



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 Minutes June 25, 2018

**IN ATTENDANCE:** Stephen Karll, Chairman  
Michael Ford, Member  
Richard McDonough, Member  
Stephen Sciascia, Associate  
Gary Walker, Associate

**ALSO PRESENT:** Jeremy Rosenberger, Zoning Administrator

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

#### **OLD BUSINESS:**

- 1) Petition Number: 17-43  
Petitioner: K. Ingber, Tr. Wood Road Nominee Trust and Wood Road Realty LLD  
RE: 290 Wood Road**

K. Ingber, Tr. Wood Road Nominee Trust and Wood Road Realty LLD, 135 Wood Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 for zoning relief necessary as part of a proposed new digital billboard. The applicant seeks permits, variances and/or findings that the proposal will not be more detrimental to the neighborhood. The property is located at 290 Wood Road, Braintree, MA 02184 and is within a Highway Business District Zone and Billboard Zoning Overlay District, as shown on Assessors Map 2053C, Plot 1M and contains a total land area of +/- 7.72 sq. ft.

#### **Notice**

Pursuant to notice duly published in the Braintree Forum and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on September 25, 2017 at 7 p.m. The hearing was continued by mutual agreement to November 27, 2017, continued by mutual agreement to December 18, 2017,

continued by mutual agreement to January 22, 2018, continued by mutual agreement to February 26, 2018, continued by mutual agreement to March 26, 2018, continued by mutual agreement to April 23, 2018, continued by mutual agreement to May 21, 2018 and continued by mutual agreement to June 25, 2018. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford, Members; and Richard McDonough, Alternate (Note: Michael Calder resigned from the Board effective 1/1/2018).

### **Evidence**

At the initial public hearing on September 25, 2017, Chairman Karll asked the petitioner, Attorney Kenneth Ingber, if he would be willing to continue the public hearing to allow for the Planning Board Special Permit process to proceed first, per the Zoning Administrator and Planning Board's recommendations. Attorney Ingber agreed, but stated the Board should consider the extremely small increases to building and lot coverages as part of the petition. He felt that due to the nominal requested relief, the Board should consider voting on the petition. Mr. Ford discussed that even though the proposed relief could be considered minor; the property/building does not comply with the existing zoning regulations.

Attorney Ingber stated he would like to clarify the requested zoning relief as part of the proposed Digital Billboard. Mr. Ingber discussed the proposed Digital Billboard support column will be 4 ft. in diameter or approximately 13 sq. ft. in area/building coverage. The support column itself will be located in the open space approximately 1.5 ft. from the edge of the parking lot pavement, as documented in the submitted site plan (Exhibit A as part of the original petition submission). The original ZBA petition focused on the support column as the basis for zoning relief. However, Attorney Ingber added the foundation for the Digital Billboard will be 30 ft. x 25 ft., or 750 sq. ft. Of the total 750 sq. ft. of foundation, approximately 465 sq. ft. will be located under the pavement. The parking spaces removed for the excavation will be restored on top of the foundation. The rest of the foundation, approximately 285 sq. ft., will be located in the open space adjacent to the parking area. Realistically, it is unlikely there will be enough distance from the top of the foundation to grade to have any vegetation. He discussed the open space area being displaced is not grass or undisturbed vegetation, but rock, gravel, sand and various weeds.

After discussion with the Board, Chairman Karll requested to continue the hearing to allow the Planning Board Special Permit process to be decided prior to the Board taking any further action on the petition. The Board concurred with the Chairman's request. Attorney Ingber and the Board mutually agreed to continue the public hearing to November 27, 2017.

At the continued public hearing on June 25, 2018 (as listed above, the public hearing was continued by mutual agreement to November 27, 2017, continued by mutual agreement to December 18, 2017, continued by mutual agreement to January 22, 2018, continued by mutual agreement to February 26, 2018, continued by mutual agreement to March 26, 2018, continued by mutual agreement to April 23, 2018, continued by mutual agreement to May 21, 2018 and continued by mutual agreement to June 25, 2018 to allow for the Planning Board to reach a decision), the petitioner Attorney Kenneth Ingber, Trustee of Wood Road Nominee Trust (the "Trust"), provided a brief overview of the subject property. Attorney Ingber discussed the Trust holds legal title to the property known as and numbered 290 Wood Road, Braintree (the "Property"). Wood Road Realty LLC is the sole beneficiary of the Trust and is the real party in interest. The Trust and Wood Road Realty LLC each has a place of business at 135 Wood Road, Braintree, MA 02184 and collectively referred to as the Petitioner.

Mr. Ingber described the Property consists of 7.721 acres that are used for commercial purposes. The property is directly adjacent to Route 93, located at higher elevation than the highway. It is improved by a corrugated steel building that currently houses two (2) businesses: XI Boston and Fit Factory. Mr. Ingber noted the property had received prior variances for setbacks, coverages and parking in 2004, 2001 and 1998 for improvements to the lot and commercial building. As such, any current zoning deficiencies are considered legal nonconformities.

Attorney Ingber discussed the Property is located within a Highway Business Zoning District and a Billboard Zoning Overlay District ("BZOD"). The petitioner is seeking Town and State approvals to construct and operate a digital billboard (the "Proposed Structure" or "Digital Billboard"), as defined in Section 135-102 of the Braintree Zoning Bylaw ("By-Law"). The Digital Billboard is allowed by special permit, in accordance with Section 135-601 of the Bylaw. The Applicant filed an application with the Planning Board, which is the Special Permit Granting Authority ("SPGA") for billboards pursuant to Section 135-908. The Planning Board granted the Special Permit with Conditions in May 2018.

