



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 March 26, 2018

IN ATTENDANCE:

Stephen Karll, Chair
Michael Ford, Member
Richard McDonough, Member
Stephen Sciascia, Associate
Gary Walker, Associate

ALSO PRESENT:

Jeremy Rosenberger, Zoning Administrator

Mr. 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

The petitioner requested the initial public hearing to be continued to April 23, 2018.

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

- 2) Petition Number: 17-46**
Petitioner: William Wong
RE: 18 Ellsworth Street

William Wong, 18 Ellsworth Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to legalize a 12' x 10' rear deck, rear stairs and expanded footprint (40 sq. ft.) constructed without permits. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 18 Ellsworth Street, Braintree, MA 02184 and is within

a Residential B District Zone, as shown on Assessors Map 2030, Plot 13, and contains a land area of +/- 9,980 sq. ft.

Notice

Pursuant to notice duly published in the Braintree Form, 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 November 27, 2017, continued by mutual agreement to December 18, 2018, continued by mutual agreement to January 22, 2018, continued by mutual agreement to February 26, 2018, and continued by mutual agreement to March 26, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Michael Calder, Members; and Richard McDonough, Alternate.

Evidence

At the initial public hearing on November 27, 2017, the petitioner William Wong discussed he seeks approval for a 10 ft. x 12 ft. rear deck, 4 ft. x 15 ft. attached exterior shed and 4 ft. x 11 ft. rear deck stairs recently constructed without a building permit. Mr. Wong attested that as part of recent home improvements, there was significant insect infestation and was told by his contractor that the additions/alterations did not require a building permit. Due to the existing rear yard setback deficiency, the additions/alterations require a finding by the Board as they will intensify the rear yard setback nonconformity. Mr. Wong expressed he discussed the rear deck construction with the immediate rear abutter, Susan McKenney of 51 Mount Vernon Street. Mr. Wong stated Ms. McKenney was ok with the project.

Chairman Karll expressed that he would like either a letter from Ms. McKenney or that she come before the Board, to provide evidence of support. Mr. Wong was able to contact Ms. McKenney, who stated she would write a letter to the Board.

As such, Chairman Karll requested to continue the hearing to discuss correspondence from the abutter Ms. McKenney at the next hearing. Mr. Calder and Mr. Ford concurred with the Chairman's request. Mr. Wong and the Board mutually agreed to continue the public hearing to December 18, 2017.

At the continued public hearing on December 18, 2017, Chairman Karll read a letter from Susan McKenney discussing her request to lower the deck constructed by Mr. Wong. Mr. Wong stated the deck could not be lowered as there is a storage door immediately below the deck. Mr. Wong added his house already has views into the abutter's rear yard/pool, in addition to other abutting properties. The Zoning Administrator stated he had discussed the letter with Ms. McKenney and asked if a potential solution to reduce the impacts of the rear deck could be vegetative screening between their properties. Ms. McKenney stated she was open to that idea.

After discussion with the Board, Chairman Karll requested to continue the hearing to allow more time for Mr. Wong to develop a screening/landscape plan and to discuss a plan with the rear abutter. The Board concurred with the Chairman's request. Mr. Wong and the Board mutually agreed to continue the public hearing to January 22, 2018.

At the continued public hearing on January 22, 2018, Chairman Karll asked Mr. Wong if he had any updates. Mr. Wong said he did not.

After discussion with the Board, Chairman Karll requested to continue the hearing to allow the petitioner more time to develop a landscape plan and discuss it with the abutter. The Board concurred with the Chairman's request. Mr. Wong and the Board mutually agreed to continue the public hearing to February 26, 2018.

At the continued public hearing on February 26, 2018, Chairman Karll asked Mr. Wong if he had any updates. Mr. Wong said he did not.

After discussion with the Board, Chairman Karll requested to continue the hearing to allow the petitioner more time to develop a landscape plan and discuss it with the abutter. The Board concurred with the Chairman's request. Mr. Wong and the Board mutually agreed to continue the public hearing to March 26, 2018.

