



Mayor  
Charles C. Kokoros

## Department of Planning and Community Development

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### ZONING BOARD of APPEALS

Steven Karll, Chair  
Michael Ford, Member  
Richard McDonough, Member  
Gary Walker, Alternate  
Tim Burke, Alternate

February 28, 2022  
Zoning Board of Appeals Minutes  
Cahill Auditorium – Town Hall  
1 JFK Memorial Drive

**APPROVED**

Present: Stephen Karll, Chairman  
Michael Ford, Member  
Richard McDonough, Member  
Gary Walker, Alternate  
Timothy Burke, Alternate  
Connor R Murphy, Zoning Planner

Meeting Commenced at 7:00 P.M.

Chairman Stephen Karll called the meeting to order. Chairman Stephen Karll introduced all members of the Zoning Board of Appeals including staff members. Chairman Karll stated to the public in attendance that items would be brought up in the order they appear on the agenda.

### **NEW PETITIONS**

**Petition #22-01**  
**162 Parkside Avenue**

Chairman Karll reads the Legal Notice into record:

*“Phillip Baker of Rockwood Design Inc, Applicant, for relief from bylaw requirements pursuant to Chapters 135-403, 135-701 and 135-707 for the construction of a 10.5 Feet X 35.2 Feet (424 Square Feet) single story addition to the Non-Conforming Single Family Dwelling. The Applicant seeks a Finding as the proposed addition will have a Rear Yard Setback of 18.35 Feet, where 17.3 Feet is existing and 30 Feet is required. The property is located at 162 Parkside Avenue, Braintree, and is zoned Residence B as shown on Assessors Map 2083 Plot 22 with a land area of 7,960 Square Feet.”*

Chairman Karll states he is satisfied that abutters have been properly notified. Chairman Karll confirms that members Michael Ford and Richard McDonough will be sitting on this

Application with Gary Walker serving as the Alternate. Chairman Karll calls on the Applicant to present.

Chairman Karll stated the Staff Recommendation on this Application is approval with conditions. Chairman Karll calls on the Applicant to present.

Mr. Baker presented to the Zoning Board of Appeals plans for the proposed addition, demonstrating the Pre-Existing Non-Conforming Corner Lot and the Pre-Existing Non-Conforming Single Family Dwelling. Mr. Baker further added that the proposal was to infill the existing addition along the rear of the Single Family Dwelling which is within the Pre-Existing Non-Conforming Rear Yard Setback of 17.3 Feet. Mr. Baker stated to the 'Board that the single story addition will have a Rear Yard Setback of 18.35 Feet. Mr. Baker further added that a Finding is required for the proposed improvements.

Chairman Karll questioned the Applicant as to what was being added to the Single Family Dwelling. Mr. Baker explained that the kitchen would be extended along the first floor with the addition of a mudroom and closet. Mr. Baker further added that the goal was not to reduce the Non-Conforming Rear Yard Setback as part of the design given the tight lot. Mr. Baker further added that this was the best possible proposal to not be substantially more detrimental. Chairman Karll confirmed with the Applicant that it is a single story addition.

Chairman Karll called on members of the public for any testimony regarding this matter. No one from the public offered testimony. Chairman Karll stated they shall entertain a motion to close the Public Hearing. Member Michael Ford motioned to close the Public Hearing, seconded by Member Richard McDonough.

Member Michael Ford confirms with staff that the relief need is a Finding. Zoning Planner Connor Robert Murphy confirms with Member Ford on the Relief required. Chairman Karll states he does not see any issues with this request. Chairman Karll confirms with the Applicant that they have reviewed the conditions as proposed by staff.

Chairman Karll states the 'Board shall entertain a motion on this matter. Member Michael Ford Motioned to approve the requested Finding pursuant to the plans submitted, conditions as proposed by staff and that the proposed one story addition was not more detrimental than the existing Non-Conformity. Motion Seconded by Member Richard McDonough. All in Favor: S.Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

Chairman Karll states to the Applicant to speak with staff for the next step.

Chairman Karll calls on the Applicant for 249 Franklin Street.

