

Department of Planning and Community Development

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Joseph C. Sullivan
Mayor

PLANNING BOARD

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng, Clerk
Darryl Mikami, Member
Michelle Lauria, Member

APPROVED

Braintree Planning Board
August 31, 2010
Town Hall

Present:

Robert Harnais, Chair
Joseph Reynolds, Vice Chair
James Eng, Clerk
Darryl Mikami
Michelle Lauria

Christine Stickney, Director
Melissa Santucci, Principal Planner

The Chair called the meeting to order at 7:00 P.M. and called the roll: Ms. Lauria, Mr. Mikami, Mr. Eng, Mr. Reynolds, Mr. Harnais all present.

New/Old Business

Request to Waive Grading Permit – Tenney Road/St. Francis of Assisi Church

David Mackwell of Kelly Engineering was in attendance to represent the applicant and was accompanied by Father Sepe of St. Francis of Assisi Church. Mr. Mackwell provided background on the project: the church purchased property at 87 Tenney Road abutting their parking lot with the intention of expanding parking on site for both the church and school. They are proposing 24 “stalls” for church parking and 19 during the school day. The difference in the number of spaces allocated during the school day is due to an improved circulation pattern in the parking lot for busses to pick up students without blocking traffic on Tenney Road. There will be a minimal grading change of only 3” over the new parking area which will have less impervious surface than the house and driveway previously at 87 Tenney Road. Mr. Mackwell added that he will work with staff on their concerns about design and height of the lighting.

Mr. Eng inquired about the apparent discrepancy in the numbers of spaces to be provided and if the applicant had submitted a stormwater management plan. [The applicant has submitted a stormwater management plan. Mr. Mackwell added that there currently is no drainage on the property, but the applicant will install new subsurface drainage.]

Mr. Reynolds asked if the applicant had been in touch with abutters. Mr. Mackwell replied that representatives of the church had met with neighbors some time ago. Their reactions had been mixed.

Ms. Santucci added comment about improved bus circulation.

Motion by Mr. Eng, second by Mr. Reynolds to waive the need for St. Francis of Assisi Church to apply for a Grading Permit.

Vote: 5/0

Other Business

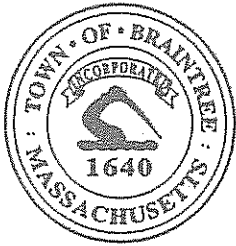
- Ms. Stickney mentioned that the Mayor has been working with Covanta on the former landfill property. She hopes to have a public presentation in late October/early November on the changes to the property proposed by Covanta. The Planning Board will be invited.
- Ms. Santucci noted that two members cannot attend the November 19, 2010 meeting. The Board might wish either to change the meeting date or schedule non-public hearing items that night.

Motion by Mr. Reynolds, second by Mr. Eng to adjourn at 9:25 P.M.

Vote: 5/0

Respectfully submitted,

Linda Raiss



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Braintree Planning Board
August 31, 2010 – Public Hearing @ 7:00 P.M.
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250 Granite Street/Dave & Buster's of Massachusetts Application for Special Permits and Site Plan Review

The Chair opened the continued public hearing.

Attorney Andrew Upton, representing the applicant, informed the Board that since the last continued hearing the applicant has submitted all materials requested by the Board and staff. He emphasized that Dave & Buster's has a strong track record. He is accompanied by others who will provide additional information to the Board.

Roberta Cameron of Larry Koff & Associates informed the Board how the proposed project would impact the operating budget and revenue: It will bring in \$100,000 in annual property taxes. [Currently the amount is \$83,000.] It will bring in \$20,000 in fees for the liquor license and for the licenses for the amusement devices. The establishment will impact town services, public safety, administration, health and human services and the DPW. The applicant will have an agreement in place for police and fire details. There will be a one time revenue source of \$240,000 for the renovations and \$900,000 in state and meals taxes. Dave & Buster's will be providing 150 jobs [for 250 people full and part-time]. The income of the servers will be between \$30,000 and \$50,000.

