



Department of Planning and Community Development

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Joseph C. Sullivan
Mayor

APPROVED

PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng, Clerk
Darryl Mikami, Member
Erin V. Joyce, Member

Present:

Mr. Robert Harnais, Chairman
Mr. Joseph Reynolds, Vice Chairman
Mr. Darryl Mikami
Mr. James Eng, Clerk
Ms. Erin V. Joyce

Christine Stickney, Director
Melissa SantucciRozzi, Principal Planner

Vice Chairman Reynolds called roll at 7:08 p.m.

Zoning Board of Appeal Petitions – May, 2015

ZBA (15-7) 105 Milton Road, Patrick Goff

Mr. Goff provided architectural drawings to the Board that was not previously submitted to the Planning Department. He explained that he is seeking a finding to add a second story to the existing structure and garage. He noted a walk up attic and dormers in the front.

Ms. SantucciRozzi briefly commented on the project and said the existing building encroaches into the rear set back.

Ms. Joyce confirmed that the footprint will remain the same.

Mr. Mikami noted the property situated in the watershed overlay district; Mr. Goff said he reviewed lot coverage calculations with the Building Inspector. Ms. SantucciRozzi asked the Applicant to provide the Zoning calculation to the Planning Department.

Mr. Eng did not have a problem with the elevations and no further comment.

Mr. Reynolds did not have a problem with the elevations providing he submitted the requested additional information.

Mr. Harnais had no problem; he said it will be an improvement and called for a Motion.

Mr. Reynolds made a Motion for a Favorable Recommendation contingent on the lot coverage watershed calculation being provided; seconded by Ms. Joyce.

Vote: 5:0:0

ZBA (15-8)

35-37 Franklin Street, Susan MacDonald, 1099 Washington Street (owner)

Mr. MacDonald addressed the Board and explained as the new property owners, they would like to increase the height of the second floor by approximately 3.5 FT and add a dormer to third floor to increase living space in the 2-family building.

Ms. SantucciRozzi made a comment to the Applicant regarding the pitch of the dormers, she suggested increasing the pitch of the proposed dormers so the roof does not appear so flat.

Ms. Joyce confirmed the location of the rental unit parking and that the building exterior will be upgraded. Mr. MacDonald added that he intended to create trash storage in the rear of the building.

Mr. Mikami confirmed that they will occupy one of the two units of the building.

Mr. Eng had no comment or questions.

Mr. Reynolds made a Motion for Favorable Recommendation with an increase in the pitch of the proposed dormers; seconded by Mr. Eng.

Vote: 5:0:0

ZBA (15-9)

23 River Street, Ying Jian Zhong

Mr. Zhong briefly explained that he wants to raise the roof by 3 FT to gain interior living space. He said he wants to improve the interior space for his growing family.

Ms. SantucciRozzi summarized the proposed project and suggested favorable action.

Ms. Joyce asked the Applicant if the second floor room is currently used and confirmed that the proposed increase in height would be for the whole structure. The Applicant said the room is used and assured her that both sides will be raised.

Mr. Mikami, Mr. Eng and Mr. Reynolds had no questions or comments.

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

Vote: 5:0:0

ZBA (15-10)

60-80 Campanelli Drive

Jay I. Hanflig, Trustee and Thayer Academy

Susan Murphy, Attorney for the Applicants Dain, Torpy, LeRay, Weist & Garner, P.C., Boston

Bill Stephenson, Business Mgr. for Co-Applicant, Thayer Academy

Jay Hanflig, Co-Applicant, Trustee of the 60-80 Campanelli Drive Realty Trust

Paul MacNeely, Architect, Eck/MacNeely, Boston

Jeffrey Dirk, PE, PTOE, Vanasse & Associates, Andover

Nate Cheal – Sr. Project Mgr., Tetra Tec Associates, Framingham

Ms. Murphy briefly described the site which has currently a 260,000 SF warehouse on 9.5 acres. The proposed project will take approximately 70,000 SF of the building and create 2 separate units. The larger unit will continue to be used as a warehouse. The 70,000 SF unit will be renovated into an ice rink/field house that will be owned and operated by Thayer Academy. She said because it will be an educational use, it is governed by the Dover Amendment.