**Petition #22-02**  
**249 Franklin Street**

**APPROVED**

Chairman Karll reads the legal notice into record:

“Jennifer Hanlon, Applicant, for relief from Bylaw Requirements under Chapters 135-403, 135-701, 135-609 and 135-707 for the construction of a second story addition and a 10 Feet X 38 Feet (380 Square Feet) two story addition to the Pre-Existing Non-Conforming Single Family Dwelling. The Applicant seeks Findings as the proposed second story addition will be within the Pre-Existing Non-Conforming Rear Yard Setback of 24.6 Feet (30 Feet is Required) and the proposed two story addition will have a Rear Yard Setback of 24.9 Feet, where 24.6 Feet is existing and 30 Feet is required. The property is located at 249 Franklin Street, Braintree, and is zoned Residence B and within the Watershed Protection District as shown on Assessors Map 1018 Plot 20 with a land area of 6,800 Square Feet. ”

Chairman Karll states he is satisfied that abutters have been properly notified. Chairman Karll confirms that members Michael Ford and Richard McDonough will be sitting on this Application with Timothy Burke serving as the Alternate. Chairman Karll calls on the Applicant to present.

Mrs. Jessica Hanlon, Applicant, represented by Attorney Carl R. Johnson III, was present before the Zoning Board of Appeals for the construction of a second story addition and a 10 Feet X 38 Feet (380 Square Feet) two story addition to the Pre-Existing Non-Conforming Single Family Dwelling. Chairman Stephen Karll read the legal notice into record and states he was satisfied that abutters have been properly notified. Chairman Karll read into record the Staff Recommendation of Approval with conditions.

Attorney Johnson presented to the Zoning Board of Appeals plans for improvements being sought to the property at 249 Franklin Street. Attorney Johnson provided a history of the property, stating a Building Permit was issued to construct a Single Family Dwelling at 249 Franklin Street in 1956 and that the current Rear Yard Setback is Pre-Existing Non-Conforming with respect to the current bylaw. The property is located in the Watershed Protection District under Chapter 135-609 of the Braintree Zoning Bylaw and is allowed the exemption pursuant to Section 135-609(C)(6)(a). Attorney Johnson highlighted the existing structure is 1,049 Square Feet and with the addition of the proposed 10 Feet X 38 Feet (380 Square Feet) two story addition, it will render a Square Footage of 1,429 Square Feet in footprint. With the addition of a second story, the living space will be further extended. The Front of dwelling is proposed to be shifted to the Hollingsworth side of the Corner Lot as well as the driveway. Attorney Johnson further stated the proposed driveway will be close to 70 Feet away from the existing crosswalk on Hollingsworth and will be 10 Feet in width along the side yard. In regards to the existing topography at the proposed driveway location,

Attorney Johnson stated that there will be no major cuts into the existing slope and will gradually follow the existing topography abutting the new two story addition. Attorney Johnson highlighted the space within the dwelling, the new addition would allow for an increase in kitchen space and first floor living while adding bedrooms along the second floor with the design of the dwelling proposed to match the style of the existing homes within the neighborhood.

**APPROVED**

Attorney Johnson further stated that they have met with the Building Inspector regarding the grading activity of the site and discussed the intentions of filling the driveway along Franklin Street and proposed new driveway. The Building Inspector in a determination waived the need for a Grading Permit under Article XII of the Braintree Zoning Bylaw.

APPROVED

Attorney Johnson explained to the Zoning Board of Appeals the need for a Finding pursuant to Chapter 135-403 of the Braintree Zoning Bylaw and Massachusetts General Law Chapter 40A Section 6. Attorney Johnson further highlighted the protections for Single and Two Family Dwellings as determined in *Bellalta vs Town of Brookline*.

Chairman Stephen Karll confirmed with Attorney Johnson that the Application was for a Finding. Chairman Karll further added that existing driveway is of concern given the orientation to Franklin Street and the dilapidated retaining walls that encompass it.

Chairman Karll called on members of the public to provide testimony in favor or in opposition of the requested relief.

Daniel Kelly of 197 Pond Street, stated he was a prior owner of the property and was in favor of the Applicants request. Mr. Kelly further stated the existing driveway was very difficult to maneuver. Mr. Kelly added that he wanted to see a beautiful house for this property.

Paul Kippenhan of 50 Liberty Park Avenue, offered support for the Applicants proposal further stating that he has had a positive experience with the Applicant on renovations made to a prior Single Family Dwelling.

Brian Fosco of 192 Hollingsworth Avenue, joined by his wife, Christine Fosco, stated he was a direct abutter and in opposition of the Applicants request. Mr. Fosco added that he was also joined by abutters in signature: Ann Marie and Frederick E. Ward III of 243 Franklin Street; John and Caitlin Bradley of 239 Franklin Street; Sean Morris of 187 Hollingsworth Street; Brendan and Kara Lynch of 188 Hollingsworth Avenue.

