



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 April 23, 2018

IN ATTENDANCE: Stephen Karll, Chair
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 May 21, 2018.

On a motion made and seconded, the Board voted 3-0 to continue the initial public hearing to May 21, 2018.

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

The petitioner requested the initial public hearing to be continued to May 21, 2018.

On a motion made and seconded, the Board voted 3-0 to continue the initial public hearing to May 21, 2018.

NEW BUSINESS:

- 1) Petition Number: 18-11
Petitioner: Bonnie Tan
RE: 639 Washington Street**

Bonnie Tan, 16 Chesterfield Street, #2, Readville, MA 02136 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701 and 705 to raise existing single family dwelling and construct two (2) townhouse-style buildings containing a total of four (4) residential units and nine (9) off-street parking spaces. The applicant seeks a permit, variance and/or finding that the proposed change will not be more detrimental to the neighborhood. The property is located at 639 Washington Street, Braintree, MA 02184 and is within Residential C and Residence B District Zones, as shown on Assessors Map 2031, Plot 8, and contains a total land area of +/- 15,846 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 April 23, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Richard McDonough and Stephen Sciascia, Members; and Gary Walker, Alternate.

Evidence

Attorney William Phelan, representing the petitioner, provided an overview of the existing conditions. Mr. Phelan described the subject project encompasses approximately 15,846 sq. ft. of land and contains a single family dwelling. The existing lot is located within two Zoning Districts, which split the lot: Residence C and Residence B Zoning Districts. Attorney Phelan highlighted the Residence C portion, which allows for multi-family dwellings, encompasses approximately the front 2/3 of the property. The surrounding area is a mix of lot sizes and uses, most notably a number of multi-family dwellings in the immediate area.

Attorney Phelan discussed the petitioner is proposing to raise the existing single family dwelling and construct two (2), three-story, two-unit, residential townhouse-style buildings, resulting in a total of four (4) units. Mr. Phelan reminded the Board, the petitioner was approved in 2016 for six (6) residential units by the Board (ZBA Decision No. 14-39). However, due to concerns by the Planning Board, the project has been number of provided residential units was decreased from six (6) to the present four (4) residential units. Each townhouse unit will have three (3) bedrooms and enclosed garage parking for two vehicles on the first floor. Both proposed residential buildings are well designed with mansard-style roofs and will dramatically enhance the area. The project will be served by a total of nine (9) off-street parking spaces, with a potential for additional off-street parking spaces in front of each of the first floor garages. Attorney Phelan stated the parking of vehicles in front of garages would not impede emergency access thru the site. Mr. Phelan added the fire department has no issues with the proposed project.

In order to accomplish the redevelopment of this site, a number of variances and/or findings are required:

1. Section 135-701 of the Zoning By-laws requires lots in a Residence C Zoning District to provide a minimum lot area of 43,560 sq. ft. The existing lot is 15,846 sq. ft. The Zoning District also requires lots to provide a minimum lot width of 200 ft. The existing lot provides 87.2 ft. of lot width. Furthermore, the Zoning District requires lots to provide a lot depth of 200 ft. The existing lot provides 176.1 ft. of lot depth. As no new zoning nonconformities with respect to the lot will be introduced, a finding is required pursuant to G.L. Chapter 40A, Section 6.
2. Section 135-701 of the Zoning By-laws requires structures/buildings in a Residence C Zoning District to provide a minimum front yard setback of 50 ft., a minimum side yard setback of 30 ft. and a minimum rear yard setback of 50 ft. The proposed townhouse building "A" will provide a front yard setback of 20 ft. on Washington Street. Building "A" will also provide a left side yard setback of 20.6 ft. and a right side yard setback of 20.4 ft. The proposed townhouse building "B" will provide a left side yard setback of 15.1 ft. and a right side yard setback of 15 ft. Building "B" will also provide a rear yard setback of 34 ft. Therefore, building "A" requires front and side yard setback variances and building "B" requires side and rear yard setback variances.
3. Section 135-705 of the Zoning By-laws permit multifamily dwellings in a Residence C Zoning District, provided the minimum lot size is 43,560 sq. ft., minimum frontage is 100 ft. and minimum open space is 2,000 sq. ft. per dwelling unit. The lot area for the property is 15,846 sq. ft. The proposed project will meet the required 100 feet of frontage. As four (4) residential units are proposed, the minimum open space required is 8,000 sq. ft. The proposed project offers 6,814 sq. ft. of open space. Therefore, variances are required.
4. Section 135-705 of the Zoning By-laws also permits multi-family dwellings in a Residence C Zoning District, provided the site allows 5,000 sq. ft. for each one bedroom unit or studio unit plus 1,000 sq. ft. for each additional bedroom. Applying this ratio to the proposed development, 28,000 sq. ft. of lot area would be required for the 4 residential units. Stated another way, the total area of the site only offers 15,846 sq. ft. of area, which would allow 2.26 three bedroom residential units. Therefore, a variance from this density ratio is required.