Joseph Vajda of Aria Group Architects, Inc. described exterior changes to the building and adjacent landscaping. He stated that during the last meeting he had "jumped the gun" in declaring that the applicant was aware of the Sign Bylaw and would comply. They now realize that they need a variance for the three signs, each proposed at @ 113 SF. They propose to add 1500 SF of permeable surface/green area.

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August 31, 2010 Public Hearing @ 7:00 P.M.

Mr. Mikami focused on Mr. Vajda's declaration [during the last public hearing] that his client would comply with the Sign Bylaw and expressed concern that Mr. Vajda was now stating that the applicant would not be able to comply with the Bylaw in spite of the fact Mr. Mikami's question at the last meeting was very clear and Mr. Vajda's response was also very clear. Mr. Vajda advanced an argument that he knew about the requirement, but that the applicant informed him that complying with the Sign Bylaw would result in inadequate signage for Dave & Buster's. Mr. Mikami noted that earlier drawings were submitted with no signage and wondered about this.

Referring to the architectural drawings and the proposed color scheme, Mr. Eng asked what the applicant was thinking. Mr. Vajda responded that Dave & Buster's goes for a modern look, likes light colors, favors curves and "playfulness" for the façade with three-dimensionality. The applicant wishes the glass tower to make people think of a jewel box which strongly articulates the entry. Mr. Eng repeated his original question of the color scheme, to which Mr. Vajda replied that the applicant is going for a mix of warm and cool colors which represent liveliness and fun.

Mr. Reynolds asked about the landscaping. Mr. Vajda responded that originally the applicant had no plans to landscape, but now proposes adding landscaping [adjacent to the concrete stairs and next to the loading area]. There will be no shrubs added to the parking area islands.

Ms. Santucci informed the Board that she had forwarded the elevations to the Inspector of Buildings for review.

The Chair asked for comment from the public.

Alan Flowers, 48 Fallon Circle, stood to encourage the Board to deny the application and reminded the members of his comments during the last meeting. Nothing has changed to counter his objections. He informed the Board about comments on Dave & Buster's operations in other cities, especially Philadelphia where comments were overwhelmingly negative. There is a great concern about the mixing of alcohol and young kids in the game area. Families go to Dave & Buster's to have family time and are forced to mix with drunks in the game room. Providence is a very different picture since it is a major city with more police resources than Braintree.

He is concerned about the fact it is predicted that Dave & Buster's will use 18,200 gallons of water per day. How can that be allowed when we have the water ban and not enough water for the Town's current needs? He wishes the draft conditions to include a dress code, an admissions policy, a closing time of 10 P.M., a wall to separate the game room from the bar/restaurant [to prevent patrons from drinking in the game room] and a limit of the devices to 100 or fewer. The applicant should be required to comply with the Sign Bylaw. His last comments were regarding a possible conflict of interest: If Dave & Buster's provides a gift "through the Town to the

Police Department” to hire Braintree officers, how does that look since the Chief of Police is a member of the Licensing Board before which the applicant will appear for licenses?

Laurie Mechionda, 64 Howie Road, also stated she wishes the application to be denied. She spent some time in 2007 in Georgia and went to a Dave & Buster’s there with her son. It was the worst part of her summer in Georgia and she has serious concerns about kids, alcohol and gaming, as well as the relationship between alcohol and crime. Picking up on Mr. Mikami’s concern about the signage, she wondered if Dave & Buster’s are now disregarding the signage requirements because they are not pleased with them, what might be next?

Alan Weinberg, 19 Windemere Circle, is not opposed to the restaurant, but has concerns about the games and setting limits on the alcohol consumption. He noted that the new ordinance allows for more than the four games previously allowed and is concerned that the applicant will be seeking permission for 150 games. He said ads for Dave & Buster’s claim it is a sports bar with the best happy hour. They apparently have not only a regular happy hour, but a “late happy hour” as well. If Dave & Buster’s really is a family-oriented restaurant, he feels the applicant should provide family-oriented games, games of skill like puzzles and Scrabble, games where kids can learn, and maybe even a reading room. There should also be no alcohol in the game room.

Neal Gabriel, a lifetime resident of the town and union laborer, spoke in favor of Dave & Buster’s as it will bring money to the Town.