Mr. Fosco offered opposition to the Applicants request with respect to the Pre-Existing Non-Conforming Rear Yard Setback. Mr. Fosco stated that the Applicants Rear Yard Setback is misrepresented in the Application, Legal Notice and within the Staff Report. Mr. Fosco further stated that the Pre-Existing Non-Conforming Rear Yard Setback is to 192 Hollingsworth Avenue and not to 243 Franklin Street which is being demonstrated. Mr. Fosco added that the proposed dwelling would nearly triple the living space of the existing dwelling within a Non-Conforming lot that is half the size of the required Lot Area in a Residence B Zone. Mr. Fosco further added that the plan to extend the two story addition would be substantially more detrimental than the existing Non-Conformity.

In addition, Mr. Fosco disputed the Applicants claims that the existing site has dangerous access conditions. Mr. Fosco presented to the Zoning Board of Appeals the existing driveway along Franklin Street, which Mr. Fosco states has a line of sight of 300 Feet in either direction, as a matter of inconvenience for the Applicant. Mr. Foscos stated the proposed driveway along



Hollingsworth Avenue introduces a public safety hazard given the location of the Franklin Street and Hollingsworth intersection and the traveling speeds of automobiles using said intersection. Mr. Fosco further stated that the line of sight for the proposed driveway along Hollingsworth will be approximately 30 Feet for an at speed vehicle. Mr. Fosco requested through the 'Board that a line of sight and safe stopping survey be prepared by a civil engineer.

Mr. Fosco further continued his opposition stating the Applicant should be required to file for a Grading Permit with the Planning Board as the plans presented demonstrate cut and fills over 2 feet and would provide an additional form of review.

Mr. Fosco further stated that the Applicant should withdraw their Application and re-file for a Variance as that is what should be required to alter the Rear Yard Setback. Mr. Fosco further requests that the Applicant as part of the re-submission, provide a sight and distance study, obtain a Grady Permit from the Planning Board and perform a solar study for the reduction in sunlight. Mr. Fosco declared that the Applicant is a non-resident developer who is seeking maximum value for the Hollingsworth address.

Member Michael Ford stated to Mr. Fosco that he is of the opinion that the proposal is not more detrimental than the existing Non-Conformity. Further, Member Ford stated that the Applicant needs a Finding given its Pre-Existing Non-Conforming nature. However, even if the Applicant needed a Variance, then there are hardships within this lot that would support the request for a Variance.

**APPROVED**

Chairman Stephen Karll acknowledged to the Zoning Board of Appeals that the proposed driveway along Hollingsworth would be safer than backing out onto Franklin Street.

Attorney Carl Johnson stated to the Zoning Board of Appeals that in Appendix Sketch C of the Braintree Zoning Bylaw demonstrates that as a Corner Lot, the Rear Yard Setback can be either way and is misconstrued for the corner lot.

John Bradley of 249 Franklin Street, stated he has had no issue on backing out to Franklin Street and has almost been hit walking along Hollingsworth Avenue. Mr. Bradley further stated that cars travel quickly onto Hollingsworth Avenue.

Brendan Lynch of 188 Hollingsworth Avenue stated he agrees with Mr. Foscos comments and has witnessed cars travelling at high speeds onto Hollingsworth Avenue with multiple accidents at the intersection. Mr. Lynch offered opposition with regards to the size of the Single Family Dwelling further stating he does not see how it would be an asset to the neighborhood.

Buddy Ward of 243 Franklin Street stated to the Zoning Board of Appeals that the property has been vastly unkept for 25 years and the proposed driveway is a tough location.

Christine Fosco of 192 Hollingsworth Avenue stated her husband Brian summarized the technical aspects of their opposition but wanted to focus on the personal aspects. Ms. Fosco further stated that her family is very active in different areas of the town and love the Town of

Braintree. Ms. Fosco added that the addition will now be in close distance to the backyard and would be able to see the entire structure. Ms. Fosco highlighted that this is a business venture for the Applicant and they do not intend to reside in Braintree. Ms. Fosco stated her family intends to continue residing at 192 Hollingsworth Avenue. Ms. Fosco further stated she wants to see improvement and development within the Town of Braintree and feels this property could be improved in other ways than what is shown. Ms. Fosco added that an addition 15 Feet from your neighbor is very close and the improvements would disrupt the existing tall pine located near the property line. Ms. Fosco added she does not disagree with someone looking to back out of the driveway onto Hollingsworth Avenue.

Chairman Karll questions Ms. Fosco if anybody has contacted the Police Department in regards to traffic control measures along Hollingsworth Avenue. Ms. Fosco states she has no but has thought about it. Ms. Fosco further states that the Applicants proposal is too overwhelming and it should not be allowed. Ms. Fosco called for a redesign of the structure that would be more modest and in keeping with the existing neighborhood.