Attorney Ingber reminded the Board that they agreed to defer consideration of zoning relief at the initial public hearing on September 25, 2017 until the Planning Board acted on the requested special permit for the Digital Billboard use. Between the time the Petitioner filed its application and the grant of the Special Permit with conditions, the Project changed in several respects of significance to the Board. These arose from Planning Board considerations during the public hearing, engineering peer review, conditions imposed by the Planning Board, and construction issues.

With regard to the proposed Digital Billboard, Attorney Ingber described the sign column approved by the Planning Board will be 36 in. in diameter (reduced from 48 in.) and will be integrated into a 38' x 38' reinforced concrete spread footing foundation. The foundation will be approximately three inches below grade. Overall, the Digital Billboard would be almost identical to the existing digital billboard at 340 Wood Road. The sign faces will be 14 ft. x 48 ft. and 40 ft. in height, as measured from the ground to the top of the Digital Billboard.

As shown on the submitted Site Plan, dated May 8, 2018 ("Revised Plan"), the majority of the foundation will be in the existing parking area. Once completed, that area will be covered with asphalt and the parking area will be restored. One of the Planning Board's special permit conditions require that the area formerly occupied by two parking spaces will be designated a no parking area. Instead, the Petitioner will create two new parking spaces at the end of the same parking row, also shown on the Revised Plan. Therefore, there will be no net loss of parking spaces.

The Revised Plan also shows a smaller area of the foundation, 367 sq. ft. that will be located in the open space adjacent to the parking area. Were the foundation at grade level, Attorney Ingber stated the foundation would constitute an increase to the existing lot coverage legal nonconformity of 80%, where the zoning bylaw requires 75%. However, they have been informed by a professional landscape designer that ground cover over foundations is routinely and reliably maintained in as little as three inches of top soil. As such, Mr. Ingber stated they are proposing the top of the foundation to be three to four inches below grade and to plant and maintain an appropriate vegetative ground cover, thus maintaining the same level of lot coverage. In fact, the Project will include some additional topsoil beyond the limits of the foundation to promote additional vegetation and stability as well as aesthetics.

The diameter of the steel pylon support column, which occupies approximately 10 sq. ft., constitutes an increase to the existing building coverage legal nonconformity of 35.7%, where the zoning bylaw requires 25%. Attorney Ingber stated the support column would also constitute an increase to the existing lot coverage legal nonconformity of 80%. However, the Petitioner is now proposing to remove the two concrete piers supporting the existing Fit Factory sign at the rear of the property and restoring those two areas to the vegetative condition of the immediately surrounding area. Those two piers, which are shown on the 2008 survey (Exhibit B to the original petition) occupy approximately 22 sq. ft., which will more than offset the area of the Digital Billboard steel pylon. Therefore, there will be a net decrease in building coverage and a net decrease in lot coverage. Attorney Ingber highlighted the decrease is nominal, but the point is that there is no net increase of the existing legal nonconformities.

Attorney Ingber reminded the Board the initial plans for the Digital Billboard discussed at the September 25, 2017 public hearing required variances due to extremely small increases to the building coverage and lot coverage nonconformities. Based on the revised plans, the relief required is now a Finding, due to no increase in the existing nonconformities. In fact, the proposed Project will slightly reduce the existing nonconformities. As such, Section 135-403(b) of the Zoning Bylaws states, "*Preexisting nonconforming structures and structures containing a nonconforming use may be extended or altered only if there is a finding by the Zoning Board of Appeal (permit granting authority) that such extension or alteration shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use.*" Attorney Ingber stated the new Digital Billboard structure is an allowed use and is therefore not extending or altering a nonconforming structure. However, the actual alterations involved are to the pre-existing legal nonconforming building and lot coverages, which will be slightly decreased and not increased. Therefore, a Finding by the Board that the Project's alterations to the Property will not be substantially more detrimental than the existing nonconformities to the neighborhood is required.

As basis for the Finding, Attorney Ingber discussed the proposed Project decreases building and lot coverages by 12 sq. ft. The percentage change is zero (technically an improvement in nonconformity to the ten-thousandth percent). In addition, the neighborhood consists exclusively of large commercial lots with large commercial buildings and extensive swaths of pavement. The neighborhood as a whole will not be adversely affected by the reduction in building and lot coverages. Furthermore, the Property is located in the BZOD and the Project is allowed by Special Permit, in accordance with Section 135-601 of the Bylaw. The petitioner filed a special permit application with the Planning Board, the SPGA for billboards pursuant to Section 135-908. The SPGA granted the Special Permit with Conditions, which constitutes compliance with the Zoning Bylaw other than the relief sought from the ZBA. The special permit criteria contained in the Zoning Bylaw and evaluated and enforced by the Planning Board, as well as the Special Permit with Conditions, assures the Town of Braintree that the Project will not be a substantial detriment to the public good. In fact, far from this being a substantial detriment to the public good, Section 910-02 of the Zoning Bylaws makes it clear the Town ". . . encourage[s] the installation of commercial billboards along the designated highways in accordance with the federal Highway Beautification Act as most recently amended."

As part of the initial petition filing on August 14, 2017, the petitioner presented "Exhibit A", a site plan entitled "Existing Conditions Survey, 280—290 Wood Road, Braintree, MA", dated August 2, 2017 and prepared by SMC of Braintree, MA. The petitioner also presented "Exhibit B" a 2008 survey entitled "ALTA/ACSM Land Title Survey, No. 280-290 Wood Road, Braintree, Mass.", dated August 7, 2008 and prepared by Feldman Professional Land Surveyors of Boston, MA. The petitioner also presented "Exhibit C", pictures/documents depicting area

vegetation. The petitioner also presented "Exhibit D", pictures/documents depicting the proposed Digital Billboard and various view perspectives. The petitioner also presented "Exhibit E", documents with the LCD sign face specifications, prepared by Effective Engineering Solutions, Ltd. of New Lenox, IL. Lastly, the petitioner presented "Exhibit F", a proposed structure plan for the Digital Billboard, dated 8/4/2017 and prepared by Effective Engineering Solutions, LTD. of New Lenox, IL.

