



Joseph C. Sullivan  
Mayor

# Department of Planning & Community Development Zoning Board of Appeals

1 JFK Memorial Drive  
Braintree, Massachusetts 02184

## Zoning Board of Appeals (ZBA) Meeting Minutes September 28, 2015

**IN ATTENDANCE:** Michael Calder, Acting Chair  
Richard McDonough, Member  
Michael Ford, Member

**ALSO PRESENT:** Megan Bayer, (Fill-in for Town Solicitor)  
Jeremy Rosenberger, Zoning Administrator

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

### **OLD BUSINESS:**

- 1) Petition Number: 14-33  
Petitioner: Bonnie Tan  
RE: 639 Washington Street**

Bonnie Tan has requested an extension of the petition, case number 14-33.

Sitting on this case for the Zoning Board of Appeals were: Mr. Calder, Mr. Ford and Mr. McDonough.

On a motion made by Mr. Calder and seconded by Mr. Ford, the Board voted 3-0 to grant the requested extension to the October 27, 2015 Zoning Board of Appeals meeting.

- 2) Petition Number: 15-10  
Petitioner: Thayer Academy  
RE: 60-80 Campanelli Drive**

Thayer Academy has requested an extension of the petition, case number 15-10.

Sitting on this case for the Zoning Board of Appeals were: Mr. Calder, Mr. Ford and Mr. McDonough.

On a motion made by Mr. Calder and seconded by Mr. Ford, the Board voted 3-0 to grant the requested extension to the October 27, 2015 Zoning Board of Appeals meeting.

- 3) Petition No. 15-21  
Petitioner: Michael and Kathy Ramsey**

**RE: 79 Wyman Road, Braintree, MA**

Present: Michael Ramsey, Petitioner and Property Owner

This is a petition filed by Michael and Kathy Ramsey, 79 Wyman Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701 to legalize above ground pool and attached deck constructed within required setbacks. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 79 Wyman Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2023, Plot 12, and contains a land area of +/-7,125 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 August 25, 2015 at 7 p.m., at which time the petitioner did not appear before the Board and the Board voted to grant a 30-Day extension which the petitioner agreed to, and on September 28, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Michael Calder, Chairman; Michael Ford and Richard McDonough, Members.

**Evidence**

Michael Ramsey, the owner, explained that he wishes to legalize an existing above ground pool and deck that has been in existence for approximately 11 years. He noted permits were never acquired for the pool and deck. The petitioner's lot is nonconforming, as it contains only 7,125 sq. ft. where 15,000 sq. ft. is required, and offers only 59.79 feet of lot width, where 100 feet is required. The petitioner's existing house is also nonconforming as to front yard setback; the house is located approximately 10 feet from the front lot line, while the Zoning Bylaw requires a front yard setback of 20 feet. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

In addition, variances are required to legalize the pool and deck. The Zoning Bylaw requires a rear yard setback of 30 feet, but the existing deck is 25.8 feet from the rear lot line. Furthermore, the Zoning Bylaw requires a minimum of 10 feet for pool setbacks, but the pool provides only a 2.3 ft. setback from the side yard lot line and 7.6 ft. setback from the rear yard lot line. Lastly, the existing shed in the rear yard does not meet the minimum requirements for shed setbacks. The Zoning Bylaw requires a minimum of 5 feet for shed setbacks, but the shed is located on the side yard lot line.

As grounds for the variance, the petitioner noted the irregular shape of the lot. The petitioner also reiterated the location of the pool and deck as the only location on the property to site the pool and deck.

The applicant presented the plan entitled "Existing Conditions Plan, 79 Wyman Road, Braintree, Massachusetts" dated June 30, 2012 and prepared by Don Rosa, PLS of Randolph, MA. The applicant also presented an untitled and undated architectural rendering.

The Planning Board submitted a favorable recommendation with the condition the proponent demolish the existing shed and upon the need to replace the pool, locate a new pool within the allowed setbacks.

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

**Findings**

The Board found that the existing lot and structure were pre-existing nonconforming in terms of lot size, lot width and front yard setback, as noted above. The Board found that the lot is oddly shaped. The Board found the petitioner had presented a hardship based on the location of the existing building and driveway on the lot and the inability to site the pool and deck in a location without zoning relief. 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 without substantial detriment to the neighborhood and public good.

### **Decision**

On a motion duly made by Mr. Ford and seconded by Mr. McDonough, the Board unanimously (3-0) voted to grant the requested findings, pursuant to Bylaw Section 135-403, and variances from the minimum rear yard setback and pool setbacks, pursuant to Bylaw Section 135-407, with the condition the proponent demolish the existing shed and upon the need to replace the pool, locate a new pool within the allowed setbacks, in accordance with the plans submitted.

### **NEW BUSINESS:**

- 1) **Petition No. 15-24**  
**Petitioner: John M. Moran**  
**RE: 147 Old Country Way, Braintree, MA**

Present: John M. Moran, Petitioner and Property Owner  
John Morelli, Contractor

This is a petition filed by John M. Moran, 147 Old Country Way, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 609, 701 to construct a one-story, 14 ft. x 17.5 ft., three-season enclosed sunroom. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 147 Old Country Way, Braintree, MA 02184 and is within a Residential B Watershed District Zone, as shown on Assessors Map 1056, Plot 98, and contains a land area of +/-15,221 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 September 28, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Michael Calder, Chairman; Michael Ford and Richard McDonough, Members.