At the continued public hearing on March 26, 2018, Frank Sullivan, owner of Skinner Outlook Landscape and Design, stated he had visited Mr. Wong's site and prepared a landscaping plan for him. Mr. Sullivan discussed the proposed plan depicted 4-5 tall evergreen shrubs that would provide screening as requested by the Board. However, after visiting the site, Mr. Sullivan stated there is not adequate space between Mr. Wong's rear deck and the rear fence for the proposed plan. This was due to the fact that the shrubs would increasingly get wider reduce the rear yard area and potential create issues with the fencing. As a result, Mr. Sullivan did not recommend the plantings. He also offered up the possibility of constructing a taller fence, but such a fence would need to be at least eight feet in height. Mr. Sullivan also added that surrounding neighbors also have views into Ms. McKenney's rear yard/pool, as evidenced by the photographs he provided to the Board. Chairman Karll expressed the submitted photographs contradicted his belief that landscaping could provide the necessary screening of Mr. Wong's deck, when in fact there is not enough room. In addition, Chairman Karll noted the Board would likely have approved the rear deck if it went through the appropriate approval process. Mr. Ford agreed with the Chairman's comments and added that the photographs clearly show a neighbors existing deck provides views into Ms. McKenney's rear yard area.

The petitioner's lot is nonconforming, as it contains 9,981 sq. ft. where 15,000 sq. ft. is required and offers only 90 feet of lot depth, where 100 feet is required. The petitioner's existing dwelling is nonconforming as to the front yard setback; the dwelling is located +/- 15.7 ft. from the front yard setback on Ellsworth Street, while the Zoning Bylaw requires a front yard setback of 20 ft. Lastly, the existing dwelling is nonconforming as to the rear yard setback; the existing dwelling is located +/- 16.4 feet from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 feet. The proposed alteration will not create any new zoning nonconformity; accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the deck will not generate any new zoning nonconformity. Secondly, the petitioner noted the proposed deck is well designed. Furthermore, the petitioner highlighted he sought to fulfill the Board's request to provide vegetative screening for the rear deck. However, based on the evidence submitted, he does not have the proper space/area to accommodate the Board's request. Lastly, the petitioner stated views into the rear abutters property already exists from his dwelling, in addition to the surrounding properties.

The petitioner presented the plan entitled "Plan of Land in Braintree, Massachusetts, 18 Ellsworth Street", dated September 12, 2017 and prepared by C.S. Kelley of Pembroke, MA. The petitioner also presented a landscape and design proposal, prepared by Skinner Overlook

of Braintree, MA. In addition, the petitioner presented a letter, dated January 18, 2018, to the rear abutter Susan McKenney of 51 Mount Vernon Avenue.

The Planning Board submitted a recommendation to endorse the staff recommendation for a continuance due to the need for community support. Susan McKenney, of 51 Mount Vernon Avenue, submitted a letter on December 14, 2017, requesting the petitioner to lower the deck. 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 area and depth, as noted above. In addition, the Board found that the existing dwelling is pre-existing nonconforming in terms of the front and rear yard setbacks. The Board also found that the proposed deck will not create any new zoning non-conformity. The Board further found the petitioner sought to develop a landscape plan to screen the rear deck. As a result of the plans and testimony by the petitioner's landscape designer, the Board found there was not adequate space to provide vegetative screening. Furthermore, the Board found a tall fence would not be a suitable option. Lastly, the Board found the petitioner had faithfully worked to mitigate the construction of the rear deck per the Board's requests. As a result, the Board found that the proposed deck 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.

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

The petitioner requested the initial public hearing to be continued to April 23, 2018.

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

NEW BUSINESS:

- 1) Petition Number: 18-04
Petitioner: Christopher R. Hood
RE: 48 Norfolk Road**

After discussion with the Board regarding the proposal, the petitioner requested to withdraw the petition without prejudice.

On a motion made and seconded, the Board voted 3-0 to grant the petitioners request to withdraw the petition without prejudice.

**2) Petition Number: 18-05
Petitioner: George and Grace McGrath
RE: 66 Trefton Drive**

George and Grace McGrath, 66 Trefton Drive, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct one-story rear addition (15.25' x 13.75') with deck (12'x8') that would encroach further into the front yard setback. 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 66 Trefton Drive, Braintree, MA 02184 and is within a Residential B District Zone as shown on Assessors Map 3043, Plot 22 and contains a land area of +/- 5,552 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 March 26, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Stephen Sciascia and Richard McDonough; and Gary Walker, Alternate.