The petitioner presented at the June 25, 2018 hearing an updated site plot plan entitled "Existing Conditions Survey, 280—290 Wood Road, Braintree, MA", dated May 17, 2018 and prepared by SMC of Braintree, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation for a continuance as the petitioner should receive appropriate approvals from the Planning Board prior to a formal decision by the ZBA. Attorney Tom Aylesworth, of Moriarty, Troyer & Malloy LLC, who represents the abutter, Wood Road Inc. and Logan Communications, who have a pending Digital Billboard application before the Planning Board, expressed opposition to the proposed zoning relief requested by the petitioner. Attorney Alyesworth discussed the petition is not a pre-existing structure and therefore is not subject to the allowances afforded in Section 135-403 of the Zoning Bylaw. In addition, he stated the displacement of 1,440 sq. ft. as part of the Digital Billboard's base/foundation requires a variance as it is intensification of the building/lot coverages, regardless if they will be covered by ground cover or vegetation. Chairman Karll stated he found it ironic that his client would like to install an almost identical Digital Billboard, but yet is opposed to the Petitioner's Digital Billboard. Attorney Alyesworth replied the difference in the proposal is that his client's proposal does not anticipate any zoning relief is required. Linda Kopkind, of Acorn Street, voiced her concern and opposition to the proposed Digital Billboard as it is a visual blight and will cause traffic accidents. No one else at the Zoning Board of Appeals hearing spoke in favor of or opposition to the petition.

## **Findings**

The Board found that the existing commercial building is pre-existing nonconforming in terms of the front and rear yard setbacks. The Board also found that the existing building and lot coverages are pre-existing nonconforming. The Board found the setbacks, building coverage and lot coverages are however considered legal nonconforming due to previous Board variances granted in 2004, 2001 and 1998 for setbacks, building coverages and lot coverages. In addition, the Board found that the proposed Project will actually decrease the building and lot coverages due to the removal of two existing ground signs and landscaping/vegetation to be installed above the Digital Billboard's foundation. The Board further found that the area is a commercial area, populated by a number of large commercial/industrial structures/buildings, each with extensive areas of pavement/asphalt. Furthermore, the Board found the Planning Board Special Permit approvals contains a number of conditions to ensure the Digital Billboard is not detrimental to the neighborhood. In fact, the Board found the use is allowed and the proposed Digital Billboard is nearly identical in terms in terms of its structure, size and operation as the existing and approved Digital Billboard at 340 Wood Road. Lastly, the Board found the overall project to be appropriate for the surrounding neighborhood, appropriately conditioned by the Planning Board, and provide an improvement to the existing building and lot coverages and is therefore not more detrimental to the neighborhood.

## 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, in accordance with the plans submitted.

- 2) Petition Number: 17-62**  
**Petitioner: Foxrock Properties LLC**  
**RE: 350 Granite Street**

The petitioner gave an overview of the proposed signage project and presented revised plans. Due to more time needed for the petitioner to finalize the final signage plans, the Board requested the public hearing to be continued to July 23, 2018.

On a motion made and seconded, the Board voted 3-0 to continue the public hearing to July 23, 2018.

- 3) Petition Number: 18-13**  
**Petitioner: Tuan Nguyen**  
**RE: 10 Elm Terrace**

Tuan Nguyen, 1248 Randolph Avenue, Milton, MA 02186 (Ngoc Pham, owner) for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 for alterations and 2.5 story addition with two-car garage (increase building footprint from 782 sq. ft. to 1,872 sq. ft.) that would further encroach into the side and rear yard setbacks. 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 10 Elm Terrace, Braintree, MA 02184 and is within a Residence C District Zone, as shown on Assessors Map 2002, Plot 13 and contains a land area of +/- 6,002 sq. ft.

## Notice

Pursuant to notice duly published in the Braintree Forum and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on April 23, 2018 at 7 p.m., continued by mutual agreement to May 21, 2018 and then continued by mutual agreement to June 25, 2018. Sitting on this case for the Zoning Board of Appeals were: Richard McDonough, Stephen Sciascia, and Gary Walker; and No Alternate.

## Evidence

At the initial public hearing on April 23, 2018, Tuan Nguyen, representing the property owner Ngoc Pham, discussed the owner is seeking to expand an existing dwelling by the way of alterations and a 2.5 story side/rear addition. Mr. Nguyen expressed the owner has a growing family and also would like to have his parents live with them. He also added the property is within a Residence C Zoning District, which due to the district's excessive dimensional regulations, any alterations or additions require Board approval.

As far as the proposed changes, the building footprint would be expanded from 782 sq. ft. to 1,968 sq. ft. As far as improvements, the unfinished basement would be expanded to provide for a two-car garage. The existing first floor layout provides a living room, dining room, kitchen, screen room and deck. The first floor would be expanded to create an "open-style"

family/living/dining/kitchen area, in addition to a bedroom and bathroom. The existing second floor provides two bedrooms, a den and a bathroom. The renovated/expanded second floor would provide four bedrooms, an office and two bathrooms. An unfinished walk-up attic is proposed.

Mr. McDonough asked the petitioner if there was potential to reduce the proposed 5.59 ft. left side yard setback. Mr. Nguyen stated they would like to maintain the proposed two-car garage as the garage. Mr. McDonough also asked the petitioner about the possibility of maintaining or incorporating some of the existing dwellings architectural features. Mr. Nguyen responded to do so may be costly. Mr. Walker felt a continuance of the public hearing was warranted due to lack of community support and questions regarding the density of the project. Mr. Sciascia stated that if the petitioner is not open to revisions of the project, the Board should vote accordingly. The petitioner agreed to work with the Zoning Administrator toward revising the plans based on the Board's feedback and to reach out to the neighborhood. As such, Mr. Nguyen and the Board mutually agreed to continue the public hearing to May 21, 2018.

