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ZONING BOARD of APPEALS

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

June 27, 2022
Zoning Board of Appeals Minutes
Cahill Auditorium – Town Hall
1 JFK Memorial Drive

APPROVED

Present: Stephen Karll, Chairman
Michael Ford, Member
Gary Walker, Alternate
Timothy Burke, Alternate
Connor R Murphy, Assistant Director

Absent: Richard McDonough, Member

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.

OLD BUSINESS

**Petition #22-05
341 Franklin Street**

Chairman Karll clarifies that members Stephen Karll, Michael Ford and Timothy Burke will be sitting on this Petition. Chairman Karll clarifies that Member Timothy Burke will be sitting as the Alternate due to Member Richard McDonough's Absence.

Mr. Stephen Ross, alongside their Attorney Bruce Issadore, presented revised plans to the Zoning Board of Appeals. Mr. Ross highlighted the changes to the plans which includes pushing the dwelling further into the lot to distance the structure from the closest abutter. The proposed amount of parking does not change as there are two internal garage spaces for 341 Franklin Street and 4 external parking spaces for 343 Franklin Street. Attorney Bruce Issadore spoke to the improvements over existing conditions with the revised plans. Attorney Issadore further adds that the Applicants proposed height conforms with the height requirements under the Braintree Zoning Bylaw. Mr. Ross highlighted the need for variances from the side yard

setbacks as 0.5 Feet is proposed for the Western Side Yard Setback and 3.6 Feet is proposed for the Eastern Side Yard Setback.

Chairman Karll confirms with the Applicant and staff as to the relief needed. The Assistant Director of Planning and Community Development stated there is a Finding needed to demolish and reconstruct on an undersized lot and Variances are needed for the proposed Side Yard Setbacks. Chairman Karll confirmed with the Applicant that the lot lines were not being altered as part of this request.

Chairman Karll called on members of the Public for any testimony in support or in opposition of the Applicants request.

APPROVED

Mr. Robert Brack of 337 Franklin Street stated he has reviewed the revised plans presented by the Applicant and discussed this matter with them. Mr. Brack further adds that the Applicant has proposed to install a 6 Foot Vinyl fence along the property line with arborvitae screening.

Kristen Ostopowicz stated she was present on behalf of Lillian Ostopowicz and confirmed they have reviewed the revised plans which is an improvement over the original proposal.

Chairman Karll stated the 'Board shall entertain a motion to close the Public Hearing. Member Michael Ford motioned to close the Public Hearing. Seconded by Alternate Member Timothy Burke.

Member Michael Ford stated they are living with something that has already happened and trying to make a bad situation better as part of this.

Member Michael Ford questioned staff on the plans as revised and whether we can vote on this matter or continue. The Assistant Director of Planning and Community Development stated there are revision that need to be made based on testimony provided by the Applicant and Public. However, these revisions can be conditional.

Member Timothy Burke offered support further stating he's appreciative of the resolution offered to satisfy abutter concerns.

Assistant Director for the Department of Planning and Community Development stated there are conditions proposed relative to recording the decision after the 20 Day Appeal Period; Including the Decision with the Building Permit; working the Stormwater Division of DPW for any required Stormwater Permits, to install the screening along 337 Franklin Street with respect to the fencing and landscaping as to not hinder visibility of traffic along Franklin Street, to install the landscaping along the rear of the property, to install cape cod berm along the driveway; having the surveyor stake out the location of the house and fence prior to the start of construction, a certified foundation plan prepared by a Registered Land Surveyor prior to vertical construction, an As-Built Plan prepared by a Registered Professional Land Surveyor prior to the issuance of a Certificate of Occupancy, and a condition that grade changes are not

approved and should be in conformance with Article XII of the Braintree Zoning Bylaw. Chairman Karll confirms the conditions with the Applicant.

Member Michael Ford motioned to Approve the requested Variances for the Side Yard Setbacks pursuant to the irregularly shaped lot and sloping topography and a Finding to reconstruct on an undersized lot as it was not more detrimental than the existing non-conformity, pursuant to the plans as revised and conditions as discussed tonight. Motion seconded by Alternate Member Timothy Burke. All in Favor: S. Karll – Aye, M. Ford – Aye, T. Burke – Aye.

Chairman Karll calls on the Applicant for Petition #22-16, 7 Bellevue Avenue.

Petition #22-16
7 Bellevue Avenue

APPROVED

Chairman Karll stated the Public Hearing was opened and continued without testimony from the May 23, 2022 Meeting. Chairman Karll confirmed that Members Stephen Karll, Michael Ford and Gary Walker were sitting on the petition, with Member Timothy burke serving as the Alternate. Chairman Karll invited the Applicant to present.