Evidence

James McGrath, the petitioner's son, explained his parents are seeking to raze an existing rear deck and to construct a one-story 15.25' x 13.75' addition with 12' x 8' deck. The existing building foot print is approximately 1,452 sq. ft. and would increase to approximately 1,563 sq. ft. The proposed expansion of the first floor would create a new mudroom and accessible bathroom off of the existing kitchen. The proposed new living space expansion would be constructed on the same footprint as the current rear exterior deck. Mr. McGrath stated the proposed addition is necessary to allow for one-story living as the only existing bathroom is located on the second floor. Furthermore, the proposed addition will not adversely affect the neighborhood.

The petitioner's existing lot is nonconforming, as it contains only 5,552 sq. ft., where 15,000 sq. ft. is required and provides only 50 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 10.74 ft. from the front yard lot line on Trefton Drive and 8.8 ft. from the front yard lot line on Argyle Street (unbuilt public way), while the Zoning Bylaw requires a front yard setback of 20 ft. The proposed alteration/additions will not increase, but maintain the existing front yard nonconformity on Argyle Street. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, Mr. McGrath stated the proposed additions will not increase any of the pre-existing nonconformities. In addition, the front yard setback nonconformity is due to an unbuilt public roadway. As such, the direct abutter to the addition is over 70 ft. away. Lastly, the petitioner discussed the proposed additions will be appropriately designed and will not be substantially more detrimental to the neighborhood.

The petitioner presented the plot plan entitled "Plot Plan, 66 Trefton Drive, Braintree, MA", dated March 2, 2018 and prepared by James E. McGrath, Weymouth, MA. The petitioner

also presented existing and proposed architectural and floor plans entitled “McGrath Residence Renovations”, sheets A-1 thru A-4, dated February 7, 2018, and prepared by Fisher Associates of Weymouth, 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 5.) 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 width, as noted above. In addition, the Board found that the single family dwelling is pre-existing nonconforming in terms of the front yard setbacks. The Board also found that the proposed additions/alterations will not increase, but maintain the existing front yard nonconformity on Argyle Street. 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 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.

3) Petition Number: 18-06
Petitioner: Thomas and Ann York
RE: 205 Jefferson Street

Thomas and Ann York, 205 Jefferson Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 609 and 701 to construct two-story rear addition that would maintain pre-existing nonconforming right side yard setback. 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 205 Jefferson Street, Braintree, MA 02184 and is within a Watershed Residence B District Zone, as shown on Assessors Map 1047, Plot 12 and contains a land area of +/- 7,150 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 March 26, 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

Thomas and Ann York, the petitioners, explained they are seeking to expand the dwelling by the way of razing an existing rear deck and constructing a two-story rear addition with a newly constructed rear deck. The existing building foot print is approximately 1,144 sq. ft. and would increase to approximately 1,358.5 sq. ft. The first floor will be enlarged to provide an new open concept family room/kitchen, expanded bedroom and maintain the existing living room, dining room, office and bathroom. The second floor would maintain two bedrooms and a bathroom (the two-new stories are on the first floor and basement level). The proposed expansion would provide unheated storage areas underneath the new living areas.

The petitioner's existing lot is nonconforming, as it contains only 7,150 sq. ft., where 43,560 sq. ft. is required and provides only 65 ft. of lot width, where 100 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the dwelling is located 16.3 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 right side yard setback; the dwelling is located 9.8 ft. from the right side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 ft. The proposed alteration/additions will not increase, but maintain the existing side yard nonconformity. Accordingly, 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. Secondly, the petitioner noted the addition will be similar to the existing neighborhood architectural characteristics and be well designed. Therefore, the proposed project will not be more detrimental to the neighborhood.

The petitioner presented an existing plot plan entitled "Proposed Additions, 205 Jefferson Street, Braintree, Ma", dated July 23, 2002 and prepared by CCR Associates, Weymouth, MA. The petitioner presented a proposed plot plan entitled "Proposed Addition & Deck, 205 Jefferson Street, Braintree, Massachusetts", dated February 10, 2018 and prepared by CCR Associates, Weymouth, MA. The petitioner also presented existing and proposed architectural and floor plans entitled "York Residence Renovations", sheets A-1 thru A-6, dated August 18, 2017, and prepared by Fisher Associates of Weymouth, 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 5.) 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 width, as noted above. In addition, the Board found that the single family dwelling is pre-existing nonconforming in terms of the front and right side yard setbacks. The Board also found that the proposed addition 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. 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.

