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ZONING BOARD of APPEALS

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

April 25, 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. Member Burke announces that he will be absent from the May ZBA Meeting.

NEW PETITIONS

Petition #22-09
421 Quincy Avenue

Chairman Karll reads the Legal Notice into record:

“Poyant Signs, Applicant, for relief from Bylaw Requirements under Chapters 135-407, 135-904.2, 135-905 for the installation of two wall signs and a digital menu board to the Fast Food Restaurant. The Applicant seeks a variance for the proposed signs that exceed the requirements for wall signs in a Highway Business Zone and a Variance for the illumination of the digital menu board. The property is located at 421 Quincy Avenue, Braintree, and is zoned Highway Business District as shown on Assessors Map 3046 Plot 3 with a Land Area of 45,002.”

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

Mr. Bill Galvin of Poyant Signs, present before the Zoning Board of Appeals, for relief to construct two additional wall signs and install a digital menu board for the existing fast food establishment operating as Dunkin Donuts. Mr. Galvin explained to the Zoning Board of Appeals that the company was undertaking a remodel of locations throughout new England and this sign proposal is derived from the rebranding of the 'Dunkin brand. Mr. Galvin stated the existing building is very large that features an existing drive thru that encompasses the entire building.

Mr. Galvin explained to the Board of Appeals that the Applicant has refaced the existing Ground Sign along Quincy Avenue and altered a Wall Sign on the front of the building as of right. Mr. Galvin stated that one of the two Wall Signs they seek relief for will feature the brand logo "DD" which is 17.4 Square Feet. Mr. Galvin further explained that the second Wall Sign seeking relief would consist of "Braintree Dunkin" with the running man logo which is 7.39 Square Feet. All of the wall signs on the building will have a Square Footage of 47.18 Square Feet which complies with Braintree Zoning Bylaw Section 135-904.2(A)(5)(e).

Mr. Galvin highlighted to the 'Board the request for the Digital Menu Board which requires a Variance from section 135-905 of the Braintree Zoning Bylaw. Mr. Galvin stated the proposed sign is now becoming industry standard which differs from the static board that is in place now. Mr. Galvin further added that the sign would be at the rear of the building and away from the public eye along Quincy Avenue. In addition the requested variance, pursuant to 135-904.2(1)(g), permission is needed from the Zoning Board of Appeals for more than one ground sign.

Member Michael Ford stated to the 'Board that the towns signage regulations under Article IX need to be looked at considering the amount of Applications before the Zoning Board of Appeals for Wall Signs. The Assistant Director of Planning and Community Development concurred with Member Ford on this issue.

Chairman Karll acknowledged the hardships presented by the Applicant in support of the requested variance. 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 Richard McDonough.

APPROVED

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 Richard McDonough. All in Favor: S. Karll – Aye, M. Ford – Aye, T. Burke – Aye.

Chairman Karll calls on the Applicant for 190 Quincy Avenue.

**Petition #22-10
190 Quincy Avenue**

APPROVED

Chairman Karll reads the legal notice into record:

“190 Quincy Avenue LLC, Applicant, for relief from Bylaw Requirements under Chapters 135-306, 135-407, 135-701, 135-707, 135-806 and 135-808 to construct a 306 Square Foot single story addition to the existing retail building. The applicant seeks a variance as the proposed structure will have a Rear Yard Setback of 11.3 Feet where 20 Feet is required. The Applicant also seeks a variance for the required amount of parking for the retail use as 17 Parking Spaces are existing and 18 Parking Spaces are required. The property is located at 190 Quincy Avenue, Braintree, and is zoned General Business District and Residence B as shown on Assessors Map 3052 Plot 89 with a Land Area of 15,178 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 calls on the Applicant to present.

The Applicant, 190 Quincy Avenue LLC, was represented by Attorney Frank Marinelli, to present before the Zoning Board of Appeals. Chairman Karll added that the Staff Recommendation on this matter was Approval with conditions. Chairman Karll invited the Applicant to present. Assistant Director of the Department of Planning and Community Development stated to Chairman Stephen Karll that the Applicant has revised the Plans as requested in the Staff Report.