Dan Clifford, District 6 Councillor, informed the Board that he had conducted a series of robo-calls [2,026] between April and June. The responses resulted in 68% of those called being opposed to the establishment coming to Braintree. He feels it is a quality of life issue. He wished to emphasize that he does sympathize with labor, as he is currently unemployed himself, but the people of District 6 chose quality of life over jobs. He reminded those present that the Council vote to change the Bylaw/Ordinance was a close one: 5/4.

Christopher Griffin, 126 Hollingsworth Avenue, picked up the theme of quality of life/jobs and said they are one and the same, especially for those out of work. In March he visited the Dave & Buster’s in Providence and spoke with the police and firemen on duty there. They all said it is a good family atmosphere. In fact, one of the police officers said it was the most boring detail because nothing ever happens. Mr. Griffin mentioned that Councillor DeNapoli stated he would not vote for the change in bylaw until it included a provision that no drinks be served in the game room. Mr. Griffin then referred to online reviews of the establishment which he said were overwhelmingly positive. It is a nice place to take the kids on a Friday night. The only negative comments were that the food was too pricey. He asked, “If this application is denied, what message is that sending to other business establishments?” He wants Braintree to be a business- and resident-friendly community.

Charles Kokoros, District 1 Councillor, said his vote as a Councillor on the Bylaw change represents his feeling. [He voted not to support the Ordinance.] His district has problems with illegal activity and he wishes to go on record with his concern that Dave & Buster's keep their word about police and fire details if the Board votes to approve the application. He does not want any more problems for the neighborhood and urged the Board to address the hours of operation, smoking, signage and lighting in order to protect the residents.

John Mullaney, District 2 Councillor, stood in support of Dave & Buster's as they will bring jobs to the community. He has spoken with the Mayor and the Planning Board Chair about Dave & Buster's giving priority in hiring to Braintree residents. He would like to have Dave & Buster's submit a list of the applicants for jobs and note if each is resident or non-resident and how many of those residents applying actually get a job.

Mr. Mikami asked about the hours of operation and a breakdown of the full-time and part-time jobs of the 150 Dave & Buster's expects to provide. Patrick Fitzgerald, Regional Manager, said hours vary by week day/week-end and by season and the 150 jobs are split about 50/50. Mr. Mikami continued to ask about priority to residents and Attorney Upton said all things equal or near equal, the job would go to a resident. In other communities Dave & Buster's has agreements with licensing boards or the administration. Mr. Mikami would like to see something in writing about the process Dave & Buster's expects to have in place. Regarding public safety, he wished to know how quickly Dave & Buster's would call in the police if there were an incident. Who is the point person? What is the process? And how does it really work? Mr. Fitzgerald said they react quickly and work well with the police departments. Mr. Mikami asked how the cameras work. [The tapes are monitored by him and others and are kept 60 days.] Mr. Mikami asked about how Dave & Buster's security team would coordinate with Plaza security. [They work in close contact.] He wants to know exactly how they will coordinate with Plaza security. Regarding crowd control, how is this managed? [They count the individuals going in and out.] When capacity is reached they stop allowing people to enter until someone exits the establishment. What is the maximum capacity? Mr. Vajda seemed unsure, responding initially "1800" and then 1600 – 1800. Mr. Mikami asked if they actually count patrons? [Yes, the captains count people entering and exiting.]

Mr. Mikami returned to his concern over the discrepancy in the applicant's assurances during the last hearing and his statement earlier this evening that Dave & Buster's would apply for a variance for the amount of signage they require. He would like the applicant [to reduce the amount of signage] to have a plan to meet the requirements of the Sign Bylaw because the Board had received assurances that Dave & Buster's would have no problem complying with the Bylaw.