**3) Petition Number: 18-07
Petitioner: I.D. Sign Group, Inc.
RE: 1 Rockdale Street**

I.D. Sign Group, Inc., 9 Bristol Drive, South Easton, MA 02375 (Property Owner: Flatley 06 LLC) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.2 and 908 to install 35.5" x 136" illuminated "Envision Bank" wall sign. 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 1 Rockdale Street, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2057, Plot 7, and contains a land area of +/- 24,750 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 March 26, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Michael Ford, Stephen Sciascia and Richard McDonough, Members; and Stephen Karll, Alternate.

Evidence

Scott Cashman and Jamie Fisher of I.D. Sign Group explained Envision Bank, which was formerly Randolph Savings Bank, is seeking to provide an additional wall sign. The building was formerly occupied by Santander Bank. The existing linear frontage of the business is approximately 92 ft. (facing Granite Street). Envision Bank received a sign permit for one wall sign, but would like an additional wall sign facing Rockdale Street. Mr. Cashman discussed the additional wall sign requires ZBA approval.

Chairman Karll, Mr. Ford and Mr. McDonough expressed they did not have an issue with the additional sign as the bank's location is unique, not highly visible and the number of signs is consistent with the surrounding commercial area.

The petitioners seek the following signage variances:

- **Variance from Section 135-904.2 (A)(5)(a):** The Braintree Zoning Bylaw states “No wall sign shall exceed 150 square feet.” The petitioner is seeking an additional wall sign that will front Rockdale Street (the building is on a corner lot facing both Rockdale/Granite Street). The petitioner has received a sign permit for a lawful 33.5 sq. ft. wall sign to front Granite Street (replacing former Santander Bank sign).

As grounds for the variances, the petitioner noted the location of the business is uniquely situated. The business is located on a corner lot, facing both Rockdale Street and Granite Street. Also, the building is setback a large distance from Granite Street and situated on a sloping topography. In addition, the proposed sign will be similar in size as compared to the former Santander Bank signage. As such, the petitioners state the proposed additional sign is proportional to the existing building and will provide better visibility and direction to the general public than just one wall sign. Furthermore, the petitioner states the proposed sign is consistent with the other banking establishments in the Town which often have multiple signs.

The petitioner presented signage plans entitled “Work Order #11-19616”, prepared for Randolph Savings Bank, dated undated, and prepared by I.D. Sign Group, Inc. of Easton, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) No sign illumination from 1am-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 bank is uniquely situated higher than the primary roadway and setback significantly. 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. 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.

- 4) Petition Number: 18-08**
Petitioner: I.D. Sign Group, Inc.
RE: 374 Washington Street

I.D. Sign Group, Inc., 9 Bristol Drive, South Easton, MA 02375 (Property Owner: Braintree Co-op Bank) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 613, 904.1 and 908 to install 37.25” x 64.5” “South Shore Bank” wall sign. 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 374 Washington Street, Braintree, MA 02184 and is within a General Business District Zone/Village Overlay Zoning District, as shown on Assessors Map 2024, Plot 26, and contains a land area of +/- 28,335 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 March 26, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Stephen Sciascia and Richard McDonough; and Gary Walker, Alternate.

Evidence

Scott Cashman and Jamie Fisher of I.D. Sign Group explained the petition is to provide signage for South Shore Bank. Mr. Cashman highlighted Braintree Co-operative Bank has recently been purchased by and merged with South Shore Bank. As such, South Shore is looking to remove/replace the existing Braintree Co-operative Bank signage. The existing linear frontage of the business is +/- 85 ft. The proposed non-illuminated sign is 43 sq. ft. However, the proposed sign exceeds the 2 ft. maximum signage height allowance for the Village Overlay District. Therefore, the proposed signage requires a variance from the Board.

Chairman Karll and Mr. Ford expressed they did not have an issue with the proposed sizes of the wall sign as the bank's location is setback further from the street than most of the buildings in North Braintree Square. In addition, due to the large trees on the property, the building's signage is not highly visible and they would like to support Braintree's existing retail tenants.

