



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 June 13, 2016

IN ATTENDANCE: Stephen Karll, Chair
Michael Calder, Member
Richard McDonough, Member

ALSO PRESENT: Carolyn Murray, Kopelman & Paige
Jeremy Rosenberger, Zoning Administrator

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

NEW BUSINESS:

- 1) Petition Number: 16-14
Petitioner: Ryan Polin
RE: 55 Logan Drive**

Ryan Polin, 55 Logan Road, Braintree, MA 02184, for relief from Bylaw requirements under Chapter 135, Sections 403 and 701 to demolish an existing deck/shed and construct a 20'x40' detached garage. 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 55 Logan Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 1062, Plot 74, and contains a land area of +/- 12,451 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, 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 13, 2016 at 6 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Richard McDonough, Members.

Evidence

Ryan Polin, the petitioner, explained he is seeking to demolish an existing deck/shed and construct a 20'x40' detached, one-story garage. Mr. Polin described the proposed garage would fit two cars in tandem. Chairman Karll asked if the proposed garage could accommodate three vehicles. Mr. Polin explained it would be difficult to fit another vehicle due to the proposed width of the garage. He further explained the additional space would accommodate his motorcycles. The petitioner's lot is pre-existing nonconforming, as it contains only 12,451 sq. ft., where 15,000 sq. ft. is required and provides only 95 feet of lot depth, where 100 feet is required. The petitioner's existing shed is pre-existing nonconforming as to an accessory structure setback; the shed is located approximately 2.85 feet from the side yard lot line, while the Zoning Bylaw requires an accessory structure setback of 5 feet. In addition, the petitioner's existing pump-house is pre-existing nonconforming as to an accessory structure setback; the pump-house is located approximately 1 foot from the rear yard lot line, while the Zoning Bylaw requires an accessory structure setback of 5 feet. Also, the petitioner's existing in-ground pool is pre-existing nonconforming as to the rear yard setback; the in-ground pool is located approximately 9 feet from the rear yard lot line, while the Zoning Bylaw requires a pool setback of 10 feet. The proposed addition will not create any new nonconformity; accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the addition will demolish the existing shed and deck, and be replaced with a new detached garage that will not generate any new zoning nonconformity. Secondly, the petitioner noted the proposed new garage will match the existing design of the neighborhood. Furthermore, the petitioner highlighted the immediate abutters are in support of the proposed detached garage.

The applicant presented the plan entitled "Plot Plan Showing Proposed Garage, 55 Logan Road, Braintree, Massachusetts", dated March 18, 2016 and prepared by Norman H. Clapp, PLS of Randolph, MA. The applicant also presented plans and architectural renderings entitled "Floor Plan", labeled, A-1, and "Elevations", labeled, A-2, dated May 10, 2016 and prepared by Millennium Design Associates, Inc., of Braintree, MA.

The Planning Board submitted a recommendation of deferral.

John McKinley, 56 Logan Road, spoke in support of the petitioner. Jeff Preston, 45 Logan Road, spoke in support of the petitioner. No one else 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 size, and depth, as noted above. In addition, the Board found that the shed, pump-house, and pool are pre-existing, nonconforming structures in terms of accessory structure setbacks. The Board also found that the proposed garage will be designed appropriately and match the context of the existing neighborhood. Furthermore, the Board found the petitioner had demonstrated support of the proposed project via testimony by abutters. Lastly, The Board found that the proposed addition would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structures.

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: 16-15**
Petitioner: Nicholas DiMartino
RE: 112 Academy Street

This is a petition filed by Nicholas DiMartino, 112 Academy Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403, 407 and 701 to demolish an existing single car garage and construct a two car garage with living space above that does not meet the minimum rear yard setback of 30 ft. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 112 Academy Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 1016, Plot 13, and contains a land area of +/- 12,047 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, 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 13, 2016 at 6 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Richard McDonough, Members.

Evidence

Nick DiMartino, the petitioner, explained he is seeking to demolish an existing one car garage and construct a two story addition onto the side of the dwelling. The addition will provide a garage, entry area, and a living room, bedroom and kitchen for an in-law dwelling on the first floor. On the second floor, two additional bedrooms as part of the main dwelling are proposed. Mr. DiMartino added, due to his irregular shaped property, the lot has four rear yard lot lines. The proposed addition will encroach into one of the rear yard setbacks. The petitioner's lot is pre-existing nonconforming, as it contains only 12,049 sq. ft., where 15,000 sq. ft. is required and provides only 84.92 feet of lot width, where 100 feet is required. Furthermore, the existing structure is 8.9 ft. from the right side yard lot line, where 10 ft. is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

A variance is required for relief from the rear yard setback requirements. The existing dwelling is approximately 74 ft. from the furthest rear yard lot line. The proposed addition will encroach into the closest rear yard lot line, with a resultant side yard setback of 21 feet. The Zoning Bylaw requires a rear yard setback of 30 feet.

As grounds for the variance, the petitioners noted he could construct the proposed addition to meet the rear yard setback of 30 feet. However, such a design would place the addition closer to the front yard lot line (33.5') than the existing dwelling (35.3'). Mr. DiMartino and the Zoning Administrator agreed that such a design would be out of character with the neighborhood and establish the garage as the focal point of the dwelling. Secondly, the lot is uniquely shaped relative to the immediate neighborhood. The uniquely shaped lot, containing four rear lot lines, creates a hardship with regard to placement of an addition to the side. Furthermore, the petitioner has the ability to build the addition as of right, but if built as such, would not be in harmony with the design

of the neighborhood. As such, the proposed relief would be in harmony with the spirit of the zoning bylaws.

The applicant presented the plan entitled "Plan of Land in Braintree, Massachusetts, 112 Academy Street", dated April 14, 2016 and prepared by C.S. Kelley Land Surveyors of Pembroke, MA. The applicant also presented site plans and architectural renderings entitled "Elevations", labeled as A2.0 and A2.1 and "Floor Plans", labeled as A1.0 and A1.1, dated May 5, 2016 and prepared by Dennis Colwell Architects, Inc. of Norton, MA.

The Planning Board submitted a favorable recommendation. No one else 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 size and lot width, as noted above. In addition, the Board found that the existing structure is pre-existing nonconforming in terms of the side yard setback, as noted above. In addition, the Board found the highly irregular shape of the lot, containing four different rear yard lot lines, presents a hardship with regard to the proposed addition, significantly limiting its placement. Furthermore, the Board found the petitioner could construct the proposed addition by right. However the Board recognized constructing the addition to meet the required setbacks would not be in harmony with the existing neighborhood as the garage would become the focal point of the dwelling. As such, the Board further found that the requested relief could be granted without nullifying or derogating from the purpose and intent of the zoning by-laws, 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 135-403, and a variance from the rear yard setback requirements, pursuant to Bylaw Section 135-407.

The Board adjourned the meeting at 7:45 pm.