At the continued public hearing on May 21, 2018, Mr. Nguyen discussed they had revised the plans to reduce the proposed building footprint to +/- 1,872 sq. ft., increased the proposed left side yard setback from 5.59 ft. to 8.81 ft., reduced/alterd the roof pitch and updated the front design to include a small gable above the main entrance to mimic the existing dwelling's unique design. Mr. Ford discussed he had concerns about the large increase to living space on such a small property. Specifically, he expressed concerns regarding the proposed unfinished walk-up attic. Mr. Sciascia also agreed with Mr. Ford's concerns. The petitioner agreed to remove the proposed walk-up attic and instead proposed pull-down stairs to access the attic. Mr. McDonough discussed he had visited the site and felt the proposed improvements would be positive and that there are larger dwellings on small lots in the immediate neighborhood. Mr. Walker stated he did not have an issue with the revised proposal. Mr. Sciascia stated the petitioner should provide evidence of neighborhood support of the proposed project due to the size of the additions.

After discussion with the Board and the petitioner, Mr. Ford requested to continue the hearing for the petitioner to provide evidence of neighborhood support for the proposed project. The Board concurred with the Mr. Ford request. Mr. Nguyen and the Board mutually agreed to continue the public hearing to June 25, 2018.

At the continued public hearing on June 25, 2018, Mr. Nguyen presented the Board a letter of support from eight (8) immediate abutters/neighbors. The Zoning Administrator state he received a call from Bill Keating of 25 Vinton Street, expressing his support for the project and discussed the owner had met with the neighbors to discuss the project, whom had no objections.

The petitioner's existing lot is nonconforming, as it contains only 6,002 sq. ft., where 43,560 sq. ft. is required, provides only 100.71 ft. of lot width, where 200 ft. is required and provides only 55.4 ft. of lot depth, where 200 feet is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the building is located 8.31 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 50 ft. In addition, the existing dwelling is nonconforming as to the side yard setbacks; the dwelling is located 24.9 ft. from the left side yard lot line and 28 ft. from the right side yard lot line, while the Zoning bylaw requires a side yard setback of 30 ft. Furthermore, the existing dwelling is nonconforming as to the rear yard setback; the dwelling is located 20 ft. from the rear yard lot line, while the Zoning bylaw requires a rear yard setback of 50 ft. While the proposed additions

will intensify/increase the existing left side yard setback to 8.81 ft. from the left side yard lot line and intensify/increase the existing rear yard setback to 17.56 ft. from the rear yard lot line, no new zoning nonconformity will be created. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the new dwelling will not generate any new zoning nonconformity. Secondly, the petitioner noted the updated plans reflect the Board and neighborhood concerns. As such, the additions will be similar to the existing neighborhood architectural characteristics and are well designed. Lastly, the petitioner discussed the proposed updated project has the support of the neighborhood. Therefore, the proposed project will not be more detrimental to the neighborhood.

The petitioner presented at the initial public hearing on April 23, 2017 the plot plan entitled "Existing with Proposed Addition Site Plan at #10 Elm Terrace in the Town of Braintree prepared for T-Design, LLC", dated April 4, 2018 and prepared by Terra Nova Survey Consultants of Bridgewater, MA. The petitioner also presented architectural and floor plans entitled "Renovation and Addition Construction, 10 Elm Terrace, Braintree, Massachusetts", page numbers A-1 thru A-11, dated February 25, 2018, and prepared by T Design, LLC of Milton, MA.

The petitioner presented at the May 21, 2018 hearing an updated plot plan entitled "Existing with Proposed Addition Site Plan at #10 Elm Terrace in the Town of Braintree prepared for T-Design, LLC", dated January 22, 2018 and prepared by Terra Nova Survey Consultants of Bridgewater, MA. The petitioner also presented architectural and floor plans entitled "Renovation and Addition Construction, 10 Elm Terrace, Braintree, Massachusetts", page numbers A-1 thru A-11, dated February 25, 2018, and prepared by T Design, LLC of Milton, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation for a continuance due to need for evidence of neighborhood support. The petitioner submitted letters of support from eight (8) immediate abutters. Bill Keating of 25 Vinton Street, opposed the proposed project at the initial hearing due to lack of outreach to the neighborhood and the proposed setback deficiencies. Mr. Keating, via a phone call to the Planning Department on June 25, 2018, expressed support for the revised project as the petitioner and owner had met with the neighborhood and alleviated any concerns with regard to the additions. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the lot is pre-existing nonconforming in terms of lot area, frontage, width and depth as noted above. In addition, the Board found that the single-family dwelling is pre-existing nonconforming in terms of the front, side and rear yard setbacks. The Board found, the petitioner had acknowledged the concerns of the Board regarding the proposed increase in living space by slightly reducing the project, adding design features that mimic the existing dwelling and acquiring neighborhood support. The Board also found the increase in the left side yard setback to 8.81 ft. will not adversely affect the direct abutter due to the 30 ft. wide sewer easement located between the two properties. Lastly, the Board found that the proposed additions/alterations will significantly improve the run-down structure and will be appropriately designed.

## Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 134-403, and requested variance from the rear yard setback requirement, pursuant to Bylaw Section 135-407, in accordance with the plans submitted and the following conditions:

- 1.) Any changes to the approved plans will require ZBA approval;
- 2.) Submission of a certified foundation submitted to the Planning & Community Development Department prior to vertical construction;
- 3.) As-built plan submitted to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy; and
- 4.) Proposed attic to be accessed via pull-down stairs only.