The petitioners seek the following signage variances:

- **Variance from Section 135-904.6(c):** The Braintree Zoning Bylaw states "Signs defined as "wall signs" shall not exceed two feet in height." The proposed wall sign is 37.25" in height and 43 sq. ft. in size. The linear frontage of the bank is approximately 85 ft.

As grounds for the variances, the petitioner stated that although the proposed signage is larger than the previous sign, the sign is proportional to the building. In addition, the petitioners note the proposed signage is appropriate in scale and well designed. Furthermore, the petitioners note the bank is allowed a wall sign of up to 85 sq. ft., but are proposing a sign that only totals 43 sq. ft. Lastly, the petitioners highlight the proposed sign is consistent with previous signage variances granted in the Village Overlay Districts.

The petitioner presented signage plans entitled "Work Order #08-19097", prepared for South Shore Bank, dated August 29, 2017, and prepared by I.D. Sign Group, Inc. of Easton, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation of 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 proposed signage, when analyzed in relationship to the building and previous signage, is appropriate in design, size and scale. The Board found the location of the bank is uniquely situated as it is setback further from the roadway than surrounding buildings. In addition, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed wall sign height is necessary to identify the location of the business and for the traveling public to be safely directed to the businesses. 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.

- 4) Petition Number: 18-09**
Petitioner: Charles Raz c/o Signs Now
RE: 286 Quincy Avenue

Charles Raz c/o Signs Now, 71 Bridge Street, PO Box 184, Pelham, NH 03076 (Property Owner: 2178 LLC) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.1 and 908 to install four illuminated/non-illuminated wall signs totaling +/-134 sq. 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 at 286 Quincy Avenue, Braintree, MA 02184 and is within a General Business District Zone, as shown on Assessors Map 3051, Plot 14, and contains a land area of +/- 2.4 acres.

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 March 26, 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

Attorney Frank Marinelli, on the behalf of the petitioners and property owner, explained the petition is to provide signage for Quirk Kia. The dealership is proposing four (4) additional wall signs for the building totaling +/- 134 sq. ft. Mr. Marinelli discussed the dealership was granted sign permits for the depicted "Quirk" wall sign per the submitted plans and a ground sign. Both the wall and ground sign conform to the signage regulations. Due to the number of signs requested, in addition to the height the proposed "KIA" signs, variances are required.

The Board expressed they did not have an issue with the number of wall signs and proposed sizes of the “KIA” wall signs, as the building is oddly shaped and set far back from Quincy Avenue.

The petitioners seek the following signage variances:

- **Variance from Section 135-904.1(A)(5)(a):** The Braintree Zoning Bylaw states “No wall sign shall be more than four feet overall in height and a wall sign shall not exceed the lesser of 150 square feet or one square foot in area for each linear foot of frontage for each business. Wall signs of business occupying other than the first floor shall not exceed 48 square feet in area.” The proposed KIA wall sign is 5’2.875” in height. The existing dealership provides approximately 155 ft. of linear frontage along Quincy Avenue.
- **Variance from Section 135-904.1(A)(5)(b):** The Braintree Zoning Bylaw states “Not more than one exterior wall sign for each store or business shall be permitted, except that if a store or business has a direct entrance into the store or business on a wall other than the store front, there may be a secondary wall sign affixed to such wall; however, no store or business shall have more than two such secondary wall signs in any event, provided that the total aggregate area of all such secondary wall signs shall not exceed 50% of the maximum permissible area allowed above.” The petitioner provides three direct entrances to the building, one facing Quincy Avenue for the dealership and one entrance for the service department and one entrance for the parts department, both on/facing Hayward Street. As such, one of the proposed secondary wall signs labeled “Service” and “Parts” is allowed by-right. The total sign area for all wall signs (permitted and proposed) is 150 sq. ft. The total proposed secondary wall signage area is 24.47 sq. ft., or 16% of the total wall sign area.

As grounds for the variances, Attorney Marinelli stated the property is highly unique in that it is large (2.4 acres) and the “L-shaped” building is setback a significant distance from Quincy Avenue. As a result of the unique property and design/siting of the building, the proposed signs are necessary to direct customers to the appropriate locations on the property. In addition, the new signage will be scaled appropriately relative to the new proposed facades. The petitioner highlights the total amount of wall signage (150 sq. ft.) is less than the linear frontage of the building (155 ft.) Also, while the proposed KIA signage exceeds the maximum height allowance, the actual font size of the signage is slim in nature and is scaled/designed appropriately. Lastly, the proposed signage will be consistent with previously granted variances.

