



Joseph. C. Sullivan
Mayor

Department of Planning & Community Development Zoning Board of Appeals

1 JFK Memorial Drive
Braintree, MA
www.braintreema.gov

Zoning Board of Appeals (ZBA) Meeting Notes May 24, 2016

IN ATTENDANCE:

Stephen Karll, Chair
Michael Ford, Member
Michael Calder, Member
Richard McDonough, Member

ALSO PRESENT:

Megan Bayer, Kopelman & Paige
Jeremy Rosenberger, Zoning Administrator

Mr. Karll called the meeting to order at 7:00pm.

OLD BUSINESS:

- 1) Petition Number: 15-10
Petitioner: Thayer Academy & Jay Hanflig
RE: 60-80 Campanelli Drive**

Jay I. Hanflig, Trustee (owner) and Thayer Academy, 60-80 Campanelli Drive, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-401, 403, 407, 609, 701 and 806B to alter a nonconforming structure for purposes of creating an athletic facility and determination of off-street parking requirements. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located at 60-80 Campanelli Drive, Braintree, MA 02184 and is within a Commercial Watershed District Zone, as shown on Assessors Map #1033, Plot 28, and contains a land area of +/-9.56 acres.

Notice

Pursuant to notice duly published in a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to M.G.L. Chapter 40A, mailed to all parties in interest, a hearing by the Zoning Board of Appeals was scheduled for May 26, 2015 at Town Hall, One JFK Memorial Drive, Braintree, MA. The hearing was continued by mutual agreement to July 28, 2015, continued by mutual agreement to September 28, 2015, continued by mutual

agreement to October 27, 2015, continued by mutual agreement to December 22, 2015, continued by mutual agreement to January 26, 2016, continued by mutual agreement to February 10, 2016, continued by mutual agreement to February 23, 2016, continued by mutual agreement to March 22, 2016, continued by mutual agreement to April 26, 2016, and continued by mutual agreement to May 24, 2016. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford, Members.

Evidence

At the opening of the public hearing on October 26, 2015, Attorney Susan Murphy, representing the applicant Thayer Academy, was joined by Jay Hanflig, the property owner, and Bill Stephenson, Business Manager for Thayer Academy. Attorney Murphy described that the property at 60-80 Campanelli Drive contains approximately 9.56 acres in the Commercial District and Watershed Protection District and is improved by an approximately 302,000 sq. ft. warehouse with accessory office space, 303 off-street parking spaces and loading bays.

The current primary occupant of the property is Robelle Industries, which uses a portion of the warehouse and appurtenant office space within the building. Robelle Industries has approximately 21 full-time employees and has indicated that it may hire one (1) or two (2) additional full-time employees in 2016 at the Braintree site.

The co-applicants, Jay I. Hanflig and Thayer Academy, intend to convert approximately 70,000 square feet of the footprint of the existing warehouse building to an athletic facility to be used by Thayer Academy as an ice rink for portions of the year, and a field house during other times of the year. The rink/field house facility will also include as accessory uses, an elevated track, locker rooms, fitness room, batting cage and bull pen, academic study room and concessions. A tentative schedule of the proposed use of the facility was provided by Ms. Murphy to the ZBA and included with the petition. The rink/field house facility will be owned by Thayer Academy and the remainder of the warehouse building will continue to be owned by 60-80 Campanelli Drive Realty Trust.

Ms. Murphy discussed that both a warehouse use and a school use is permitted as of right in the Watershed Zoning District and Commercial Zoning District. In addition, the rink/field house facility is a protected educational use under M.G.L. Chapter 40A, Section 3 (the "Dover Amendment"). A memorandum from Attorney Murphy discussing the law applicable to the Dover Amendment use was provided to the ZBA and submitted with the petition.