Mr. Daniel Kelly provided further testimony to the dangerousness of Franklin Street as there are multiple aspects to the accidents on Franklin Street.

Mr. James Hanlon referred to the Site Plan submitted stating the area that the Foscos speak to is not misrepresented and their analysis is incorrect. The proposed addition at the front will have a 16.1 foot Side Yard Setback to their property along the front portion and a 10.2 Foot Side Yard Setback at the rear portion of the addition. Mr. Hanlon further added that someone can build up to a 10 Foot Side Yard Setback with a Building Permit. Mr. Hanlon further stated that his family is from Braintree and lived in Braintree for a long time.

Attorney Carl Johnson stated to the Zoning Board of Appeals that cubic content for a Single Family Dwelling is not regulated within the Zoning Bylaws nor is mentioned in the Dimensional Table under Chapter 135-701. Attorney Johnson further states that nothing was misrepresented and is a matter of opinion while being somewhat subjective.

Member Michael Ford stated the Applicants request for relief is straight forward as it is a Finding that is required. Member Richard McDonough stated it was concerning to hear about misrepresentation yet it seems to be misinterpretation. Member McDonough further added that nothing was misrepresented tonight and while these proposals do become emotional, this proposal is not different than what is normally shown.

Chairman Karll stated to the Applicant that the Board would not like to see a fence encompass the property. Mr. James Hanlon confirmed Chairman Karll's concerns.

On a motion duly made and seconded, the Zoning Board of Appeals voted to approve the requested finding subject to the plans submitted, conditions as proposed by staff and that what is proposed is not substantially more detrimental than the existing Non-Conformity. All in favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

**APPROVED**

Chairman Karll stated to the Applicant to work with staff regarding the decision and actions to follow.

Chairman Karll called on the next Applicant for 20 Glenrose Avenue.

**Petition #22-03  
20 Glenrose Avenue**

**APPROVED**

Chairman Karll reads the legal notice into record:

“Tan Mai, Applicant, for relief from Bylaw Requirements under chapters 135-403 and 135-701 for the construction of a second story dormer and a 8.8 Feet X 7.6 Feet mudroom to the Non-Conforming Single Family Dwelling. The Applicant seeks findings as the proposed second story dormer is within the Western Non-Conforming Side Yard Setback of 9.3 Feet (10 Feet is required) and the proposed mudroom is within the Eastern Non-Conforming Side Yard Setback of 5.2 Feet. The property is located at 20 Glenrose Avenue, Braintree, and is zoned Residence B as shown on Assessors Map 3044 Plot 53 with a land area of 5,500 Square Feet.”

Chairman Karll states he is satisfied that abutters have been properly notified. Chairman Karll confirms that members Michael Ford and Gary Walker will be sitting on this Application with Timothy Burke serving as the Alternate. Chairman Karll read into record the Staff Recommendation of Approval with Conditions.

Chairman Karll calls on the Applicant to present.

Mr. Mai stated to the Zoning Board of Appeals that they needed relief to construct the second story dormer along the Non-Conforming Side Yard Setback of 9.3 Feet to the West and to enclose a portion of the deck along the Non-Conforming Side Yard Setback of 5.2 Feet. Mr. Mai further added the increase in space was needed to accommodate the space for his family. Mr. Mai further added the addition would be modest and compliment the neighborhood with no footprint changes to the Single Family Dwelling.

Chairman Karll questioned the Applicant as to what kind of space is being added with the Addition. Mr. Mai stated the addition will provide an increase in area to the bedroom area of the second floor.

Chairman Karll called on members of the public for any testimony regarding this matter. No one from the public offered testimony. Chairman Karll stated they shall entertain a motion to close the Public Hearing. Member Michael Ford motioned to close the Public Hearing, seconded by Member Richard McDonough.

Chairman Stephen Karll stated there does not seem to be any issues with this request. Chairman Karll confirms with the Applicant that they have reviewed the conditions as proposed by staff.

Chairman Karll states they shall entertain a motion on this Application. Member Michael Ford motioned to approve the requested Finding as the proposed second story addition was not more detrimental than the existing Non-Conformity. Motion Seconded by Member Gary Walker. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

Chairman Karll stated to the Applicant to work with staff regarding the decision and actions to follow.

Chairman Karll called on the Applicant for 300 King Hill Road.