The petitioner presented signage plans entitled “286 Quincy Av Wall Sign Details” and “286 Quincy Av Proposed Multiple Wall Sign Locations”, dated December 1, 2017, and prepared by Pattison Sign Group of Knoxville, TN.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) No sign illumination from 1am-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, is appropriate in design, size and scale. The Board found the location of the

dealership building is uniquely situated as it is setback further from the roadway than surrounding buildings. The Board also found the dealership provides a number of amenities to customers, necessitating the number of additional wall signs. In addition, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed wall sign height is necessary to identify the location of the business and for the traveling public to be safely directed to the businesses. 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 subject to the following conditions:

1.) No sign illumination from 1am-6am, pursuant to Section 135-905.

- 5) Petition Number: 18-10**
Petitioner: BSC Partners, LLC & Town of Braintree
RE: 128 & 0 Town Street

BSC Partners, LLC & Town of Braintree, c/o Scott Lacy, Esq., 31 Cowell Street, Plainville, MA 02762 (owner of property, Town of Braintree) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 609 and Article VIII for relief from the off-street parking requirements for a multi-purpose athletic center (87,710 sq. ft. building footprint). The applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located at 128 and 0 Town Street, Braintree, MA 02184, and is within a Watershed Highway Business District Zone, as shown on Assessors Map 1042, Plot 01 & 02, and contains a land area of +/- 688,997 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 March 26, 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 Stephen Sciascia, Alternate.

Evidence

Attorney Scott Lacy appeared on behalf of the petitioners, BSC Partners, LLC ("BSC") and the Town of Braintree. Mr. Lacy provided an overview of the process that had led to the proposed athletic facility. The Town of Braintree, acting through the Mayor, solicited proposals pursuant to special legislation enacted by the Commonwealth of Massachusetts, entitled *Chapter 141 of the Acts 2011*. The special legislation allowed the Town of Braintree to seek a single contractor to design, build, and operate an athletic facility on Town-owned land. The area designated for the proposed athletic facility is a 6-acre lease area located on the Braintree High School campus, adjacent to Carson Field. BSC Partners, LLC was the selected developer. The

proposed use is identified as an Indoor Commercial Recreational Facility, requiring a Special Permit in a Highway Business/Watershed Protection Overlay Zoning District.

The 6-acre lease area is part of a larger 15.88 acre, Town of Braintree-owned property. Attorney Lacey noted the 15.88 acre lot is part of the Braintree High School campus, encompassing a total of approximately 83 acres. The 15.88 acre lot was approved by an "Approval Not Required" (ANR) endorsement by the Planning Board on February 8, 2016. In addition, the entire 15.88 acre lot was rezoned to Highway Business/Watershed Protection Overlay Zoning District by the Town Council on August 18, 2015.

Attorney Lacy discussed the facility was previously granted a variance in 2016 from the off-street parking requirements to construct a 208,542 sq. ft. commercial recreation/athletic facility, with a building footprint of 157,160 sq. ft. (ZBA Decision Number 15-61). The approved facility consisted of two (2) hockey rinks, an indoor swimming pool, an indoor multi-sport turf field, indoor work-out/training facilities, wellness/sports facilities and other accessory uses. The facility required 835 off-street parking spaces and the petitioners requested relief for the entire 835 off-street parking spaces. The basis of the requested relief was for the facility to utilize/share the existing 461 adjacent Braintree High School parking spaces. As part of proposed improvements by the petitioners, the number of provided spaces would increase to 475 off-street parking spaces.

The facility was granted a six month extension to January 12, 2018 to act on the zoning relief granted by the Board. The extension request was due to the project requiring a Special Permit from the Planning Board (filed on December 23, 2015) for both the Commercial Recreation Use and the location of the proposed athletic center within a 100 ft. buffer zone. However, due to concerns by the Planning Board and general public regarding the proposed project, the petitioners could not act on the approval by January 12, 2018.