Attorney Murphy told the Board that the applicants are seeking two findings from the ZBA. The first, pursuant to Section 135-403, a finding that the proposed alterations to the preexisting nonconforming structure on the property are not substantially more detrimental to the neighborhood than the existing nonconforming structure. The proposed alteration to the warehouse would include an increase in height over the northwest portion of the building. The alterations will result in an increase of a portion of the building height to two-stories and approximately 41' 4", which is below the maximum permitted 50 ft. height under the Zoning Bylaw. In addition, minor exterior wall alterations at the northwest entrance and along the westerly side of building would be undertaken. The exterior changes would result in a net decrease in the footprint of the non-conforming structure of approximately 1600 sq. ft. Attorney Murphy expressed that the exterior changes will dramatically improve the design of the unoccupied section of the warehouse building.

The existing structure is nonconforming pursuant to the Watershed Zoning District and Commercial Zoning District dimensional and density requirements of Section 135-701, as it provides only 4 ft. of rear yard setback, where 35 ft. is required, provides 63% building coverage, where a maximum of 25% is allowed, provides 93% lot coverage, where a maximum of 60% is allowed, and provides 7% open space, where a minimum of 40% is required. The proposed alteration of the building will not create any new nonconformity, and will decrease the amount of lot coverage to 92% and increase the amount of open space to 8%. Accordingly, a finding is required pursuant to Zoning Bylaws Section 135-403 and G.L. Chapter 40A, Section 6.

The second finding from the ZBA, pursuant to Section 135-806.B, would be a determination that the proposed off-street parking spaces that will be available on the site for the rink/field house use is adequate. Attorney Murphy highlighted that the Dover Amendment also allows reasonable regulation of parking at a property owned or leased by a nonprofit educational organization. Therefore, zoning regulations may be applied, but cannot be so strictly enforced that it results in prohibition or restriction of the educational use (*See Tufts College v. City of Medford*, 415 Mass. 753 (1993)). Even with Dover protections, "a local zoning provision that requires an educational institution to adapt plans [for parking] may be enforced, so long as the provision is shown to be related to a legitimate municipal concern, and its application bears a rational relationship to the perceived concern." *Id.* at 758 (citing *Radcliffe College v. Cambridge*, 350 Mass. 613, 619 (1979)). In reviewing this issue, Ms. Murphy articulated that Massachusetts courts have stated that the reasonableness of the regulation in relation to the proposed educational use is a question of fact in each case.

Given the disparity between what is required pursuant to the Zoning Bylaws and the factual information provided in the Parking Study, Attorney Murphy explained that enforcement of the schedule of off-street parking regulations for indoor commercial use set forth in the Zoning Bylaw for the Thayer Academy athletic facility would constitute an unreasonable regulation of parking under the Dover Amendment (M.G.L. Chapter 40A, §3). Therefore, a finding that the proposed off-street parking plan is adequate is required pursuant to G.L. Chapter 40A, Section 3 and Zoning Bylaws Section 135-806.B.

Jeffery Dirk from Vanessa & Associates presented Thayer's parking study and discussed that there are currently 303 off-street parking spaces at the site. With the slight increase in open space and parking lot layout improvements, there would be a reduction in total off-street parking spaces from 303 to 269 spaces. 232 off-street parking spaces would be allocated to meet the off-street parking requirements of the existing warehouse use, and the remaining 37 spaces would be for the Thayer athletic facility. Mr. Dirk added that the factual information relevant to the parking demand for the proposed use of the ice rink/field house is set forth in the Transportation Impact Assessment, dated April 17, 2015, prepared by Vanessa & Associates, Inc. and submitted with the petition. He explained that while the Zoning Bylaw requires 1 space/250 gross square feet for an "indoor commercial recreation" use, resulting in a zoning requirement of 280 parking spaces, the parking study, relying on industry standards and actual planned use at the facility, demonstrates a substantially lower need. The industry standard for an ice rink found in *Parking Generation*, 4th Edition; Institute of Transportation Engineers; Washington, D.C.; 2010, provides for a parking demand ratio of only 0.58 spaces per 1,000 square feet (resulting in a 41 space requirement for a 70,000 square foot facility). The parking study, using a conservative estimate of the actual parking demand that the facility is likely to generate, has recommended a total of 70 parking spaces (1 space/1,000 square feet), or one-fourth of the number of spaces that the zoning regulation would require.