**APPROVED**

**Petition #22-04  
300 King Hill Road**

Chairman Karll read the legal notice into record:

*“Tri-Town Water District, Applicant, for relief from Bylaw Requirements under chapters 135-407, 135-609 and 135-701 for the construction of a Water Treatment Plant. The Applicant seeks a Variance for the height of the structure. The property is located at 300 King Hill Road, Braintree, and is zoned Open Space Conservancy and within the Watershed Protection District as shown on Assessors Map 2051 Plots 1 & 2, Assessors Map 1035 Plots 1,2 & 3 with a combined land area of 119.9 Acres.”*

Chairman Karll states he is satisfied that abutters have been properly notified. Chairman Karll confirms that members Michael Ford and Timothy Burke will be sitting on this Application with Richard McDonough serving as the Alternate. Chairman Karll read into record the Staff Recommendation of Approval with Conditions.

Chairman Karll calls on the Applicant to present.

The Applicant, Tri-Town Water District, was represented by Stephen DeFrancesco and Eric Muench of AECOM, to present before the Zoning Board of Appeals.

Mr. DeFrancesco presented to the Zoning Board of Appeals the plans for the proposed Water Treatment Plant at 300 King Hill Road for the Tri-Town Water District. Mr. DeFrancesco stated the Applicant was before the Zoning Board of Appeals to seek a Variance for the height of the Water Treatment Plant as the proposed height is 22.01 Feet and only 20 Feet is allowed in the Open Space Conservancy Zone. Mr. DeFrancesco further stated that the design of the Water Treatment Plant calls for a building of this height as the water treatment process operates by the flow of gravity. As depicted in the plans submitted, the building height is required for the processing equipment. Mr. DeFrancesco demonstrated that the raw water would be pumped to the Water Treatment Plant from the existing reservoir, where it would flow by gravity to the Finished Water Pump Station. Mr. DeFrancesco further explained to the Zoning Board of Appeals the financial hardships that would burden the Tri-Town Water District should the structure have to be built to conform with the dimensional requirements of the Open Space Conservancy Zone.



Chairman Karll called on the Zoning Planner to state the Staff Recommendation. Zoning Planner stated the Department is recommending Approval with Condition's. The Zoning Planner offered support for the requested relief as the Applicants Proposal has tremendous benefit not only to the Town of Braintree but the regional community as a whole. The nearest residential abutter to the Water Treatment Plant is 1,500 Feet +/- away, in addition to being buffered by acres of woodland featuring existing mature vegetation, which demonstrates that that relief can be granted without causing harm to adjoining property or the community in general. The relief can be granted within the spirit and intent of the Zoning Bylaw pursuant to Chapter 135-101 "...to facilitate the adequate provision of transportation, water, sewerage system, schools, parks, open space and other public requirements...".

Chairman Karll acknowledged the hardships presented by the Applicant in support of the requested variance. Chairman Karll questioned the Applicant as to the Timeline of the project. Mr. DeFrancesco states it will take approximately two years to complete the buildout of the Water Treatment Plant. Member Michael Ford questioned the Applicant that the improvements made to the Water Treatment Plant would improve the quality of the water. James Arseneault, Director of the Department of Public Works, confirmed Member fords inquiry.

Chairman Karll called on members of the public to offer testimony in support or opposition of the relief requested by the Applicant. No one from the public provided testimony.

Chairman Karll stated they shall close the Public Hearing, with a Motion made by Member Michael Ford and Seconded by Timothy Burke.

Chairman Karll stated they shall entertain a motion on this Application. Member Michael Ford Motioned to Approve the requested Variance pursuant to the hardships of the lots, based on conditions as proposed by staff and subject to the plans presented. Motion Seconded by Member Timothy Burke. All in Favor: S. Karll – Aye, M. Ford -Aye, T. Burke – Aye.

### ADMINISTRATIVE ITEMS

APPROVED

Zoning Planner Connor R Murphy stated to the Board that the minutes to be reviewed and accepted are: October 25, 2021; November 22, 2021; December 20, 2021.

Members Timothy Burke motioned to accept the October 25, 2021 Minutes, Seconded by Member Gary Walker. All in Favor: S. Karll – Aye, G. Walker – Aye, T. Burke – Aye.

Member Michael Ford Motioned to Accept the November 22, 2021 Meeting Minutes, Seconded by Member Richard McDonough. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

Member Michael Ford Motioned to accept the December 20, 2021 Meeting Minutes, Seconded by Member Richard McDonough. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

Chairman Karll Stated the 'Board shall entertain a motion to close the meeting. Motion made by member Michael Ford, Seconded by Member Gary Walker. All in Favor: S. Karll - Aye, M. Ford - Aye, R. McDonough - Aye, G. Walker - Aye and T. Burke - Aye.

Meeting Adjourned at 9:22 PM.

APPROVED