Nate Cheal provided a diagram of the proposed ice rink. He highlighted the parking areas, bus drop-off and traffic flow around the building.

Jeffrey Dirk further detailed the parking; he explained there are 263 existing parking spaces. He projected that at peak use; demand for parking for the warehouse and rink is about 258 spaces, providing more than sufficient parking space.

Paul MacNeely provided an interior plan; he described where the ice rink facilities are located. He said that seasonally, the area converts to 4 tennis courts when not used as an ice rink and an upper level offers a jogging track.

Christine Stickney discussed her meetings with Thayer on the project – there are some traffic issues and she hopes to look into it further by the next meeting. She recommended some revisions to the Application relative to the lot coverage.

Ms. Joyce asked which portions of the building are designated for the sport facility. Ms. Murphy pointed out the specific location for the rink and indicated where warehouse administration offices will be. Mr. Hanflig identified the current and projected use of the surrounding space and where warehouse staff parks. Mr. Hanflig offered his 35 year experience with the traffic flow at that location.

Mr. Dirk discussed the estimated peak demand and the path that spectators would have to travel to get to the building. He explained that the bus path would be separated from spectator traffic.

Mr. Mikami asked about the legal structure of the property. Ms. Murphy said the one lot will be divided into two condominiums operated by a Master Deed. Mr. Mikami noted that the warehouse would continue to be a taxable property and asked if the ice rink would be non-taxable. Ms. Murphy said that technically, the sports facility falls under the Dover Amendment and therefore as an educational use, exempt from taxes.

Mr. Mikami asked about the rental income of users that would be from non-educational entities that Thayer will earn. Ms. Murphy said the Massachusetts and the Supreme Judicial Court interpret the

Dover Amendment to be "primarily used for educational purposes. She clarified that at this point, Thayer Academy has not determined the percentage of the non-educational rentals.

Bill Stephenson clarified Mr. Mikami's question; he estimated the rentals to be approximately 20-25%. Mr. Stephenson said the facility rentals fall under unrelated business income and whatever percentage that is gained is non-taxable income. Mr. Stephenson further said that Thayer no longer accepts organizations that are "for profit".

Mr. Mikami asked how Thayer will work with the Town regarding public safety. Ms. Murphy said Thayer is working within the framework of the Dover Amendment. Mr. Mikami expressed the many issues related to a typical Special Permit that the Planning Board usually oversees.

Mr. Eng was concerned about the parking; Mr. Hanflig reviewed the parking space. Mr. Eng asked if there is a contingency plan for parking during an event. Mr. Hanflig said they will design a plan for additional parking.

Paul MacNeely, the Architect answered Mr. Eng's questions concerning the renovations to the existing building. He provided a rendering of the proposed changes and explained the walls will be re-clad with textured metal panels and briefly detailed the intended landscaping.

Mr. Eng commented on the previous discussion about "other uses" and agreed with Mr. Mikami that the Applicant(s) should provide some definitive numbers for this use.

Mr. Reynolds wanted clarification whether the Applicants are returning to the Planning Board for further review. Ms. Murphy said she was unsure and said it is yet to be determined. Mr. Reynolds explained the benefits of the full Planning Board staff for review, especially noting the size of this project; he said the Town, abutters and the Applicant(s) would benefit from a more thorough review.

Mr. Reynolds asked further about the surrounding businesses. He asked Mr. Hanflig if Thayer Academy intend to use the facility for tournaments. He explained his concern for traffic/parking overflow. Mr. Hanflig expressed his understanding of the importance of scheduling and said that parking back up could be managed on-site.

Mr. Reynolds said that as a Board Member, he was at a disadvantage because the Town Counsel is in transition to another town and not available to the Board to ask about the Dover Amendment. This renders the Board unable to fully vet the legal arguments regarding the applicability of the Dover Amendment for this particular use. He said his research revealed a reason for concern that the Dover Amendment, in some instances, has not served their host community very well. In these cases, communities lose the ability to apply by-law and zoning regulations.

Ms. Murphy acknowledged Mr. Reynolds concerns and expressed Thayer Academy's' aligning interest in public safety and an openness to work with the Town.

