by the week of May 20th. Mr. Clements explains that the lender has said “if you don’t have occupancies, don’t come looking for money”. Member Mikami states the Applicant’s financial responsibility is no concern to the Planning Board. Member Mikami explains that the Planning Board is saying the exact same thing as the Applicant’s lender – “if you don’t follow our rules, this project will not go forward.” The Planning Board has been concerned with the safety and quality of this project from “day one”. Mr. Clements states they are willing to post the bond. Mr. Clements states he is new to this project, and if he says he is going to do something he will do it. Mr. Clements explains that he hasn’t broken any rules. Member Mikami states, in his humble opinion, the Applicant is going to have to do the work.

Mr. Clements states we would ask to move forward with the Minor Modifications and be put on the next Agenda so that the Applicant can come back and say they are done. Assistant Director SantucciRozzi states she is given estimates. All of these items are Minor Modifications. Item 14 would not need to be in front of the Planning Board if we didn’t have the Cease and Desist. Assistant Director SantucciRozzi explains the nature of requirements for Bonds; she explains that the percentage paid is up to the Planning Board. Assistant Director SantucciRozzi wants it to be clear about bonding; it includes every single condition. It is not until Mr. Fitzgerald wants to get a Certificate of Occupancy that we will need either a cash bond or a surety bond. Staff explains it is up to the Applicant as to when they want to get temporary Certificate of Occupancy.
Member Mikami states the bond would be full amount as of tonight. Mr. Clements agrees with the Assistant Director and Member Baker’s presentation. Mr. Clements would like to sit down with the Assistant Director to look at the list. Assistant Director SantucciRozzi states that is how she saw it happening and that they might not post the bond right away. If there are any concerns either way, either party can take it up with the Planning Board. Member Mikami states there is to be no temporary Certificate of Occupancy unless all conditions are met or it is bonded at 120%. Mr. Clements agrees.

Staff suggests that this be done in two separate motions: one for the approval of all minor modifications and one for Item 14 related the Bond. Assistant Director SantucciRozzi will get together with Mr. Clements to update Record Plan. There will be a new set of Record Plans to work with going forward.

Member Downey **MOTION** to approve the Minor Modification to items 3, 4, 7, 11, 15 and 19; seconded by Member Erinna; voted 4:0:0.

Member Mikami suggests Mr. Clements come back to the next meeting to see where we stand on Item 14.

Mr. Clements states he can work with staff, and he asks Planning Board to establish bond amount. Therefore, we can be moving forward, and they would like to spend their energy getting things done. Member Mikami doesn’t think the Planning Board should establish a bond number tonight, and we should use good faith to see what the Applicant can do by the next meeting.

Member Baker asks, if we approved a bond number for Item 14, can we still have the Applicant come in May for an update. Member Baker states it will reinforce as a Board that we are all talking the same language. Mr. Clements states we have some talented contractors, and we will have some flexibility over the next 30 days. Assistant Director SantucciRozzi states the Planning Board can move forward on Item 14, and this does not preclude the applicant from coming back to the May 14 meeting.

Member Erinna suggests 120% tonight, and if you move forward following the exact plan the Planning Board put forward, perhaps we can lower the bond amount at our next meeting. Mr. Clements states that seems very reasonable.

Member Erinna **MOTION** to approve a 120% cost for the bond under Item 14, which will be re-evaluated based on the Applicant’s progress at our next meeting; seconded by Member Downey; 4:0:0.

Member Erinna **MOTION to adjourn** the meeting; seconded by Member Downey; voted 4:0:0.

The meeting adjourned at 10:15 PM.

Respectfully submitted,
Louise Quinlan,
Planning/Community Development