Mr. Dirk discussed, applying the parking requirements of the Zoning Bylaws to the project results in a theoretical parking deficit of 243 spaces. As discussed at the Planning Board hearing, this approach to calculating the parking requirements for the project does not consider the fact that the peak parking demands of each use on the property do not occur simultaneously. The peak parking demand for the warehouse use typically occurs between 10 AM and 1 PM on a weekday, whereas the hockey rink which will have a peak parking demand that will occur after 3 PM on a weekday or on a Saturday when the warehouse has minimal activity.

Mr. Dirk discussed further, that given that the Zoning Bylaws does have a use classification that has been applied to the warehouse use, but does not have a specific classification that is reflective of the nature of the proposed non-commercial hockey rink/field house, a hybrid parking calculation was completed for the project using the Zoning Bylaws to establish the parking requirements for the warehouse use and the ITE parking demand data for the hockey rink/field house. Mr. Dirk explained the calculation yields 232 spaces required for the warehouse use and 70 off-street parking spaces for the athletic facility, totaling 302 off-street parking spaces.

Mr. Dirk articulated that applying the hybrid parking calculations to the project results in a theoretical parking deficit of 33 spaces; however, given that the peak parking demand for the hockey rink/field house (after 3 PM on a weekday or on a Saturday) will not occur concurrent with the peak parking demand for the warehouse (between 10 AM and 1 PM on a weekday), it can be concluded that the parking supply that will be available at the completion of the project, 269 spaces, is more than sufficient to accommodate the predicted parking demands associated with both uses.

After discussion, Chairman Karll requested the applicant mutually agree to continue the hearing to allow for a Peer Review of the proposed traffic and parking plan. Ms. Murphy agreed to the extension of the public hearing.

At the continued public hearing on January 26, 2016, Attorney Susan Murphy gave an update to the Board that the Peer Review regarding traffic and parking had been completed in early January. She also discussed that the applicants had met with both the Town and the Peer Review consultant Stantec, Inc., to review the findings. Furthermore, Ms. Murphy discussed that they had again presented to the Planning Board in early January and received a favorable recommendation with a condition of overall safety being applied to the proposed project.

Mark Bartlett of Stantec, Inc. provided a summary to the Board regarding the results of the Peer Review. Mr. Bartlett described that the Peer Review was limited to analyzing the projects traffic impacts, site circulation and parking demands. As far as the results, Mr. Bartlett found that the applicant has properly documented traffic impacts associated with the proposed project. On non-game days, traffic associated with ice rink would have a minimal impact on traffic operations on Campanelli Drive itself and at its intersection with Granite Street. He added higher site traffic volumes associated with game days will result in increased delays for traffic exiting Campanelli Drive. This added delay will be limited to a short period of time after the completion of a game and can be managed, in coordination with the Braintree Police Department, with a police detail. Mr. Bartlett added that the proposed project has demonstrated that parking demands associated with peak use of the rink can be accommodated on site concurrently with parking needs for the existing tenant, Robelle Industries. In the event the nonrink space of the existing building is occupied by a new tenant with parking demands comparable to those required by Town of Braintree zoning regulations, there is a potential deficit

of 33 spaces on the site. Stantec, Inc. is in agreement that this deficit reflects a rare situation of peak parking demand occurring concurrently for both the rink and warehouse uses and that existing parking supply is adequate. Implementation of the proposed parking policy and associated special event parking management plans submitted by the applicant provide an additional means of managing parking demand on site. Therefore, based on the scope of the peer review, Stantec finds the project proposal to be generally consistent with good and accepted engineering practices, and to be suitable for approval subject to implementation of its review recommendations. The recommendations include providing a police detail for high volume/special events, implementation of an event parking management plan for special/peak events, additional signage related to bus circulation, and a photometric plan be submitted to the Board for review.