Chair Harnais asked if Thayer is willing to continue their date with the Zoning Board and return to the Planning Board in June, Thayer agreed. He noted some questionable issues and said he wanted to work with Thayer prior to the Zoning Board. Mr. Harnais expressed wanting a good working relationship that respects the interests of the Academy and the community.

The matter was continued to June 9, 2015.

PUBLIC HEARINGS

8:17PM

Public Hearing

19, 19A & 37 Commercial Street (File 15-11)

Landing Apartments, LLC , Applicant

Special Permit(s)/Site Plan Review

Frank Marinelli, Attorney for Applicant

Josh Katzen, Project Developer

Vicki Tingos, Director of Operations, Forest Properties

David Kelly, P.E., Kelly Engineering, Braintree

Ben LaFrance, Landscape Architect, Hawk Design, Sagamore

Hugh Russell, RSSC Architecture, Cambridge

John Connery, Consultant, Connery Associates, Melrose

Robert Michaud, MDM Transportation Consultants, Marlboro

Chair read the notice for the record.

Mr. Katzen addressed the Board and discussed his interest in development of the Landing. He explained his intent to incorporate some existing businesses, resolve topographical problems and his decision to work only with the Town of Braintree. He said he conferred with local businesses, residents, Mass Housing Authority, MBTA and interested banks who want to be involved in the project. He said the last thing needed is Town approval for the \$45,000,000.00 project.

Vicki Tingos, the Director of Operations for Forest Properties introduced herself and briefly explained that this Apartment complex will be staffed with 4 employees; 2 for the office and 2 for maintenance.

Mr. Katzen concluded, he said he is seeking Site Plan approval from the Planning Board.

Frank Marinelli then addressed the Board and explained the project as 172 market rate apartments mixed with approximately 12,000 SF of commercial businesses. He highlighted the close proximity to public transportation to create a community that is transit oriented, where the residents can live, dine and shop all within walking distance.

Mr. Marinelli used projector images to show the 298 space garage; landscaping; lighted and landscaped archway connecting to the public areas. Mr. Marinelli explained the need for residents in the Landing to support the small businesses in the area.

David Kelly, the Site Engineer addressed the Board. He said the Plan presented is a culmination of iterations working with the Community and Town departments. He reviewed the location on several aerials and discussed the challenging topography of the site and how the building was designed. He explained the existing and proposed details of the Landing elevations surrounding the proposed project, the possible traffic (light) improvements and the parking improvements. He said other aspects include the utilities that have been reviewed with the Town departments and are reflected on the plans.

Ben LaFrance discussed landscaping intentions to connect with the public areas. He explained the incorporation of a couple of resting spaces adding to the landscape enjoyment. Resident seating and grilling area and a splash pool area are part of their amenities. Planned also are a generous amount of shade and flowering trees and plants.

Hugh Russell described the roof height and various other areas of the 4-story design. He added that there is a court yard planned on the second story level taking advantage of the water view. He highlighted numerous architectural details intended to blend into the Landing area.

John Connery discussed his impact analysis and financial projections. He said the Impact Study estimated the cost of town services to be \$186,000 per year for police, fire, education and school expenses. He added that revenue income to the town included \$482,000 yearly from excise tax on resident vehicles and yearly property tax from the building assessed at \$36,700,000.00.

Robert Michaud presented a traffic study; he explained that most of the residents will be oriented to public transportation. He said area traffic was studied during peak hours; the current lights and signals were studied for the 2,000(+) cars per hour that pass through this area.

He estimated this project (located next to public transportation) will likely generate 1 vehicle trip per minute (adding about 65 vehicle trips) exiting the development in the morning and the same in the afternoon on their return trip. Mr. Michaud said this is a small percentage of change to the existing light that can be adjusted for the 2,000 cars for the area; he said the plans will meet the parking needs of the site, its commercial uses and the uses of the downtown area, generally.

The Chairman did not take any public comment given the hour and the remaining agenda. There were some people who voiced their disappointment and Mr. Harnais assured the interested parties that he will take their comments first at the next Public Hearing on June 23, 2015, at 8:15 p.m..