Attorney Lacy discussed that after a combination of Planning Board/public concern and questions surrounding drainage and traffic impacts, the petitioners reduced the project to a 87,710 sq. ft. building (44% reduction). The primary change was the elimination of the turf field and some other related accessory uses. The reduction of the building size also allowed for movement of the building further out of the 100 ft. buffer zone, but still included non-structural activities such as walkways and drainage that will still encroach into the 100' buffer zone. The revised project was approved verbally by the Planning Board on January 25, 2018. As part of the approval, the Planning Board instilled a number of conditions to provide safeguards should detrimental impacts occur from the athletic facility that would impact the surrounding uses/area.

Attorney Lacy discussed with the members of the ZBA that the footprint of the proposed athletic facility is 87,710 sq. ft., with a total building area of 113,900 gross sq. ft. The athletic facility would occupy the majority of the 6-acre lease area previously discussed. The facility, pursuant to Zoning By-law Section 135-806, requires 464 off-street parking spaces based on its commercial recreation use. In addition, Section 135-806 requires 735 parking spaces for the high school, co-located on a portion of the previously discussed 15.88 acre lot. The 83 acre high school campus currently offers 722 existing off-street parking spaces. With the proposed construction of the athletic facility, the adjacent parking lot will increase to providing 515 parking spaces and the entire 83 acre school campus will offer a total of 776 parking spaces. The high school is an exempt educational use under G.L. c. 40A, §3 and could invoke such provision for relief from the parking requirements under the Zoning By-laws, but the Town, as the co-applicant, did not wish to disturb the parking available to the high school and instead preferred that BSC seek a variance from the parking requirements.

In support of the parking variance, BSC and the Town submitted information demonstrating that the timing of use of the high school and the athletic facility are opposite, such that the bulk of the parking may be allocated to the high school during the school day and then to the athletic facility after school hours and on weekends. BSC submitted a Traffic Impact and Assessment Study ("Study") prepared by Bayside Engineering, dated October 26, 2015 and revised on May 17, 2016, that supports the compatible use of the parking spaces for the high school and athletic facility, in addition to accommodating a Massachusetts Interscholastic Athletic Association ("MIAA") event. The study projects the number of parking spaces needed to accommodate a MIAA hockey event at the athletic facility would be 482 off-street parking spaces. Furthermore, adjusting for employees within the pro shop, concession areas, and family entertainment areas that would be open and during the MIAA event, the peak parking demand would be 500 for an MIAA hockey event, based on similar facilities. Further, Bayside Engineering's Traffic Study concludes that the main parking lot between the athletic facility and the high school provides more than adequate parking, when analyzed under the Institute of Traffic Engineers (ITE) analysis, field analysis and projected use analysis; the traffic engineer was of the opinion the existing parking area sufficiently provided off-street parking for both uses. Lastly, safe access and egress and movement on the site is accomplished through the use of existing parking areas and entrances, which further protect the surrounding neighbors from any adverse impact from the use of the parking areas.

As grounds for the variance, Attorney Lacy noted the unusual set of circumstances that led to the identification and creation of this parcel for this purpose, that being the requests for proposals solicited by the Town asking a private developer to build this facility on a site chosen by the Town, as opposed to the traditional method where a private developer would own a parcel and decide how best to develop that parcel. Here, BSC has no control over the size, location or zoning associated with the parcel, as those decisions were made by the Town. As only 6-acres were released by the School Committee to the Mayor for the purpose of leasing to a private party selected to construct and operate this athletic facility, with the balance of surrounding land remaining under the control of the School Committee, BSC does not have any option to acquire additional surrounding land to increase its parcel size to alleviate its parking requirement. Also, where the 6-acre parcel is located between Town Street and on Carson Field, there is no room for additional parking. Further, where the Town's request for proposals requires BSC to construct the Petersen Pool, a hockey rink and other amenities associated with an athletic facility and provide discounted use of the facility for Braintree teams, while recognizing that BSC must operate the facility in a manner so as to be financially viable, the size and scope of the facility itself must be sufficient for BSC to achieve financial viability. Accordingly, the size and shape of the leased parcel, as well as the size and location of the proposed athletic facility on that leased parcel, are unique. It should also be noted that, if the Town chose to construct the athletic facility itself to support the primary educational purpose of Braintree High School, the facility could be built, pursuant to G.L. c. 40A, §3, by applying only reasonable dimensional restrictions and not by a literal enforcement of the Zoning By-laws.