As grounds for the variances, Attorney Phelan explained the development site is unique and irregularly shaped. The narrowing lot width from east to west of the property creates a unique hardship that pertains to attempted redevelopment of the property. In addition to shape of the property, there is significant upward sloping topography of the property, roughly an 8% grade from east to west. The petitioner also highlights that absent relief from the Zoning Bylaws, density of approximately two (2) total residential units would be allowed; a density inconsistent with the number of large multi-family dwellings in the immediate area. In addition, many of the existing lots and dwellings in the immediate area do not meet the strict dimensional requirements of the Residence C zoning district. Furthermore, the petitioner states such a low density would not be consistent with Transit Oriented Development (TOD) principles as the proposed project is within a five minute walk to the Braintree MBTA Red Line station. As such, the convenient TOD location further reduces the need to use a motor vehicle. Lastly, the petitioners highlight the proposed well-designed project would help to meet the existing demand in the Town of Braintree for high-quality, multi-family housing that is TOD in nature.

The Planning Board voted 5-0 to submit a recommendation to endorse the staff recommendation of approval. Shirley Lee of 8 Gardner Terrace, Huu Son of 633 Washington

Street, and Daniel Grant of 14 Garden Terrace submitted letters of support. Mary Kelly, of 632 Washington Street, spoke in opposition to the project due to the proposed density and parking/traffic impacts. Ms. Kelly did highlight the project is well designed. William (unknown last name), of 632 Washington Street, spoke in opposition to the project due to the proposed density and parking/traffic impacts. Doris McCann, of 632 Washington Street, spoke in opposition to the project due to the proposed density and parking/traffic impacts. Linda McCarthy, of 632 Washington Street, spoke in opposition to the project due to the proposed density and parking/traffic impacts. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

Chairman Karll stated he felt the proposed project was a much better project than the previously approved six (6) unit project. Mr. Karll acknowledged the petitioners met the off-street parking requirements, and in fact exceeded the regulations. Member Walker expressed the traffic/parking impacts of the project would be minimal, especially compared to the large multi-family project directly across the street. Mr. Walker also pointed out the project is very close to the MBTA station and will be well designed. Member McDonough stated the project meets and exceeds the parking regulations and would have minimal vehicular impacts.

The petitioner submitted an existing conditions plan entitled "Existing Conditions Site Plan, 639 Washington Street, Land in Braintree, Mass", dated April 30, 2014, prepared by Claudio Sala of Quincy, MA. The petitioner also submitted a proposed site plan entitled "Site Plan, Residence at the Monatiquot, Proposed 4-Unit Townhouse, 639 Washington Street, Land in Braintree, Mass", dated September 21, 2017 and prepared by Neponset Valley Survey Assoc., Inc., of Quincy, MA. The petitioner also submitted floor plans and elevations entitled "Homes of Monatiquot", Sheets A1.1, A1.2, A2.1 and A2.2, dated November 23, 2017, prepared by BT Design of Quincy, MA and Barnett Berliner of Brookline, MA. The petitioner also submitted a proposed landscape plan entitled "Planting Plan", dated November 28, 2017 and prepared by MKA Landscape Architects of Dighton, MA.

Findings

The Board found that the petitioner had substantiated a hardship owing to the shape and topography of the lot. Specifically, the Board found the decreasing lot width from east to west of the property, in addition to the sloping topography, creates a unique hardship that pertains to attempted redevelopment of the property. The Board also found that the proposed redevelopment of the site, would provide additional open space/landscaping and establish an aesthetic appearance would not be substantially more detrimental to the neighborhood than the existing single family dwelling. The Board also found the proposed project is consistent, in fact a better project than the with the previously approved six-unit project the Board approved as part of ZBA Decision No. 14-39. Also, the Board found the petitioner exceeds the amount of off-street parking provided (9 spaces plus potential for additional spaces in front of garages) pursuant to the off-street parking zoning requirements. Furthermore, the Board found the provided off-street parking spaces serving the four (4) residential units would be more than sufficient. Finally, the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law. In making these Findings, the Board agrees with the applicant's justifications and evidence set forth above and as contained in the report of the Zoning Administrator, endorsed by the Planning Board.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested findings pursuant to Bylaw Section 135-403, variances from the front, side and rear yard setback regulations, and Section 135-705 multi-family density regulations, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