The new ordinance restricts gaming space to 49% [of the “total square footage of the licensed establishment which is open to the public”] and Mr. Mikami asked where the calculated space for the Winner’s Circle was included. Is it calculated as amusement space? or “public” space? Mr. Fitzgerald said the winner’s circle was an area dedicated to rewards for winners of games and is included in the calculations for the public area. In view of the fact winning is a function of playing the games, Mr. Mikami feels the area should be included in the calculations for the gaming area and not included in the “public” space. He noted the gaming space area complies just barely with the new ordinance – 48.96%, which is really 49%. He observed that Dave & Buster’s is cutting things very close and does not feel they have been listening to the concerns of the community. They do not seem to be making a good faith effort to address the controversy surrounding the proposal.

Mr. Eng had questions about traffic, number of games and security. Michael Hall from Tetra Tech Rizzo answered the questions about traffic volumes on Granite Street, specifically when the peak volumes occur on a weekday and on week-ends. The peak hours are from 5-6 P.M. on weekdays [Thursday count] and from 3-4 P.M. on week-ends [Saturday count]. Mr. Eng then advanced that there would be no traffic jams when Dave & Buster’s opens because the traffic for their establishment peaks at different hours, to which Mr. Hall replied, “Yes.” He continued by noting that the peak for Dave & Buster’s peak is between 8 P.M. and 9 P.M. when the traffic on Granite Street is less and decreases as the evening goes on. Dave and Buster’s will have no negative impact on Granite Street traffic. Mr. Eng asked if Dave & Buster’s would have a problem if the Town were to impose a limit of 100 games for the establishment. Mr. Fitzgerald responded that this would not be a typical use of space and at the size of the building in question having only 100 games would limit their operation. They are seeking licenses for 150 games. Mr. Eng asked if Dave & Buster’s had worked out a security plan with the Plaza and with the Braintree Police Department. Attorney Upton responded that they have an agreement with the Police Department. He continued by adding that the agreement is in principle and not set down. Mr. Fitzgerald repeated remarks made at earlier hearings that staff are trained on alcohol consumption, are “serve-safe” trained and are regularly tested to ensure they are aware of consumption issues. Attorney Upton reminded the Board that representatives of Dave & Buster’s have met with town groups, officials and the Mayor. They have agreed to have fire personnel [1] on duty on Friday and Saturday nights, 1 police detail on Monday, Tuesday and Wednesday, 2 police details on Thursday, 2.5 police details on Friday and Saturday and one detail on Sunday.

Mr. Reynolds proceeded to ask if there will be one camera at the front door [yes] and how long the tapes are saved [60 days]. He continued by stating that the applicant has been before the Board since February 9, 2010. Lots of good questions have been posed and concerns raised. The jurisdiction of the Planning Board is defined by the Bylaw and the Board’s decisions must be sound and based on that Bylaw. If the Board voted against the project [without justification], the applicant could appeal and the Town might lose the ability to impose conditions. It is the Planning Board’s responsibility to protect the community and balance the residents’ needs with

economic viability. He wished to emphasize that the Planning Board has no jurisdiction over amusement devices. That jurisdiction rests with the Licensing Board. He continues by stating that there have been statements made during the hearings that are not based on fact. The Planning Board's vote must be based on fact. He stated that he is not ready to vote [that night] because of the outstanding issues [of variances].

Mr. Harnais asked about traffic exiting onto Granite Street at 11:30 P.M. and if there would be an issue for Dave & Buster's if there were a condition prohibiting traffic from making a left turn onto Granite Street. The response was that there would be no issue for Dave & Buster's and they would be in favor of that restriction if the Town wanted it. Mr. Harnais continued by stating that the Planning Board takes all comments seriously and addresses all issues as well as they can. They take nothing lightly.

Mr. Reynolds returned to the issue of jurisdiction and that games and alcohol are under the jurisdiction of the Licensing Board.

Mr. Harnais echoed those remarks and added that the number of games as well as any trouble that might occur outside of the establishment is out of the Planning Board's jurisdiction.

Having thought about the applicant's reply to his question about the Winners' Circle, Mr. Mikami would like to ask that staff contact Licensing Board and, possibly, Town Counsel for clarification about where the area of the Winners' Circle should be included [amusement area or "public" space or both]. He is concerned about the applicant formally submitting a plan to the Board for approval which is incorrect. The applicant has plans depicting 48.96% of the area open to the public as amusement space. This does not include the Winners' Circle. Considering the Winners' Circle as a non-gaming activity is not in the spirit of new bylaw and suggests that the applicant is not really listening to controversial elements raised during this hearing. The Planning Board should have clarification about this issue before they vote.