Mr. Reynolds made a Motion to Continue to June 23, 2015 at 8:15 p.m.; seconded by Mr. Eng.
Vote: 5:0:0

9:43 PM

Continued Public Hearing

459 West Street - Del's Way (File 15-01)

459 West Street, LLC, Applicant

Definitive Subdivision Plan

Richard Whittington, President, Whitman Homes, Inc., Canton

Peter Williams, Peer Review Consultant, GZA Environmental, Hingham

Robert Hanigan, P.E., REH Associates, Milton

Mr. Williams reviewed the plans on behalf of the Town, he reported to the Board his review of the eight (8) lot subdivision. He noted issues with erosion control, handicap access, stormwater management and it lacked a separate defined stormwater filtration system. He said that he met with the Applicant, the Planning Staff and the Town Engineer to address a number of these problems.

Ms. Joyce noted a lack of information on existing conditions and the topography drainage.

Mr. Whittington, the soon to be owner and developer of the property, turned to Robert Hanigan, Project Engineer to explain the process of redesign based on the issues that have been raised since its initial submission.

Mr. Mikami asked if there were any surprises like site lines. Mr. Hanigan said there were no issues with site lines.

Mr. Mikami asked Mr. Whittington if he is now in complete control of this project. Mr. Whittington said the property is currently tied up with a Purchase & Sale Agreement. Upon final approvals, permits and expiration of Appeal periods, Whitman Homes will acquire the property and continue the project.

Mr. Eng asked Mr. Hanigan if he intended to respond to the 43 comments, mostly about stormwater and drainage; Mr. Hanigan said he would.

Mr. Reynolds asked about the abutters, relative to direction of flow to their properties. Mr. Hanigan said those determinations will be noted in the Existing Conditions.

Mr. Reynolds asked about the Waiver for width of the right-of-way. Mr. Hanigan explained the logic behind the decision of the road width. Mr. Hanigan said, in this instance, the width will likely be 28 FT narrowing to about 24 FT.

Mr. Whittington said they plan on having the revisions back to Staff by May 29, 2015 and asked to get on the next agenda.

Mr. Harnais called for any public questions.

Bob Campbell of 38 Fallon Circle, spoke on behalf of Deborah Hayes a resident of 37 Fallon Circle who, he said, is impacted by runoff. He asked if this project would provide some relief to this property that is the most impacted, it would be most appreciated. Mr. Whittington said that could be remedied with a swale.

Steve Kennedy of 411 West Street, commented about the existing wetland on his property and stressed he does not want any more water.

Steve Bonfiglioli of 436 West Street, said the soil is clay which prevents water from draining. Additionally, he hoped to have a green privacy screen between his property and the 3 (new) properties that abut his lot.

Ms. SantucciRozzi informed the Board that **James Turley** of **5 Burton Road** had called the Planning Department several times and sent in a letter also stating a similar concern related to the existing vegetated buffer, which he asked be entered into the Record; she said she would be looking into this as well.

Mr. Eng made a Motion to Continue to July 14 at 7:45 p.m.; seconded by Mr. Reynolds.

Vote: 5:0:0

10:10PM

Continued Public Hearing

400 West Street (File 14-09)

400 West Street, LLC, Rader Properties, Applicant

Grading Permit / Special Permit(s)

James Rader of 400 West Street LLC, Applicant

Donald Bracken, P.E., Bracken Engineering, Buzzards Bay, MA

(Members Eng and Joyce did not participate in this hearing.)

Don Bracken discussed drainage in the playground and the wooded area on the subject property. He said that subsurface infiltration was designed to accommodate the paved area.

Mr. Mikami asked Mr. Rader where the report is that he requested that detailed the damage to each abutter and his repair proposal.

Ms. SantucciRozzi confirmed that a detailed report was not submitted but a Plan to mitigate the damage was submitted. Mr. Rader said the Town Engineer reviewed the property and found no damage to the town property.

Mr. Rader addressed Mr. Mikami and said that when the Town Engineer viewed the property, the fence was slightly over the property line; this, he said, was immediately corrected. He further said that he worked on a plan to resolve all the concerns and the plan was submitted to Staff several weeks earlier. Mr. Mikami suggested implementation of a Performance Bond to avoid any future miscommunication.