Attorney Murphy presented to the Board an updated signage plan based on the peer review recommendation. Chairman Karll asked for a photometric plan to be submitted to the Board for review. Furthermore, Chairman Karll asked how many spectator seats are provided. Attorney Murphy responded 350 seats.

After discussion, Chairman Karll requested, due to concerns by the abutters, that the applicant agree to a special meeting on February 10, 2016, to discuss any outstanding issues with abutters. Mr. Karll asked the abutters to provide documentation prior to the meeting of the issues from their perspective. Ms. Murphy agreed to continue to the next hearing date.

At the continued public hearing on February 10, 2016, Attorney Murphy reiterated how projects may be reasonably regulated pursuant to the Dover Amendment. Ms. Murphy also provided photometric plans to the Board as requested. Attorney Ronald W. Ruth from Sherin & Login, on behalf of abutters, provided a summary of the issues submitted to the Board for review. Member Ford asked how incidental uses are protected under the Dover Amendment. Town Counsel Carolyn Murray highlighted the *Regis College v. Town of Weston*, 462 Mass.280 (2012), case as the most appropriate case relevant to the question. Ms. Murray discussed that the case did not provide a ruling regarding quantifying incidental use.

After discussion, Chairman Karll requested that the abutters and applicant discuss the issues raised prior to the next meeting. The Board approved a motion to continue the public hearing to February 23, 2016. Ms. Murphy agreed to continue the hearing.

At the continued public hearing on February 23, 2016, Mr. Karll asked the applicants if they had met with the abutters since the last meeting. Attorney Murphy stated Mr. Hanflig had offered to sit down with the abutters, but the offer was not entertained by the abutters. Ms. Murphy also submitted additional legal cases regarding regulation of Dover Amendment related uses. Attorney Ron Ruth stated that the abutters had not declined to meet with the applicants. He reiterated they were more than willing to continue discussions. Mr. Ruth also presented documentation from a transportation consultant hired by the abutters to assess the proposed traffic and parking plans as part of the project. The consultant recommended the applicants consider moving the proposed project's western entrance and drop-off to the building's eastern side. The consultant also recommended a "maximum use" parking demand and successive special events parking management plan be developed.

After discussion, Chairman Karll requested that the abutters and applicants agree to meet on March 1, 2016, privately and without the Board, to try to come to a mutual agreement. Ms. Murphy agreed, and accepted to continue the hearing.

At the continued public hearing on April 26, 2016, Attorney Susan Murphy and Mr. Hanflig briefed the Board on discussions with the abutters regarding outstanding issues as directed by the Board.

Attorney Murphy presented a revised parking layout for the proposed Thayer Academy Ice Rink/Field House. The revised parking layout eliminates the separated player drop-off/pick-up area that was proposed along the north side of the building in order to accommodate additional parking. The revised plan provides 302 spaces, consisting of 70 spaces for the ice rink/field house and 232 spaces for the remaining warehouse space, consistent with the "hybrid" parking demand analysis that was prepared in support of the project and previously discussed.

Attorney Murphy described that a curbside drop-off/pick-up area is retained and it is intended that the bus would stop at this curbside location, activate the flashing yellow then red school bus indications to stop traffic proceeding to/from the rear of the site, and then discharge/pick-up players. Once drop-off/pick-up of players has occurred, the bus would then exit the site and park at an off-site location or, if parking is available within the site, stage in an appropriate location where the bus would not hinder on-site circulation or access to parking. Ms. Murphy added that the Peer Review Consultants did not have a problem with the revised plans.

After discussion, on a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403 and G.L. c.40A, §6, and on a motion duly made and seconded, a majority of the Board (2-1) voted to grant the necessary determination of adequate parking to be provided, pursuant to Bylaw Section 135-806(b), but to extend the public hearing to May 24, 2016 to develop conditions as part of the approval. Ms. Murphy agreed to continue the hearing to May 24, 2016.