Attorney Frank Marinelli presented to the Zoning Board of Appeals the request to construct a 406 Square Foot Addition to the existing Non-Conforming commercial structure. Attorney Marinelli stated he is appearing on behalf of Ray Kelly, Manager of 190 Quincy Avenue LLC. Mr. Kelly is seeking to occupy the retail space formerly occupied by Ace Curry Hardware for his seafood business, Waves. Chairman Karll questioned the Applicant as to the seafood options that would be made available. Mr. Kelly informed Chairman Karll that there will be raw and fried seafood options in addition to other customary dishes. Attorney Marinelli further stated that the Applicants use as a retail establishment is a use by right in a General Business Zone pursuant to Section 135-601 of the Braintree Zoning Bylaw. Attorney Marinelli highlighted the options that would be made available to the public including raw fish, prepared food to take home and take home meals.

Attorney Marinelli spoke to the lots conformance with Section 135-701 of the Braintree Zoning Bylaw yet noted the lots irregular trapezoidal shape as a site specific hardship in support of the Applicants Variance request. Attorney Marinelli stated that the Applicant is seeking a Variance for the Rear Yard Setback at 11.3 Feet for the proposed 406 Square Foot Addition as well as a Variance from the required amount of parking spots. Attorney Marinelli added that there is no substantial detriment here as the Applicant is seeking to make an investment and drastic improvement to the property further adding that the building has not had any renovations in about 50 Years.

Attorney Marinelli presented plans that offer screening to the proposed addition from the residential abutter and further added that this area was primarily used for the hvac equipment and outdoor storage with the prior user of the property. Attorney Marinelli spoke to the request of the Parking Variance. Attorney Marinelli stated that the Applicant is seeking to stripe 15 spaces although 17 parking spaces are required. Attorney Marinelli stated this property has never been striped and yet the zoning requirements require the business to be over parked as 1 Space for 200 Square Feet is required, which would require 17 Spaces. Attorney Marinelli requests the 'Board find that the 15 Parking Spaces be appropriate for the use.

Member Michael Ford questioned the Applicant as to how frequently they would use the cooler. Mr. Ray Kelly stated they would use the cooler frequently as the products need refrigeration. Member Ford questioned as to why they would not use the basement. Mr. Kelly clarified that the building sits on a slab foundation. Member Ford speaks to the improvements being made as the prior user would have a significant amount of outdoor storage, further stating the Applicant is cleaning up the property with the impact being minimal and not detrimental.

Member Gary Walker questioned the Applicant in regards to the dumpster collection. Mr. Ray Kelly clarified that the dumpster would be emptied daily.

Alternate Member Timothy Burke questioned the Applicant as to why the cooler was not presented in another location. Mr. Kelly stated that the Side Yard is tight at 9 Feet and the cooler itself is 14 Feet wide. In addition, the natural gas connection is in that location. Mr. Burke questions if there is any insurgent noise from the cooler. Mr. Kelly stated the cooler does not produce much noise.

No one from the public offered any testimony in favor or in opposition of the relief requested.

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

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, further stating that 15 Parking Spaces is sufficient for this use. Motion Seconded by Member Gary Walker. All in Favor: S. Karll – Aye, M. Ford – Aye, G. Walker – Aye.

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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 444 Quincy Avenue.

Petition #22-11
444 Quincy Avenue

APPROVED

Chairman Karll reads the legal notice into record:

“Chester Sherman LLC, Applicant, for Relief from Bylaw Requirements under chapters 135-407, 135-904.2, 135-905 to install a 76 Square Foot Ground Sign 23 Feet in height for the Motor Vehicle Dealership. The Applicant seeks to amend Decision 07-07 which granted relief for signage at this site. The property is located at 444 Quincy Avenue, Braintree, and is zoned Highway Business as shown on Assessors Map 3049 Plot 6 with a land area of 12.6 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.

Chi Man, Civil Engineer for the Applicant, presented before the Zoning Board of Appeals on behalf of the Applicant, Mark Bogan of FBO1444 MPB Nominee Trust.

Attorney Frank Marinelli presented before the Zoning Board of Appeals to revise the existing ground sign at the Motor Vehicle Dealership. Attorney Marinelli states the Applicant is seeking to amend Decision 07-07 granted by the Zoning Board of Appeals with the proposed ground sign. Mr. Marinelli provided the Board a history of the property in question stating over the past several years this site has transitioned from an out of date shopping plaza into a Motor Vehicle Dealership. Attorney Marinelli states the Applicant has repositioned the dealerships along Quincy Avenue and thus the location has changed from Quirk Subaru to Quirk GMC. Attorney Marinelli further added that the sign is proposed to offer a reduction in the height and square footage. The proposed Quirk GMC Ground Sign will have a height of 23 Feet and 76 Square Feet whereas the previously approved sign was 26 Feet in height and 132 Square Feet.