**4) Petition Number: 18-17  
Petitioner: Brian & Laura McGourty  
RE: 460R Pond Street**

The Board & petitioner requested the initial public hearing to be continued to July 23, 2018.

On a motion made and seconded, the Board voted 5-0 to continue the initial public hearing to July 23, 2018.

### NEW BUSINESS:

**1) Petition Number: 18-19  
Petitioner: Richard Nicklas  
RE: 169 Hobart Street**

Richard D. Nicklas, 169 Hobart Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to replace/expand existing side/rear deck that will intensify the existing nonconforming side and rear yard setbacks. The applicant seeks a permit, variance and/or finding that the proposed project is not more detrimental to the neighborhood. The property is located at 169 Hobart Street, Braintree, MA 02184 and is within a Residential B District Zone as shown on Assessors Map 3054, Plot 92 and contains a land area of +/- 6,574 sq. ft.

## Notice

Pursuant to notice duly published in the Braintree Forum, a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on June 25, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Stephen Sciascia, Gary Walker; and Michael Ford, Alternate.

## Evidence

Richard Nicklas, the petitioner, explained he is seeking to raise the existing deck and to construct a new more handicapped accessible deck. The existing deck foot print is approximately 160 sq. ft. and would increase to approximately 382 sq. ft. Mr. Nicklas stated the proposed new

deck is necessary as the existing deck is old and would like a larger deck for the family. Furthermore, the proposed addition will not adversely affect the neighborhood.

The petitioner's existing lot is nonconforming, as it contains only 6,574 sq. ft., where 15,000 sq. ft. is required, provides only 79.5 ft. of lot width, where 100 ft. is required, and provides only 85 ft. of lot depth, where 100 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the right side yard setback; the dwelling's attached deck is located 8.14 ft. from the right side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 ft. The petitioner's existing single family dwelling is also nonconforming as to the rear yard setback; the dwelling is located 26.3 ft. from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 ft. The proposed alteration/additions will slightly reduce the right side yard setback to 8.3 ft. and intensify the existing rear yard setback nonconformity by constructing the deck 27.6 ft. from the rear yard lot line. As no new nonconformity is to be created, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, Mr. Nicklas stated the proposed additions will not increase any of the pre-existing nonconformities. In addition, the petitioner discussed the proposed new deck will be appropriately designed and will not be substantially more detrimental to the neighborhood.

The petitioner presented the plot plan entitled "Plan of Land in Braintree, Massachusetts, 169 Hobart Street, Braintree, MA", dated April 25, 2018 and prepared by C S Kelley, of Pembroke, MA. The petitioner also presented proposed deck plans entitled, "Elevation", "Finished View" and "Footings".

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) Any changes to the approved plans will require ZBA approval; and 2.) Submission of as-built plan to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the lot is pre-existing nonconforming in terms of lot area, width and depth, as noted above. In addition, the Board found that the single family dwelling is pre-existing nonconforming in terms of the right side yard and rear yard setbacks. The Board also found that the proposed additions/alterations will not increase the existing nonconformity, but would slightly reduce the right side yard setback nonconformity from 8.14 ft. to 8.3 ft. The Board further found that the proposed project will be designed appropriately. Lastly, the Board found the proposed addition/alterations will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

### **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, in accordance with the plans submitted and the following conditions:

- 1.) Any changes to the approved plans will require ZBA approval; and
- 2.) Submission of an as-built plan to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy.

**2) Petition Number: 18-20  
Petitioner: Brian Jenkins  
RE: 419 Pearl Street**

Brian Jenkins, 419 Pearl Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct second story onto existing one story single family dwelling (+/- 742.5 sq. ft. building footprint); second story addition would further encroach into the front yard setback by 1 ft. and is deficient with regard to lot area and width. 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 419 Pearl Street, Braintree, MA 02184 and is within a Residence B Zoning District, as shown on Assessors Map 1025, Plot 1A, and contains a land area of +/- 7,500 sq. ft.

**Notice**

Pursuant to notice duly published in the Braintree Forum, a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on June 25, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Gary Walker; and Stephen Sciascia, Alternate.

**Evidence**

Brian Jenkins, the petitioner, explained he seeks to construct a 33' x 25.5' second story above the existing one story, 33' x 22.5' dwelling. Mr. Jenkins described the existing front yard setback is 19.2 ft. and the proposed second floor addition would encroach further into the setback by the way of a 1 ft. front overhang. He added a rear 18' x 14' family room and 12' x 14' deck that meet the zoning regulations are also proposed as part of the additions to the dwelling. The existing dwelling provides a dining room, kitchen, bathroom and two bedrooms. As part of the proposed project, the first floor would be changed to provide a new kitchen, dining room, family room, bathroom, mudroom and living room. The second floor addition would provide three bedrooms and two bathrooms. The existing dwelling contains a basement. The attic will be unfinished and accessed via a hatch.

The petitioner's existing lot is nonconforming, as it contains only 7,500 sq. ft., where 15,000 sq. ft. is required and provides only 75 ft. of lot width, where 100 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setbacks; the dwelling is located 19.2 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 ft. The proposed second floor addition will intensify the front yard setback, but not create a new zoning nonconformity. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner discussed the proposed project will not create any new zoning nonconformity. In addition, the requested relief is only for a 1 ft. second floor overhang. Furthermore, the proposed addition is appropriately designed and not out of character with the existing neighborhood character. Therefore, the proposed addition will not be substantially more detrimental to the neighborhood.