Mr. Reynolds asked Ms. SantucciRozzi about the draft conditions dated May 11, 2015.

Ms. SantucciRozzi reported that Mr. Rader contacted her concerning some questions and comments about Draft Conditions #4, #23, #24, and #39.

Attorney Markoff requested that the \$10,000.00 Surety Bond be used for the Performance Bond also; and an intermediary be appointed to disburse payments.

Mr. Reynolds asked Carl Johnson (abutter's attorney) for his comments. Mr. Johnson expressed how long it has taken to resolve Mr. Noble and Mr. Nguyen's damage. He said the As-Built Surety is not a Performance Guarantee.

Mr. Reynolds asked Mr. Johnson if he was in favor of the 1.05% verbiage, Mr. Johnson said he is not in favor of the 5% deviation, that it is not even used in the industry. Mr. Johnson said his client is looking for the most qualified bidder, not the lowest bidder. Additionally, given we are now at the month of May and how booked contractors are due to the overload of work resulting from the severe winter; this work will be delayed further perhaps until the Fall, having missed the spring planting season.

Mr. Reynolds discussed the 1.05% and agreed that a neutral party should review the bids per Condition #39. He summarized that the Applicant didn't understand that he caused a very serious situation by the damage to the abutter's property; therefore he supported Staff recommendation of a \$10,000 As-Built Surety and per Condition #16 and accessing a Performance Guarantee.

Mr. Harnais asked for public comment.

Brian Noble, 376 West Street, thanked the Board for their effort regarding the restoration of his property, damaged by Mr. Rader's' development project. Mr. Noble described the bidding negotiations as a further attempt by Mr. Rader to delay resolution.

Thao Nguyen, 388 West Street, stated that his property was not only damaged during construction but the Applicant's project exposed his backyard. He also noted the disturbing noise and loss of privacy from the playground that was built abutting his backyard. He pointed out that he likes kids, has two kids of his own but all day from 7 am it is noisy. He would prefer the playground be moved away from the residential area, if not, at least the installation of a noise buffering wall around it.

Mr. Nguyen also reported water damage in his basement for the first time in 4 years; he said he believed this coincides with the Applicants' grading. He also stated his concern for the decaying building at 400 West Street – he noted wild animals going in and out and has concerns of it being a potential shelter for undesirables. For these reasons, he opposes the granting of any permits till these matters are resolved.

Ms. SantucciRozzi asked Mr. Nguyen if he is still interested in fencing that was discussed in his April 7, 2015 letter to the Planning Department; Mr. Nguyen said he would like to see the details and would like to know how to control the noise that is just a few feet away from his property. The Board discussed a screening Fence with Mr. Nguyen and it was agreed to by all parties that the existing Fence that was located on the Western side boundary of Mr. Nguyen's property would be extended (paid for by the Applicant) back to retaining wall proposed at the rear of the Property.

Mr. Rader said he offered to plant some mature evergreens along the property line to screen out his view of the playground. There was discussion about the location and extension of the fence.

With no further questions or comments from the public or the Board, Mr. Reynolds made a Motion to Close the public meeting; seconded by Mr. Mikami.

Vote: 3:0:0

Mr. Mikami made a Motion to accept the Correspondence dated August 20, 2014 through May 12, 2015; seconded by Mr. Reynolds.

Vote: 3:0:0

Mr. Mikami made a Motion for the Applicant to Post a Performance Bond pursuant to Condition #4, in the amount of the proposed contract plus a 20% contingency in addition to the AS-Built Surety Seconded by Mr. Reynolds.

Vote: 3:0:0

Reynolds made a Motion to approve the Grading Permit with Conditions as stated and amended; seconded by Mr. Mikami.

Vote: 3:0:0

11:05 PM

Continued Public Hearing

579, 585 and 587 Granite Street (File 15-02)

BH Swim, LLC, Applicant

Special Permit(s) / Site Plan Review

Scott Hedges and Bill Burnett, BH Swim, LLC, d/b/a Goldfish Swim School of Braintree, Applicant

Donald Bracken, P.E., Bracken Engineering, Buzzards Bay, MA

Robert Michaud, MDM Transportation Consultants, Marlboro

Mr. Bracken discussed the adjustments to the property based on the comments from the April, 2015 Planning Board meeting. He noted the Lighting Plan and an updated Project Narrative.