### **Evidence**

John M. Moran, the owner, joined by contractor John Morelli, explained that he wishes to add a one story, 14ft. x 17.5ft. three-season sunroom to an existing concrete patio on the rear of the existing dwelling at 147 Old Country Way. The petitioner is seeking to provide more living space for his family. The petitioner's lot is nonconforming, as it contains only 15,221 sq. ft. where 43,560 sq. ft. is required, and offers only 85 feet of lot depth, where 100 feet is required. The petitioner's existing house is also nonconforming as to the rear yard setback; the house is located 15.6 feet from the rear yard line, while the Zoning Bylaw requires a rear yard setback of 30 feet. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the rear porch will be constructed on an existing concrete slab and would be set back 26.6 ft. from the rear yard line.

The applicant presented the plan entitled "ZBA Petitioner's Plan, Prepared for John M. Moran, Existing Conditions & Proposed Improvements, 147 Old Country Way, Braintree, MA," dated August 7, 2015 and prepared by Branch Survey, Inc. of Pembroke, MA. The applicant also presented plans and architectural renderings titled "Proposed Sunroom", "Floor Plan", and "Roof Framing" prepared by John Morelli.

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 and structure were pre-existing nonconforming in terms of lot size, lot depth and rear yard setback, as noted above. The Board also found that the proposed addition of a one story sunroom within the existing footprint of the house will not create any new zoning non-conformity. The Board further found that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

### **Decision**

On a motion duly made by Mr. Ford and seconded by Mr. McDonough, the Board unanimously (3-0) voted to grant the requested findings, pursuant to Bylaw Section 135-403 and 609, in accordance with the plans submitted.

- 2) Petition No. 15-25**  
**Petitioner: Michael Rubino**  
**RE: 42 Howie Road, Braintree, MA**

This is a petition filed by Michael Rubino, 42 Howie Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701 to construct a 2<sup>nd</sup> floor addition (1,150 sq. ft.), a front porch addition (6ft. x 36ft.), a garage addition (3'ft x 24ft.), and a rear addition (8ft. x 16ft.). The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located 42 Howie Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2032, Plot 42, and contains a land area of +/-7,675 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 September 28, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Michael Calder, Chairman; Michael Ford and Richard McDonough, Members.

### **Evidence**

The petitioner did not attend the hearing. The petitioner was contacted and agreed to an extension of the petition.

### **Decision**

On a motion made by Mr. Calder and seconded by Mr. Ford, the Board voted 3-0 to grant an extension of the petition to be heard at the November 24, 2015 meeting.

- 3) Petition No. 15-26**  
**Petitioner: Robert Gabriel**  
**RE: 33 Wildwood Road, Braintree, MA**

Present: Robert Gabriel, Petitioner and Purchaser  
Sean Gabriel

This is a petition filed by Robert Gabriel, 20 Christina Drive, Braintree, MA 02184 (owners, Robert and Patricia

Sullivan) for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 609, 701 to demolish existing single family dwelling and construct a new 2,204 sq. ft. single family dwelling with two car garage. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 33 Wildwood Road, Braintree, MA 02184 and is within a Residential B Watershed District Zone, as shown on Assessors Map 1079, Plot 14, and contains a land area of +/- 17,000 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 September 28, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Michael Calder, Chairman; Michael Ford and Richard McDonough, Members.

### **Evidence**

Robert Gabriel, the perspective owner, and his son Sean Gabriel, explained that he wishes to demolish an existing abandoned and derelict single family dwelling and construct a new single family dwelling with an attached two car garage at 33 Wildwood Road. The existing dwelling resides on two lots and the petitioner agreed to continue the use of the two properties for only one dwelling. The petitioner's lot is nonconforming, as it contains only 17,000 sq. ft., where 43,560 sq. ft. is required, and offers only 85 feet of lot width, where 100 feet is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the single family dwelling will be constructed similar to existing neighborhood characteristics.

The applicant presented the plan entitled "Site Plan, #33 Wildwood Avenue, Braintree, Massachusetts," dated August 12, 2015 and prepared by Liberty Builders & Developers of Braintree, MA. The applicant also presented plans and architectural renderings titled "The Garrison House", "First Floor Plan", "Second Floor Plan", and "Foundation Plan".

The Planning Board submitted a favorable recommendation with the condition the petitioner work with the planning and building department to obtain approvals necessary for a grading permit if needed on the relief requested. Gordon Yaney, property owner at 23 Sheraton Avenue, questioned the location of the proposed new dwelling, garage and if the rear of the property was to be disturbed or used as a means of access. Mr. Gabriel explained the new dwelling would be sited in the same location as the existing dwelling, the parking would be at grade and accessed via Wildwood Avenue, and the rear of the property would be maintained as is. Mr. Yaney went on record as being in favor of the proposal. No one else spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the existing lot and structure to be demolished were pre-existing nonconforming in terms of lot size and lot width, as noted above. The Board also found that the proposed new single family dwelling will not create any new zoning non-conformity. The Board further found that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

### **Decision**

On a motion duly made by Mr. McDonough and seconded by Mr. Ford, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403 and 609, in accordance with the plans submitted.

**APPROVAL OF MINUTES:**

On a motion made by Mr. Ford and seconded by Mr. McDonough, the Board voted 3-0 to accept the meeting minutes of August 25, 2015.

The Board adjourned the meeting at 7:45 pm.