Because many comments have been made regarding alcohol consumption, minors and gaming, Mr. Mikami asks the applicant to submit a written plan detailing how minors are tracked and monitored and managed within the facility. He would like the applicant to inform the Board if there are issues with minors at other facilities. Do they use stamps on hands or color-coded bands to assist in recognizing those under 21? How is it clear who is under 21? How is clear who can and cannot access specific areas? If minors come in to Dave & Buster's and seating is not available, can people go directly to gaming area? What is available to minors and how are they tracked and monitored? He is asking Dave & Buster's to listen and to demonstrate sensitivity in regards to what the town thinks about this particular project.

Mr. Harnais asked about the vegetative buffer along Granite Street and sought assurance that it would remain untouched. Brian Dundon of RJO'Connell said it would not be touched.

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Ms. Santucci added that the percentage of the game area is regulated by the ordinance and is under the jurisdiction of the Licensing Board. However, the Planning Board should have an understanding of the internal layout in conjunction with security cameras and where people will be gathering in relation to the special permit.

Motion by Mr. Reynolds to continue the hearing to September 13, 2010 at 8:00 P.M.

Mr. Harnais advised the applicant to submit answers to all the Board's questions in a timely fashion.

Mr. Eng wishes answers to the following:

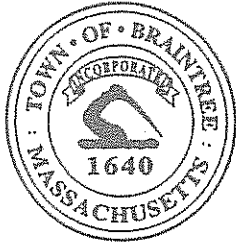
- 1) the exact number of games Dave & Buster's seeks,
- 2) the exact hours of operation,
- 3) the training method of alcohol control, and
- 4) the security plan agreement with the Town.

Mr. Harnais clarified Mr. Eng's request to the public by stating they should submit what they will be proposing to the Licensing Board who has jurisdiction over the licenses they will seek.

Mr. Reynold's motion was seconded by Mr. Eng.
Vote: 4/0

Respectfully submitted,

Linda Raiss



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Braintree Planning Board
August 31, 2010 – Public Hearing @ 7:05 P.M.
Town Hall

Present:

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James Eng, Clerk
Darryl Mikami
Michelle Lauria

Christine Stickney, Director
Melissa Santucci, Principal Planner

22 Quincy Avenue/V. and A. Pluska dba Brian's Fine Desserts
Application for Use Special Permit and Site Plan Review

The Chair opened the continued public hearing.

Attorney Thomas Williams was present to represent the applicants. The applicants, longtime owners of Brian's Fine Desserts, were also present. Attorney Williams stated that the applicants had read the Draft Conditions and had only one issue. Condition 30 requires the applicants to have an enclosed dumpster and they would like the Board to consider eliminating the need for an enclosure in view of the fact they intend to have a lock on the dumpster.

The Chair asked for comment from those in attendance.

Alan Weinberg, 19 Windemere Circle, expressed support for the applicants. They work hard and deserve to open in the Landing.

Tom Bowes, District 3 Councilor, said he feels Brian's would be a great fit for the Landing.

Lee Dingee, who identified himself as a neighbor [He is also a Councilor-at-Large.], echoed the remarks of the previous speakers.

The Chair asked for a motion to accept the correspondence list.

Motion by Mr. Eng, second by Mr. Mikami to accept the summary of correspondence from 7/8/10 – 8/25/10. Vote: 4/0

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Mr. Eng asked about the square footage of the building [3240 SF].

Mr. Harnais asked staff about Condition 30 [dumpster] and, to Ms. Stickney's response that it is a standard condition, said he thinks enclosing the dumpster is better.

Motion by Mr. Eng, second by Mr. Mikami to close the public hearing.

Vote: 4/0

Motion by Mr. Eng, second by Mr. Mikami to grant the Special Permit and Site Plan Review with Findings and Conditions as set forth.

Vote: 4/0

Respectfully submitted,

Linda Raiss