In addition, Attorney Lacy noted the high water table associated with this parcel, located between 7 and 18 inches below the surface, making it virtually impossible to consider an underground parking facility or significant expansion of surface parking within the confines of the 6-acre parcel.

Attorney Lacy asserted that the public welfare and convenience will be served by granting the variance, as the long-awaited Captain Petersen pool will finally be built and housed in a state of the art athletic facility that will be open to Town residents and youth sports teams. Further, Attorney Lacy argued that a literal enforcement of the Zoning By-laws would create a

hardship for BSC, who is limited to constructing the facility within the 6-acre leased parcel designated by the Town, with surrounding parcels used by and under the control of the School Committee and located outside of the Highway Business Zoning District.

Chairman Karll inquired about the conditions that were part of ZBA Decision Number 15-61. Attorney Lacy stated the ZBA Decision conditions were the result of the Board being the first regulatory “stop” for the proposed athletic facility. As such, the Board instilled a number of conditions, namely for the petitioners to develop a parking management/monitoring plan and initiate a signage program for the prohibition of parking on Town Street. Mr. Lacy stated the recent approval by the Planning Board was based on a number of conditions. Specifically, the Planning Board decision instilled conditions that were duplicative of conditions that were contained in ZBA Decision Number 15-61. As such, Attorney Lacy discussed replicating the conditions of ZBA Decision 15-61 for the revised and smaller athletic facility would be unnecessary and redundant. After reviewing ZBA Decision Number 15-61 and the Planning Board Decision dated January 26, 2018, Chairman Karll, Mr. Ford and Mr. McDonough agreed with Attorney Lacy that the conditions as part of the ZBA Decision 15-61 were in fact replicated in the Planning Board Decision. Therefore, the Board did not feel the need to instill the conditions as part of the revised project.

The petitioner presented site plans entitled " Peterson Pool Indoor Sports Complex, 128 Town Street, Braintree, Massachusetts", originally dated December 21, 2015 and last revised on February 5, 2018, pages C-0.0, C-1.0-1.1, C1.2, C-2.0, C-3.0-3.3, C-4.0-4.1, C-5.0-5.3, C6.0-6.3 and PA, prepared by Level1 Design Group of Plainville, MA and Studio Troika of Boston, MA. The applicant also presented traffic and parking assessment plans entitled "Transportation Impact and Access Study-Proposed Braintree Athletic Center" October 26, 2015 and revised on May 17, 2016, and prepared by Bayside Engineering of Woburn, MA. The applicant also presented ZBA Decision Number 15-61 and the Braintree Planning Board Site Plan Review and Special Permit Decision, dated January 26, 2018.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval. Frank Morrissey, of 6 Cameo Road, stated he wanted the petitioner/Town to ensure that there will be no parking on Town Street and/or is enforced. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

Findings

The Board found the shape and size of the leased area to be unique, in that the 6-acre leased area was selected by the Town for the purpose of constructing the athletic facility, that BSC has no control over or ability to acquire any additional abutting land under the custody of the School Committee to expand the parking area, and that the lot's high water table makes the expansion of parking facilities on the lot difficult, if not impossible. The Board further found that a literal enforcement of the Zoning By-law parking provisions would prove to be an undue hardship to BSC, as the co-applicant's traffic engineer had documented peak parking demands associated with the proposed athletic facility will be less than the 515 parking spaces in the adjacent parking lot that would be provided. In addition, the Board found the proposed peak parking demand occurs after school hours and/or occur during the summer months of July and August when school is not in session, as documented in the *Traffic Impact and Access Study*, dated October 26, 2015 and revised on May 17, 2016, prepared by Bayside Engineering. As a result, the Board found that the sharing of the proposed 515 off-street parking spaces adjacent to the proposed athletic facility would be the most appropriate solution to address the parking requirements for the proposed athletic facility and Braintree High School. 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, as adequate parking will be provided for both the high school and the athletic facility, adequate access/egress and vehicular movement on the site will be provided, and the use of the parking area will not have a detrimental impact on the surrounding neighbors.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested variance from the off-street parking requirements, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

APPROVAL OF MINUTES:

On a motion made and seconded, the Board voted 5-0 to accept the February 26, 2018 meeting minutes.

The Board adjourned the meeting at 9:00 pm.