Attorney Marinelli discusses with the Board the hardships identified as part of this Variance request citing the lots irregular shape and the distance of the principle building in relation to Quincy avenue. In addition, Attorney Marinelli cites the lots steeping topography from East to West.

Member Michael Ford states to the Board he does not have any objections to the Applicants request. Member Timothy Burke states the request is fairly straight forward.

Chairman Karll acknowledged the hardships presented by the Applicant in support of the requested variance. 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 lot, 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.

Chairman Karll called on the Applicant for 16-18 Pearl Street.

**Petition #22-12
375 & 381 Granite Street**

APPROVED

Chairman Karll read the legal notice into record:

“Hank Duong, Applicant, for relief from Bylaw Requirements under chapters 135-407 and 135-701 to subdivide the existing two parcels of land into three lots. The Applicant seeks a Variance as “Parcel B” will have a Lot Area of 20,147 Square Feet and 25,000 Square Feet is required. The properties are located at 375 Granite Street and 381 Granite Street, are zoned Residence A and Residence B, as shown on Assessors Map 2042 Plots 6 and 6F with a combined land area of 60,337 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 read into record the Staff Recommendation of Approval with Conditions.

Chairman Karll calls on the Applicant to present.

Attorney Carl R. Johnson, presented to the Zoning Board of Appeals the request to subdivide the existing two parcels of land into three separate lots. Present alongside Attorney Johnson is James McGrath, the surveyor of record. Attorney Johnson spoke to the original parcel of land that was owned by the Ross Family that has since been divided. Attorney Johnson highlighted the several plans that were submitted alongside the Application for Relief, specifically the “Plan of Land” prepared by Robert E. Hannigan dated May 4, 1992 which allowed for the creation of two lots – 381 Granite Street containing 30,245 Square Feet and 375 Granite Street containing 29,912 Square Feet from the existing parcel. Attorney Johnson detailed to the Zoning Board of Appeals the Existing Conditions Plan that demonstrates the Two Lots in question with the existing sloping topography. Attorney Johnson calls for the ‘Boards attention to the proposed

plan that was submitted that illustrates the three proposed lots – Lots A and C would conform to Section 135-701 of the Braintree Zoning Bylaw while Lot B would require relief for required Lot Area, Lot Width and Lot Depth.

Attorney Johnson stated to the Zoning Board of Appeals that the Applicant has performed a 900 Foot Survey from his property which demonstrates that 38/45 lots surveyed are under the required Residence A Lot Size. Chairman Stephen Karll questioned Attorney Johnson if this site sat across from the South Shore Plaza. Attorney Johnson stated it sits across from the old Fidelity Building on Granite Street. Attorney Johnson reiterated that the average lot size at a 900 Foot radius was 20,000 Square Feet. Attorney Johnson spoke to the lots zoning configuration which is split by the 100 Foot strip of Residence B along Granite Street. In addition, Attorney Johnson directed Board Members to the signatures of support from the direct abutters along Granite Street, Davis Road, and Blossom Road.

The Applicants Surveyor, James McGrath, presented to the Zoning Board of Appeals the existing conditions plan that was performed in October of 2021. Mr. McGrath spoke to the site's topography which is fairly steep from the back of the parcel towards Granite Street. Mr. McGrath further speaks to the utilities of the property that are insufficient in regards to location and the required easements that are needed as they cross multiple lot lines. Mr. McGrath further stated that the goal as part of this proposal would be to have all the utilities come in through one lot with easements to the surrounding lots. In addition to the changes in utilities, Mr. McGrath details that the driveways proposed will feature a 10% slope and be properly engineered. However, This is the first step in the process.

Attorney Carl Johnson speaks to the relief needed for Parcel B as a Variance is needed due to the elevation of the site. Given the changes in topography, a Grading Permit would be needed to design suitable lots for the construction of a Single Family Dwelling with stormwater improvements on all three properties. The grading that will be needed is to avoid having a house behind house Attorney Johnson further adds that there will be a Non-Conformity removed as there is one driveway that serves three lots. As part of this proposal, the two existing curb cuts along Granite Street will be utilized to serve two lots each in conformance with Section 135-604 of the Braintree Zoning Bylaw.

Mr. Hank Duong, Applicant, speaks before the Zoning Board of Appeals. Mr. Duong states he built his home in 2008-2009 at 375 Granite Street. He stated that he witnessed the property in front of him get destroyed by fire and was concerned for the safety of his property. Mr. Duong further added he purchased the property from the prior owner as it became an eye sore with the hopes of redeveloping the property into two house lots, with one of the lots to be conveyed to his son.