- 2) Petition Number: 18-12**
Petitioner: Mandy Meihui Huang
RE: 209 Washington Street

Mandy Meihui Huang, 209 Washington Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to raise existing one-story single family dwelling (1,082 sq. ft. building footprint) and construct a 2.5 story, single family dwelling with attached single car garage (1,500 sq. ft. building footprint). 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 209 Washington Street, Braintree, MA 02184 and is within a Residential B District Zone as shown on Assessors Map 2062, Plots 17 & 18 and contains a land area of +/- 8,365 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 April 23, 2018 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Richard McDonough and Gary Walker, Members; and Stephen Sciascia, Alternate.

Evidence

Gerry Lui, the petitioner's design/contractor, explained the petitioner is seeking to raise the existing one story single family dwelling and construct a new 2.5 story, single family dwelling in approximately the same footprint. Mr. Lui explained the property is uniquely shaped due to previous land takings for the construction of Route 3, which is adjacent to the property. As a result of the takings, the property is accessed off of Cavanaugh Road, even though the property has a Washington Street address. In addition, he discussed the dwelling is in poor shape, small and is only partially finished on the inside. Mr. Lui stated the new single family dwelling will provide a new, quality single family dwelling to the housing stock.

Chairman Karll stated that the lot is highly irregularly shaped. Mr. Karll also asked the petitioner about any potential screening that could be provided in response to the abutter's concern about the new dwelling's views into their property. Mr. Lui responded they will be slightly improving the rear yard setback. Chairman Karll stated there is likely insufficient space to install any large shrubs trees. Mr. Karll asked the petitioner if they would agree to split the cost of a larger fence with the abutter to provide enhanced screening. The petitioner stated she would.

The petitioner's existing lot is nonconforming, as it contains only 8,365 sq. ft., where 15,000 sq. ft. is required, and provides only 96.4 ft. of lot width, where 100 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the rear yard setback; the

dwelling is located 6 ft. from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 ft. The proposed reconstruction will not increase, but slightly improve the existing rear yard setback nonconformity to 6.7 ft. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the new dwelling will not generate any new zoning nonconformity. Secondly, the petitioner noted the addition will be similar to the existing neighborhood architectural characteristics and is well designed. Therefore, the proposed project will not be more detrimental to the neighborhood.

The petitioner presented an existing plot plan entitled "Mortgage Inspection Plan, 209 Washington Street", dated July, 17, 2012, prepared by Boston Survey, Inc. of Charlestown, MA. The petitioner also presented the plot plan entitled "Plan of Land in Braintree, MA", dated March 8, 2018, prepared by CS Kelley Land Surveyors, Pembroke, MA. The petitioner also presented a site plan, floor plans and elevations, sheet No. L-1, A-0 thru A-8, S-0 thru S-4, dated February 20, 2018, prepared by Jessy Design – Build LLC of Braintree, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval with conditions: 1.) Any changes to the approved plans will require ZBA approval; 2.) Submission of a certified foundation to the Planning & Community Development Department prior to vertical construction; and 3.) Submission of as-built plan to the Planning & Community Development Department prior to issuance of a Certificate of Occupancy. Glenn O'Connor, of 25 Cavanaugh Road, stated his concern with the height of the proposed dwelling as the existing dwelling is located close to his rear property line. As a result, the proposed two-story dwelling will look into his property. Mr. O'Connor requested the petitioners agree to provide a taller fence for screening purposes. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

Findings

The Board found that the existing lot is pre-existing nonconforming in terms of lot area and width, as noted above. In addition, the Board found that the existing dwelling is pre-existing nonconforming in terms of the rear yard setback. The Board found that the lot is highly irregular in shape due to prior land takings for the construction of Route 3. 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 addition will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

Decision

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

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

- 4.) Petitioner to financially contribute toward a seven-section, eight foot high fence between the petitioners rear yard property line and the abutting 25 Cavanagh Avenue.

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

After discussion with the Board, the petitioner requested the initial public hearing to be continued to May 21, 2018.

On a motion made and seconded, the Board voted 3-0 to continue the initial public hearing to May 21, 2018.

APPROVAL OF MINUTES:

On a motion made and seconded, the Board voted 4-0 to accept the March 26, 2018 meeting minutes.

On a motion made and seconded, the Board voted 4-0 to update the 2018 Zoning Board of Appeals Schedule to change the August 27, 2018 hearing to August 20, 2018.

The Board adjourned the meeting at 9:00 pm.