At the continued public hearing on May 24, 2016, on a motion duly made and seconded, a majority of the Board (2-1) voted to condition the granting of the necessary determination of adequate parking to be provided, pursuant to Bylaw Section 135-806(b).

Supporting Materials

The applicant presented the plan entitled "Existing Conditions Plan-Thayer Academy Field House", originally dated December 19, 2014 and updated on August 28, 2015, and prepared by Robert F. Daylor, PLS of MA. The applicant also presented site plans and architectural renderings entitled "Layout Plan-Parking Allocation by Owner-Thayer Academy Field House" labeled as C-112, "Layout Plan-Shared Parking Scenario-Thayer Academy Field House" labeled as C-113, originally dated December 19, 2015 and revised on January 20, 2016, and prepared by Tetra Tech, Inc. of Framingham, MA and Eck/MacNeely Architects of Boston, MA. The applicant also presented a traffic and parking assessment entitled "Transportation Impact Assessment-Proposed Thayer Academy Hockey Rink and Field House" dated April 17, 2015 and revised via a memorandum entitled "Re: Case #15-10: Thayer Academy Rink/Field House Project - 60-80 Campanelli Drive", on January 20, 2016, and prepared by Vanessa & Associates, Inc. of Andover, MA.

Testimony

The Planning Board recommended favorable action (4-1) with a condition that the applicant seek to ensure adequate safety measures are implemented and applied. The Planning Board also requested that the ZBA ask the applicants to agree to a Peer Review with regard to the proposed traffic and parking plan.

On October 27, 2015, the owners and operators of warehouses and assembly and/or industrial facilities on Campanelli Drive submitted to the ZBA a letter regarding questions and concerns related to the proposed athletic facility at 60-80 Campanelli Drive.

On January 26, 2016, Attorney Tom Gorman of Sherin and Login, representing some of the Campanelli Drive businesses, stated that the businesses had three concerns. The first is the safety and hazards associated with the proposed use in an industrial park. The second concern is liability issues associated with introducing school-age children into an industrial park. The third concern is the impact of the proposed project on business operations of current tenants and owners in the industrial park. Attorney Gorman also highlighted an additional concern of allowing non-Dover amendment protected uses in the industrial park and the potential precedent that could set. Rob Nagarian, General Counsel for Superior Bindery at 120 Campanelli Drive, expressed concern with regard to changing the fundamental make-up of the industrial park by introduction of school-age children. Mr. Nagarian also spoke about existing and potential traffic issues at Campanelli Drive and Granite Street. Chairman Karll asked Mr. Nagarian if there was anything the applicants could do to satisfy the business's along Campanelli Drive. He responded that he didn't think so. Robert DeMarco of Campanelli Companies, located at 1 Campanelli Drive expressed his support for the project. Mr. DeMarco stated his property may be most directly affected by the proposed project.

On February 5, 2016, Attorney Ronald W. Ruth of Sherin and Lodgen, submitted a letter via email to the ZBA, identifying concerns and offering proposed responsive conditions from several of the owners and operators of warehouses, assembly, and industrial facilities located within the Campanelli Drive commercial development.

On February 19, 2016, Ronald W. Ruth of Sherin and Lodgen, submitted a letter via email to the ZBA, further identifying concerns and offering proposed responsive conditions from several of the owners and operators of warehouses, assembly, and industrial facilities located within the Campanelli Drive commercial development.

On February 19, 2016, Keri Pyke of Howard/Stein Hudson, on the behalf of Ronald W. Ruth of Sherin and Lodgen, submitted a letter via email to the ZBA entitled "Thayer Academy Hockey Rink and Field House, Braintree, MA, Traffic Impact and Access Study Peer Review —Site Circulation".

On April 26, 2016, Rob Nagarian, General Counsel for Superior Bindery at 120 Campanelli Drive, expressed concern with regard to the proposed parking plan. Mr. Nagarian again reiterated the concern of changing the fundamental make-up of the industrial park by introduction of the athletic facility. Mr. Nagarian also had issue with the potential of incidental use of the athletic facility by non-Thayer entities.