Robert Michaud reviewed the traffic study he compiled during peak hours and daily traffic hours. He noted the flow and crash conditions. He estimated the amount of traffic the proposed school will generate based on a BH Swim School in Michigan.

Ms. Joyce asked Mr. Michaud about the time of day the study was performed. Mr. Michaud explained it to have been daytime.

Mr. Mikami asked where the water to fill the pool will come from, whether by town water or an outside service Mr. Hedges said that detail has not been decided on yet.

Mr. Eng asked about a rain garden, Mr. Bracken indicated where the rain garden was located on the Plan and the additional drainage it will provide.

Mr. Eng asked about northbound cars making a left hand turn. Mr. Michaud discussed this and did not see this as a problem.

Mr. Reynolds commended Mr. Michaud for the thorough traffic study and asked him if he had any questions or comments. Mr. Michaud questioned the phrase "site" used in Condition #52.

Ms. SantucciRozzi responded that she would change the word "site" in Condition #52 and insert "use".

Mr. Eng made a Motion to accept the Correspondence dated February 11, 2015 through May 12, 2015; seconded by Mr. Reynolds.

Vote: 5:0:0

Mr. Eng made a Motion to close the Public Hearing, seconded by Mr. Mikami.

Vote: 5:0:0

Mr. Reynolds made a Motion to Approve with Conditions; seconded by Mr. Mikami

Vote: 5:0:0

11:40PM

Public Hearing

429-445 Quincy Avenue (File 15-07)

**K. Spillane, LLC, Harry White, LLC and Bookshe, LLC, Daniel Quirk, Mgr.
Site Plan Review**

The Chairman read the Public Notice for the record.

The Applicant requested this matter be continued; Mr. Reynolds made a Motion to Continue the hearing to July 14, 2015 at 8:15 p.m.; seconded by Mr. Eng.

Vote: 5:0:0

Discussion

Peer Review Consultant for (3) Billboard Applications on Wood Road

Ms. Stickney explained that there are currently three (3) Billboard Applications that have been submitted. Given the technical nature of the proposals, she would like a Peer Review.

The Planning Board gave their support to go forward with a Peer Review for the Billboard Applications.

Request for As-Built Approval

385 Quincy Avenue (File 14-04)

Citgo Petroleum Corporation, Applicant

Ms. SantucciRozzi informed the Board that there have been no problems with the dredging project. She said that the Conservation Department closed out their file and she suggested granting As-Built approval without surviving conditions.

Mr. Mikami made a Motion to Approve As-Built Approval; seconded by Mr. Reynolds.

Vote: 5:0:0

Request for As-Built Approval

10 Forbes Road (File 14-11)

Bella Derma, Applicant

Mrs. Stickney provided an update to the Planning Board and recommended As-Built Approval with Surviving Conditions 1, 2, 18, 19, 20, 21 and 22.

Mr. Mikami made a Motion to Grant As-Built Approval with surviving Conditions; seconded by Mr. Reynolds.

Vote: 5:0:0

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**Approval Not Required Subdivision Plan and Roadway Discontinuance Plan
429-445 Quincy Avenue, Hill Avenue, Columbia Terrace, Patten Avenue
And Portions of Lancaster Road
K. Spillane LLC, Daniel Quirk Manager**

Ms. SantucciRozzi, reviewed the contents and purpose of the Plan to the Planning Board and that is this is the follow up plan to complete the discontinuance process. Mr. Reynolds made a Motion to endorse the Approval Not Required and Discontinuance Plan; seconded by Ms. Joyce.

Vote: 5:0:0

Approval of Minutes for March 2015

Mr. Eng made a Motion to accept the March 24, 2015 Minutes; seconded by Mr. Mikami

Vote: 5:0:0

Mr. Mikami made a Motion to adjourn the meeting; seconded by Ms. Joyce.

Vote: 5:0:0

The Meeting adjourned at 11:58 p.m.

Respectfully Submitted,
Elizabeth Schaffer