The petitioner presented the plot plan entitled "Proposed Plot Plan, 419 Pearl Street, Braintree, MA", dated May 4, 2018 and prepared by Scott M. Faria, of Berkley, MA. The

petitioner also presented existing and proposed architectural and floor plans entitled "Proposed Addition To: Jenkins Residence", Drawing No.'s A-111.00 thru A-113.00, dated May 4, 2018, and prepared by Millennium Design Associates, Inc. of Braintree, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) Any changes to the approved plans will require ZBA approval. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the lot is pre-existing nonconforming in terms of lot area and width, as noted above. In addition, the Board found that the single family dwelling is pre-existing nonconforming in terms of the front yard setback. The Board also found that the proposed additions/alterations will slightly increase the front yard nonconformity, but no new zoning nonconformity will be created. The Board further found that the proposed project will be designed appropriately and be comparable in size relative to the existing housing stock. Lastly, the Board found the proposed additions will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

### **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, in accordance with the plans submitted and the following conditions:

1.) Any changes to the approved plans will require ZBA approval.

**3) Petition Number: 18-21  
Petitioner: Christopher R. Hood  
RE: 48 Norfolk Road**

Christopher R. Hood, 48 Norfolk Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct two-story, addition (+/- 768 sq. ft. building footprint) and convert rear one-story sun/storage room to additional kitchen space (11.5'x16.6') and new deck (11.5'x10'); proposed additions would intensify existing nonconforming rear yard 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 48 Norfolk Road, Braintree, MA 02184 and is within a Residence B Zoning District, as shown on Assessors Map 3029, Plot 2327, and contains a land area of +/- 13,470 sq. ft.

### **Notice**

Pursuant to notice duly published in the Braintree Forum, a newspaper in general circulation, and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on June 25, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Richard McDonough; and Stephen Sciascia, Alternate.

## Evidence

Christopher Hood, the petitioner, explained he is seeking to construct a two-story addition (+/- 768 sq. ft. building footprint) and convert a rear one-story sun/storage room to additional kitchen space and new deck. The existing building footprint is approximately 1,857 sq. ft. and would increase to approximately 2,707 sq. ft. Mr. Hood explained he was before the Board in April 2018 for a similar proposal. However, he has reduced the size of the proposed side yard addition and removed the need for any variances. Furthermore, Mr. Hood presented the Board with a support petition signed by a number of surrounding neighbors/abutters.

The petitioner discussed the existing first floor provides a den, living room, kitchen, three bedrooms and a bathroom. The existing basement provides living space consisting of a laundry room, bathroom and an office. Mr. Hood noted the addition is for additional living space for parents and immediate family members. This two-story addition would provide a sitting room and master bedroom with bathroom on the first floor—no additional kitchen is proposed. The second floor would provide two-bedrooms, a bathroom and a game room. The new full basement would be connected to the existing dwelling's basement. Furthermore, a 10' x 11.5' rear deck would be constructed off the existing dwelling's proposed expanded kitchen. Lastly, Mr. Hood discussed they are proposing a new curb-cut off of Helen Road that would provide additional off-street parking.

Mr. Ford stated that while the additions would create a much larger dwelling, he acknowledged the petitioner taking the advice of the Board to remove the need for any variances and garnering community support. Chairman Karll discussed the petitioner's requested finding for locating the side addition approximately 28.9 ft. from the rear yard lot line was minimal.

The petitioner's existing lot is nonconforming, as it contains only 13,470 sq. ft., where 15,000 sq. ft. is required and provides only 85 ft. of lot depth, where 100 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the rear yard setback; the dwelling is located 17.2 ft. from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 ft. Also, the petitioner's existing in-ground pool is nonconforming as to the setbacks; the pool is setback 3 ft. from the rear lot line, while the Zoning Bylaw requires a pool setback of 10 ft. The proposed rear addition will increase the rear yard setback to 16.9 ft. and the proposed side addition will be 28.9 ft. from the rear yard line. While the proposed additions will intensify the existing rear yard setback nonconformity, no new zoning nonconformity will be created. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the new additions will not generate any new zoning nonconformity. Secondly, the petitioner noted the addition is well designed and has the support of the neighborhood/abutters as portrayed in the submitted support letter. Furthermore, Mr. Hood stated the proposed zoning relief was minimal, as the rear addition would slightly increase the existing nonconforming rear yard setback (+/- 4 inches) and the side addition would extend into the rear yard setback by approximately 1 ft. Therefore, the proposed project will not be more detrimental to the neighborhood.

The petitioner presented an existing conditions plot plan entitled "Plan of Land in Braintree, Massachusetts, 48 Norfolk Road", dated January 19, 2018, prepared by C S Kelley of Pembroke, MA. The petitioner also presented a proposed plot plan entitled "Plan of Land in Braintree, Massachusetts, 48 Norfolk Road", dated May 10, 2018, prepared by C S Kelley of Pembroke, MA. The petitioner also presented floor plans and elevations entitled, "Hood

Residence, 48 Norfolk Street, Braintree, MA”, sheets A-01 thru A-03, dated May 2, 2018, and no preparer listed.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) Any changes to the approved plans will require ZBA approval; 2.) Submission of a certified foundation plan to the Planning & Community Development Department prior to vertical construction; and 3.) Submission of as-built plan to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the lot is pre-existing nonconforming in terms of lot area and depth, as noted above. In addition, the Board found that the existing dwelling is pre-existing nonconforming in terms of the rear yard setback. The Board also found that the proposed addition only slightly intensify the existing rear yard setback deficiency and would not create any new zoning nonconformity. The Board further found that the proposed project will be designed appropriately and be comparable in size relative to the existing housing stock. Furthermore, the Board found the petitioner had secured community support for the proposed additions. As such, the Board found the proposed addition will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

### **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, in accordance with the plans submitted and the following conditions:

- 1.) Any changes to the approved plans will require ZBA approval;
- 2.) Submission of a certified foundation plan to the Planning & Community Development Department prior to vertical construction; and
- 3.) Submission of an as-built plan to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy.