On May 11, 2016, Jason Perrotta, Esq., on the behalf of JEdwards International, Inc., submitted a letter via email to the ZBA, to 1.) request that any approval of the project be conditioned upon the requirement that Thayer return to the Board in each instance where Thayer wishes to allow other entities or organizations to use the rink, in order to obtain a separate determination from the Board that those "sub-users" themselves are Dover-protected; and 2) to request that the Board seek Town Counsel's opinion on this discrete point before proceeding.

On May 23, 2016, Town Counsel Carolyn M. Murray submitted a letter via email to the ZBA responding to a request by the Board for an opinion concerning the authority of the Board to

impose certain proposed conditions to the zoning relief granted to Thayer Academy on April 26, 2016, for construction of an athletic facility at 60-80 Campanelli Drive.

On May 24, 2016, Rob Nagarian, General Counsel for Superior Bindery at 120 Campanelli Drive, expressed concern with regard to the proposed condition for non-Dover protected uses. Mr. Nagarian felt the condition did not go far enough with regard to regulating non-Dover or non-Thayer protected uses.

No one else spoke in favor of or opposition to the petition.

In response to the concerns raised by abutters, the Applicant voluntarily proposed several parking and traffic conditions to ensure safety and address abutters' concerns. The Applicant also voluntarily proposed a condition to ensure ongoing compliance with the Dover Amendment.

Findings

The Board found that the existing structure is pre-existing nonconforming in terms of rear yard setback, building coverage, lot coverage and open space, as noted above. The Board found that the proposed building height increase over the northwest portion of the building would be in compliance with the maximum height permitted under the Zoning Bylaw. Furthermore, the Board found the proposed minor exterior wall alterations would result in a small net decrease in the footprint of the non-conforming structure of approximately 1,600 sq. ft. Furthermore, the ice rink/field house will occupy the northwest corner of the building and will neither add any new dimensional non-conformity nor will it intensify any existing grandfathered, dimensional non-conformity. As a result, the Board found the proposed alterations will not be more detrimental to the neighborhood than the existing lot and structure.

The Board found that the proposed 232 off-street parking spaces to be allocated for the 232,000 sq. ft. warehouse use would be in compliance with the parking requirements of the Zoning Bylaws, which requires 1 off-street parking space per 1,000 sq. ft. of warehouse space. Secondly, the Board found a noncommercial athletic facility was not listed in the schedule of off-street parking requirements in the Zoning Bylaws and therefore, enforcement of the schedule of off-street parking regulations for indoor commercial use set forth in the Zoning Bylaw for the Thayer Academy athletic facility would constitute an unreasonable regulation of parking under the Dover Amendment (M.G.L. Chapter 40A, §3). Third, the Board found that, as the peak parking demands for the warehouse use and athletic facility use of the Property will occur at different times, the 302 available parking spaces on the site exceed the parking spaces required to meet the respective parking requirements for the uses, as supported by *Parking Generation*, 4th Edition; Institute of Transportation Engineers; Washington, D.C.; 2010 and the Transportation Impact Assessment, dated April 17, 2015, prepared by Vanessa & Associates, Inc. Furthermore, the Board found that the peer review consultants had concluded that the proposed off-street parking plan was sufficient. Lastly, the Board found that with appropriate parking and traffic conditions of approval, the project would be properly regulated. Therefore, the Board determined the proposed 232 off-street parking spaces for the warehouse use, the 70 off-street parking spaces dedicated to the proposed athletic facility, combined with a shared parking arrangement, would be acceptable and not unreasonable.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403 and G.L. c.40A, §6, and on a motion duly

made and seconded, a majority of the Board (2-1) voted to grant the necessary determination of adequate parking to be provided, pursuant to Bylaw Section 135-806(b), with the following conditions:

1.) TRAFFIC MONITORING

- A.) *The Applicant and property owner shall undertake, with approval by the Braintree Police Department, a traffic and parking management plan prior to the issuance of an Occupancy Certificate by the Inspectional Service Department. The traffic and parking management plan shall provide safe, effective measures and controls for high attendance athletic and special events, as specified by the Police Department. Upon approval by the Police Department, a copy of the traffic and parking management plan will be submitted to the ZBA and Planning and Community Development Department.*
- B.) *The Applicant shall undertake a traffic counting program the December following issuance of an Occupancy Certificate by the Inspectional Service Department. The counting shall be conducted at the site's three driveways on Campanelli Drive. Counting shall also be conducted at the intersection of Campanelli Drive and Granite Street. These counting locations are consistent with the Table 1, Study Area Intersections as defined in the submitted Traffic Impact and Access Study (TIA) dated April 17, 2015 and revised on January 11, 2016. Said monitoring shall consist of Vehicle Trip Counts and Turning Movement Counts for weekday morning (7:00 to 9:00 AM), weekday evening (3:00 to 6:00 PM) and Saturday midday (11:00AM to 4:00 PM). Upon completion, a copy of the traffic counting program will be submitted to the Planning and Community Development Department.*
- C.) *At the completion of the traffic counting program, the Applicant shall prepare a traffic memo that compares the actual counts derived from the monitoring with the projections outlined in Table 6 & Table 7 of the submitted TIA dated April 17, 2015 and revised on January 11, 2016. Figures shall also be prepared that clearly depict the AM, PM and Saturday vehicle distribution at each of the curb cuts and intersections that can be compared to relevant figures contained within the TIA. A copy of the traffic counting program will be submitted to the ZBA and Planning and Community Development Department.*
- D.) *If the results of the traffic monitoring reports contain traffic counts significantly different than the projected AM, PM or Saturday peak hour vehicle trips represented in the TIA dated April 17, 2015 and revised on January 11, 2016, or the distribution patterns are significantly different, as determined by the ZBA, then the ZBA reserves the right to require the Applicant to conduct additional analysis and propose traffic mitigation if deemed necessary. Should the analysis identify adverse operational issues that can be directly linked to the subject project, the ZBA may require additional traffic mitigation measures either on-site or off-site as proposed by the Applicant and property owner. As used in these conditions, "significantly different" shall mean: the measured traffic volumes exceed the projections that form the basis of the TIA by more than 10 percent on a regular and sustained basis during the monitoring period.*

2.) PARKING DEMAND & MONITORING

- A.) *The Applicant shall undertake a parking demand review the December following issuance of an Occupancy Certificate by the Inspectional Service Department. The*

review shall assess the Applicant's utilization and demand of the on-site and off-site parking projections in the TIA and revised on January 11, 2016.

- B.) At the completion of the parking demand review, the Applicant shall prepare a parking demand memo that compares the results derived from the monitoring program with the projections outlined in the TIA and approved site plan. In addition, an analysis of the parking management plan approved by the Police Department shall be included. Figures shall be prepared that clearly depict the parking demand review, with comparisons to relevant figures contained within the TIA, site plans and any supplemental information. A copy of the parking demand review and analysis will be submitted to the ZBA and Planning and Community Development Department.*
- C.) If the results of the parking demand review contains any results that are significantly different than the projected parking demand represented in the TIA, site plans or supplemental information, then the ZBA reserves the right to require the Applicant to conduct additional analysis. Should the analysis identify adverse parking issues that can be directly linked to the subject project, the ZBA may require additional parking measures either on-site or off-site. As used in these conditions, "significantly different" shall mean: the measured traffic volumes exceed the projections that form the basis of the TIA by more than 10 percent on a regular and sustained basis during the monitoring period.*
- D.) The Applicant and property owner shall work with the Braintree Police and Engineering Departments to determine appropriate signage prohibiting on-street parking along the lot's frontage on Campanelli Drive. The Applicant shall provide notification to staff, students, attendees and any stakeholders, regarding the prohibition of parking on Campanelli Drive.*
- E.) The Applicant will provide a reasonable number of "No Parking, Car Towed at Owners' Expense" signs or similarly worded acceptable signage on abutting properties with access on Campanelli Drive, upon written request from such abutters if such request is made within one year of the facility opening for operation. The Applicant will coordinate with such abutters for tow service of vehicles of persons parking on abutter property when visiting the facility, except to the extent tow companies require contracts for such service to be made directly with the property owner.*