Chairman Karll questioned the Applicant as to who is taxed for the driveway and who plows the driveway during the winter time. Mr. Duong responded that he plows the driveway. Attorney Johnson advises that the parcel is taxed on where the driveway lies. Chairman Karll spoke to the driveway access. Attorney Johnson states there is a window to leave but tight, left turns out of

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the driveway can be difficult and often involve an alternative route. Chairman Karll noted the amount of legal work to straighten out the utility easements on this property.

Member Michael Ford stated he has concerns with the Applicants proposal in regards to the deficient lot size. Member Ford Acknowledged that there are positives to the Applicants proposal. Member Ford spoke to prior Applications for similar relief that would further set precedent. Attorney Johnson responded to Member Fords comments stating he respectfully disagrees, when there are applicable hardships a Variance can be granted. Attorney Johnson further added that there is no more land being made and the proposed lot size correlates to the existing lot sizes in the neighborhood.

Chairman Karll asked the Applicant if there were alternatives to what is proposed. Attorney Carl Johnson advised to the 'Board that the layout can be looked at. Chairman Karll stated to the 'Board that the chair will entertain a motion to continue the Public Hearing to the May 23, 2022 Meeting. Motion made by Member Michael Ford and Seconded by Member Richard McDonough.

Chairman Karll called on the next Petition 22-13, 695-727 Granite Street.

**Petition #22-13
695-727 Granite Street**

APPROVED

Chairman Karll read the legal notice into record:

“Sign Design, Applicant, for relief from Bylaw Requirements under chapters 135-407, 135-904.2 and 135-905 to install a 32 Square Foot Wall sign to the existing office building. The Applicant seeks a variance for the proposed sign that exceed the requirements for wall signs in a Highway Business Zone. The property is located at 695-727 Granite Street, is zoned Highway Business District and within the Watershed Protection District, as shown on Assessors Map 2048 Plot 32 with a land area of 13.13 Acres. “

The Applicant, Sign Design, was represented by Marie Mercier, to present before the Zoning Board of Appeals. Chairman Stephen Karll read the legal notice into record and stated he was satisfied that abutters had been properly notified. Chairman Karll added that the Staff Recommendation on this matter was Approval with conditions. Chairman Karll confirmed that members Michael Ford and Gary Walker will be sitting on the Petition with Richard McDonough serving as the Alternate. Chairman Karll invited the Applicant to present.

Marie Mercier presented before the Zoning Board of Appeals to install an additional wall sign to the existing bank at 695-727 Granite Street. Mrs. Mercier stated to the Zoning Board of Appeals that the tenant of the existing bank space at 695-727 Granite Street has occupied the former Century Bank with Eastern Bank. As part of this process they are rebranding the existing tenant space. The new tenant, Eastern Bank, is seeking to install a 32 Square Foot Wall Sign to the existing building that faces oncoming traffic along Granite Street. The sign would be on the façade just before the drive up atm. Mrs. Mercier states the additional signage would help assist

customers arriving to the site. Mrs. Mercier further states to the Zoning Board of Appeals that one wall sign has been installed to the building as of right.

Mrs. Mercier discusses with the 'Board the hardships identified as part of this Variance request citing the lots irregular shape and the distance of the principle building in relation to Granite Street. In addition, Mrs. Mercier cites the multiple curb cuts along granite street with the tenant space being between two of the existing curb cuts.

Member Michael Ford states to the 'Board he does not have any objections to the Applicants request. Member Gary Walker states the request is fairly straight forward.

Chairman Karll acknowledged the hardships presented by the Applicant in support of the requested variance. 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 Member Gary Walker.

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 Gary Walker. All in Favor: S. Karll- Aye, M. Ford – Aye, G. Walker -Aye.

Chairman Karll stated there are minutes to be approved. Member Michael Ford motioned to Approve the minutes of February 24, 2020. Seconded by Member Richard McDonough. All in Favor: S. Karll – Aye, M. Ford -Aye, R. McDonough – Aye.

Member Michael Ford motioned to Approve the minutes of February 28, 2022. Seconded by Member Richard McDonough. All in Favor: S. Karll – Aye, M. Ford -Aye, R. McDonough – Aye.

Chairman Karll Stated there shall be a motion to close the meeting. Member Timothy Burke motion to close the meeting, Seconded by Member Richard McDonough. All in Favor: S. Karll – Aye, R. McDonough – Aye, T.Burke – Aye.

Meeting Adjourned at 9:48 PM.

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