**4) Petition Number: 18-22  
Petitioner: Carl Joust  
RE: 284 River Street**

Carl Joust, 284 River Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct second story above existing single car garage; garage has existing nonconforming side yard setback deficiency of 7.22 ft. 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 284 River Street, Braintree, MA 02184 and is within a Residence B Zoning District, as shown on Assessors Map 2007, Plot 34 and contains a total land area of +/- 5,950 sq. ft.

### **Notice**

Pursuant to notice duly published in a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK

Memorial Drive, Braintree, MA on June 25, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Richard McDonough; and Gary Walker, Alternate.

### **Evidence**

Carl Joust, the petitioner, explained he is seeking to construct a second story above the existing one story, 14.17' x 20.47' one-car attached garage. The petitioner discussed the existing dwelling provides three bedrooms. The proposed addition would provide a new master bedroom w/bathroom, resulting in a total of four bedrooms. The proposed scope of work would be within the same building footprint as the existing garage. Furthermore, the petitioner stated they have received a separate building permit to do a by-right addition to the main dwelling, consisting of a new second floor within the existing building footprint. Lastly, Mr. Joust stated the rear shed had been thrown away as it was no longer usable.

The petitioner's existing lot is nonconforming, as it contains only 5,950 sq. ft., where 15,000 sq. ft. is required, provides only 60 ft. of lot width, where 100 ft. is required, and provides only 99.16 ft. of lot depth, where 100 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the left side yard setback; the dwelling is located 7.22 ft. from the left side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 ft. The proposed addition will be built within the existing footprint and not create any new zoning nonconformity. Accordingly, a finding is required pursuant to M.G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the addition will be within the existing footprint and not generate any new zoning nonconformity. Secondly, the petitioner noted the addition will be similar to the existing neighborhood characteristics and not be more detrimental to the neighborhood.

The applicant presented the plan entitled "Plot Plan, 284 River Street, Braintree, MA", dated April 14, 2018, and prepared by James E. McGrath, PLS of Weymouth, MA. The applicant also presented floor plans and architectural renderings entitled "284 River Street, Carl Joost Family", labeled A-01, XA-1, S-10, A-10 and A-20, dated April 17, 2018 and prepared by Context of Braintree, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) Any changes to the approved plans will require ZBA approval; and 2.) Rear shed to be removed prior to issuance of a building permit. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the existing lot is pre-existing nonconforming in terms of lot area and width, as noted above. The Board acknowledged the dwelling, namely the attached one-car garage, was constructed within the left yard setback when the dwelling was originally constructed in 1955. Therefore, the Board found that the existing dwelling is pre-existing nonconforming in terms of the left side yard setback. The Board also found that the proposed second floor addition will not create any new zoning non-conformity. The Board further found that the proposed addition will be designed appropriately and be comparable in size relative to the existing housing stock. As such, the Board found the proposed addition will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

## 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, in accordance with the plans submitted and the following condition:

- 1.) Any changes to the approved plans will require ZBA approval.

**5) Petition Number: 18-22  
Petitioner: Carl Joust  
RE: 284 River Street**

Michael J. Degulis, 26 Plymouth Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct single story rear addition and convert front screened porch to farmer's porch; proposed additions would intensify existing nonconforming rear (27' to 17') and front (17') yard setbacks. 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 26 Plymouth Avenue, Braintree, MA 02184 and is within a Watershed Residence B Zoning District, as shown on Assessors Map 1080, Plot 15 and contains a total land area of +/- 15,000 sq. ft.

## Notice

Pursuant to notice duly published in the Braintree Forum, a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on June 25, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Stephen Sciascia, Members; and Richard McDonough, Alternate.

## Evidence

Michael Degulis, the petitioner, explained he is seeking to construct a single story rear addition of approx. 656 sq. ft. and to demolish an existing front screened porch/sunroom and construct a 6 ft. x 23 ft. farmer's porch. Mr. Degulis noted the dwelling was built circa 1907 and has a building footprint of 1,031 sq. ft. The home was built by the Cain family, who owned the Cain Farm area of Braintree, now known as the Braintree Highlands). As part of the proposed project, the rear addition would renovate an existing half bathroom and construct a master suite with a laundry room. A full basement would be provided under the new addition and connected to the existing basement.

The petitioner's existing lot is nonconforming, as it contains 15,000 sq. ft., where 43,560 sq. ft. is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the dwelling is located 13 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 ft. The petitioner's dwelling is also nonconforming as to the rear yard setback; the dwelling is located 27 ft. from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 ft. The proposed front porch would still be within the front yard setback, but would slightly reduce the front yard setback nonconformity. Also, proposed rear alteration/addition will intensify the existing rear yard nonconformity. Accordingly, as no new zoning nonconformity will be created, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the alterations/additions will maintain and not increase any of the existing nonconformities. The petitioner discussed their architect had investigated potential addition options that were located on the sides of the existing home that met the required setbacks. The petitioner stated the potential options were inferior to those proposed as part of the petition; to meet the setbacks would require a deviation from the character of the farmhouse (which runs front-to-back) to a mix of farmhouse and colonial without consistency. In addition, the alternative plans would require the removal of existing gas and sewer lines/connections to fit new structures in place. Furthermore, the alternative plans would remove too much usable free lot space from future plans to erect a conforming, freestanding garage, and potentially an in-ground pool. Lastly, the petitioner stated the proposed project has the support of the immediate abutters and surrounding neighborhood and presented support letter to the Board.