3.) GENERAL CONDITIONS

- A.) If the ZBA or the Town Engineer is of the opinion that an independent peer review of any of the traffic and/or parking demand monitoring reports required in this Decision is necessary, the Applicant shall fund said assistance to the Town, with the cost not to exceed \$10,000 in the aggregate.*
- B.) The zoning relief granted by the ZBA is predicated upon an acknowledgment of the applicability of the so-called Dover Amendment found in G.L. c. 40A, Section 3, to Thayer Academy's proposed use of the athletic facility, identified as a facility whose use will primarily serve Thayer's educational purpose. However, if not for the application of the Dover Amendment pursuant to the use of this property, a special permit for a commercial recreation facility would be required. If Thayer Academy's use of this athletic facility should change, such that its primary purpose removes the facility from the protection of the Dover Amendment, the Town reserves its right to*

seek any appropriate zoning enforcement, up to and including requiring that Thayer obtain a special permit. Upon request from the Town, Thayer Academy shall provide a written report of the users of the facility for the preceding 12 month period, together with the total hours of use by each such user.

C.) *The Master Deed for the condominium to be formed by the Applicant shall incorporate the conditions set forth in this decision, including, without limitation, the shared parking arrangements set forth in the project plans and submissions. A copy of the Master Deed will be submitted to the ZBA and Planning and Community Development Department.*

D.) *Within twelve (12) to sixteen (16) months of an Occupancy Certificate issued by the Inspectional Services Department, the Applicant shall appear at a Zoning Board of Appeals (ZBA) for a Compliance Review. The purpose of the review is for the ZBA to evaluate the Applicant's overall operations as it relates to traffic, parking demand, safety, event scheduling and overall compliance with the Conditions of Approval. Four weeks prior to a scheduled ZBA hearing, the Applicant shall prepare a narrative report for the ZBA that contains an overview of each of the above referenced topics that will be discussed and presented to demonstrate the status of the overall operations. In order for the ZBA to perform a comprehensive Compliance Review, they reserve the right to require the Applicant to submit additional information and to appear at additional meetings of the ZBA.*

E.) *Upon request from abutters or other members of the public, copies of all Traffic Monitoring and Parking Demand Monitoring Reports shall be provided by the applicant.*

- 2) Petition Number: 15-61
Petitioner: Town of Braintree & BSC Partners LLC
RE: 128 & 0 Town Street**

BSC Partners LLC has requested an extension of the petition, case number 15-61.

On a motion made and seconded, the Board unanimously voted to continue the petition at the Zoning Board of Appeal meeting on June 28, 2016.

- 3) Petition No. 16-06
Petitioner: Mario and Joan Bertoni
RE: 0 Longwood Road, Braintree, MA**

Attorney Carl Johnson, on the behalf of the petitioners, has requested to withdraw the petition without prejudice.

On a motion made and seconded, the Board voted 3-0 to grant the petitioners request to withdraw the petition without prejudice.

- 4) Petition Number: 16-11
Petitioner: Bart Steele (c/o Viewpoint Sign & Awning)
RE: 220 Forbes Road**

The petitioner has requested an extension of the petition, case number 16-11.

On a motion made and seconded, the Board unanimously voted to continue the petition at the Zoning Board of Appeal meeting on June 28, 2016.

APPROVAL OF MINUTES:

On a motion made and seconded, the Board voted 3-0 to accept the meeting minutes of April 26, 2016.

The Board adjourned the meeting at 10:00 pm.