The petitioner presented an existing plot plan entitled "Existing Conditions Plan, 26 Plymouth Avenue, Braintree, MA", dated March 4, 2018 and prepared by Scott M. Faria, Berkley, MA. The petitioner presented a proposed plot plan entitled "Proposed Addition Plan, 26 Plymouth Avenue, Braintree, MA", dated March 10, 2018 and prepared by Scott M. Faria, Berkley, MA. The petitioner also presented existing and proposed architectural and floor plans entitled "Degulis Residence", sheets A1, A2, A3.1, A3, A4 and SI, dated May 8, 2018, and prepared by Rockwood Design, Inc. of Marshfield, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) Any changes to the approved plans will require ZBA approval; 2.) Submission of a certified foundation to the Planning & Community Development Department prior to vertical construction; and 3.) Submission of as-built plan to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy. The petitioner submitted a letter of support from three (3) immediate abutters. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the lot is pre-existing nonconforming in terms of the lot area, as noted above. In addition, the Board found that the single family dwelling is pre-existing nonconforming in terms of the front and rear yard setbacks. The Board also found that the proposed addition would not create any new zoning nonconformity. The Board found the petitioner had explored options to construct additions to meet the zoning regulations; however the potential options would not be architecturally consistent with the existing farmhouse style design. As such, the Board further found that the proposed project will be designed appropriately and be comparable in size relative to the existing housing stock. Lastly, the Board found the proposed alterations/additions will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

### **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, in accordance with the plans submitted and the following conditions:

- 1.) Any changes to the approved plans will require ZBA approval;
- 2.) Submission of a certified foundation plan to the Planning & Community Development Department prior to vertical construction; and

- 3.) Submission of an as-built plan to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy.

**6) Petition Number: 18-25  
Petitioner: Anna Haluch  
RE: 215 Wood Road**

Anna Haluch, 65 Belmont Street, South Easton, MA 02375 (Owner, EH Braintree LLC) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.2 and 908 to install two (2) 30'6"x4'6" illuminated "Hampton Inn" wall signs and two (2) 6'7"x1'1" "Welcome" wall signs that exceed the total allowable height, square footage and number of signs. The applicant seeks variances and/or findings that the proposed project will not be more detrimental to the neighborhood. The property is located at 215 Wood Road, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2053B, Plot 1V and contains a total land area of +/- 1.9 acres.

### Notice

Pursuant to notice duly published in a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on June 25, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Richard McDonough, Members; and Gary Walker, Alternate.

### Evidence

Anna Haluch of Pro Signs, explained the Hampton Inn is in the process of updating the exterior facades/look of the hotel and would like to update the signage accordingly. The building formerly had two 5 ft. tall wall signs, and would like to provide two new wall signs of 4'6" in height. Furthermore, two small, non-illuminated "welcome" signs are proposed on the front portico.

The petitioners seek the following signage variances:

- **135-904.2 (A)(5)(b):** The Braintree Zoning Bylaw states "No wall sign shall exceed four feet in overall height." The proposed east & north facing "Hampton Inn" signs are 4'6" in overall height. The existing/former signs, approved by the ZBA in 2001, were 5' in overall height.
- **135-904.2 (A)(5)(e):** The Braintree Zoning Bylaw states "Sign area is further limited to one square foot of signage per linear foot of frontage. Said frontage shall be the linear feet of the building which faces the access roadway." The linear feet of the building facing Wood Road is 63'6", where the total sq. ft. of wall signage is 289 sq. ft. It should be noted the building facing Wood Road is narrow as compared to the north/south sides which are 220' in length.
- **135-904.2 (A)(5)(g):** The Braintree Zoning Bylaw states "No more than one wall sign for each store or business occupying a building shall be permitted. The aggregate total of all signage allowed shall not exceed 150 square feet in area. Sign permit may be issued only after written permission for said signs is authorized by the Zoning

Board of Appeals.” The proposal includes four (4) wall signs, with an aggregate signage total of 289 sq. ft.

As grounds for the variances, the petitioner discussed the building is uniquely situated and positioned. The building, which mimics the shape of the lot, facing the roadway is narrower (68’6”) than the depth of the building (220’). In addition, the building is setback 60 ft. from the roadway. As such, the limited linear frontage facing Wood Road constrains the hotel from providing appropriately scaled wall signage, similar to the other hotel establishments on Wood Road. Furthermore, the proposed signage will be smaller in size and scale than the previous Hampton Inn signage. Lastly, the petitioner expresses the “welcome” signage is small in nature and important to direct the general public and customers to the entry pavilion.

The petitioner presented signage plans entitled “Hampton Inn”, Page No.’s 1 thru 8, dated September 20, 2017, and prepared by MC Sign Company of Bluefield, Virginia.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) No sign illumination from 1am to 6am, pursuant to Section 135-905. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the proposed signage, when analyzed in relationship to the building and previous tenant signage, is appropriate in design, size and scale. The Board found the location of the hotel is uniquely situated as façade facing the roadway is narrower (68’6”) than the depth of the building (220’) and is setback 60 ft. from the main roadway. In addition, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed wall signs are necessary to identify the location of the business and for the traveling public to be safely directed to the businesses. Furthermore, the Board found the proposed signage would be slightly smaller in height compared to the previous wall signage. Lastly, the Board found that the wall signs would be well designed, appropriate in terms of size and consistent with the architectural style of the existing building. As a result, the Board found relief can be granted without resulting in a substantial detriment to the public good and will not nullify the intent of the Zoning By-law.

### **Decision**

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested variance from Bylaw Section 135-904.2, pursuant to Bylaw Section 135-407 and 908, in accordance with the plans submitted and the condition of no sign illumination from 1am-6am, pursuant to Section 135-905.

### **APPROVAL OF MINUTES:**

On a motion made and seconded, the Board voted 5-0 to accept the May 21, 2018 meeting minutes.

The Board adjourned the meeting at 9:45 pm.