Daniel and Mindy O’Leary, Applicant, were present before the Zoning Board of Appeals to demolish an existing portion of the Single Family Dwelling and construct a new two story addition. Chairman Karll stated the Staff Recommendation is approval with conditions. The Assistant Director of Planning and Community Development stated the Applicant submitted revised plans from their architect regarding the stair access to the Attic.

Mrs. Mindy O’Leary stated her and her husband were the owners of 7 Bellevue Ave and are looking to remodel the existing Dwelling. Mrs. O’Leary spoke to the desire of demolish a portion of the single story structure to reconstruct a two story dwelling within the same footprint. Assistant Director of the Planning and Community Development Department stated the Applicant is in need of a Finding as the proposed addition is within the Non-Conforming Rear Yard Setback as 25.8 Feet is existing and 30 Feet is required. Mrs. O’Leary highlights the letters of support that were provided prior to the Public Hearing from direct abutters.

Chairman Stephen Karll questioned the ‘Board if there are any comments or questions at this time. Member Ford questioned the purpose of the attic. The Applicants Architect stated it was a pull down attic that will remain unfinished.

Chairman Karll opened to members of the audience for testimony regarding the relief requested. No one from the public offered any testimony in favor or in opposition of the relief requested.

Member Michael Ford stated that the Applicants request was fairly straight forward. Member Gary Walker stated he had no objections to the Applicants required.

Chairman Karll stated there shall be a motion to close the Public Hearing. Member Michael Ford motioned to close the Public Hearing, seconded by Member Gary Walker.

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

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

Chairman Karll stated the board will move to the New Petitions on the Agenda and calls on the Applicant for Petition #22-20, 90 Newton Avenue.

NEW PETITIONS

APPROVED

**Petition #22-20
90 Newton Avenue**

Chairman Karll reads the Legal Notice into record:

“Michael Walsh, Applicant, for relief from Bylaw Requirements under Chapters 135-407 and 135-701 for 90 Newton Avenue (Plot 43) and proposed adjacent land (Plot 42), which are combined for zoning purposes due to common ownership and can be separate lots with zoning relief. Plot 43 (#90 Newton Avenue) would be 11,000 SF and maintain the existing Single Family Dwelling. Plot 42 (vacant land) would be 5,500 SF and buildable for a Single Family Dwelling. The proposed lots are deficient with regards to lot size and lot width. The Applicant seeks Variances. The properties are located at 90 Newton Avenue and Plot 42, Braintree, MA and are within a Residence B Zoning District, as shown on Assessors Map 3052 Plot 42 and Assessors Map 3052 Plot 43, and contains a combined land area of +/- 16,500 SF..”

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 Gary Walker serving as the Alternate.

Chairman Karll stated the Staff Recommendation on this Application is a continuance with revisions to the plans submitted. Chairman Karll calls on the Applicant to present.

Mr. Michael Walsh, Applicant, was present before the ‘Board to subdivide the existing parcels of land that merged for zoning purposes into two sperate lots. Mr. Walsh references the Cedarhurst Subdivision Plan which was the original layout of the neighborhood. Mr. Walsh states the parcel he seeks to make buildable is Parcel 42 on the subdivision plan, which has never been used. Mr. Walsh further states his intentions are to build a new home on this parcel.

In regards to Variances needed, The Assistant Director of Planning and Community Development states this will require Variances for both lots - 90 Newton Ave: Lot Area as 11,000 Square Feet is proposed, 15,000 Square Feet is required. Proposed Lot (Parcel ID 3052 0 42): Lot Area as 5,500 Square Feet is proposed, 15,000 Square Feet Required; Lot Width as 50 Feet is proposed, 100 Feet Required.

Chairman Stephen Karll questions Mr. Walsh if he would be living in this home. Mr. Walsh states the intention would be to move into the new home while selling the existing dwelling at 90 Newton Avenue.

Chairman Karll directs to Board Members if they have any questions or comments at this time. Member Michael Ford states he does not at this time noting that the 'Board has seen this request for this property before. Alternate Member Timothy Burke states he does not have any questions at this time.

Chairman Karll notes that the Cedarhurst Subdivision Plan depicts uniform lots within the neighborhood. Mr. Michael Walsh speaks to the lots having been combined for zoning purposes yet hold individual assessors' information while being taxed separately. Mr. Walsh states the topography of the parcels in question substantially slopes from the front to rear.

Chairman Karll called on members of the public in attendance for any testimony.

Mr. Lance Connolly of 79 Cotton Avenue states he is a Direct abutter to the properties in question and is seeking info on stormwater practices. Mr. Connolly stated there is going to be more impervious coverage being added such as driveway and house footprint that will contribute to the stormwater runoff within the area. Mr. Connolly further stated that the stormwater patterns today are a concern. Mr. Connolly questions what the setbacks of the proposed structure be and whether blasting or drilling as part of this process. Mr. Connolly states he is seeking further details on any proposed infiltration and where that will be placed. What are the limitations of the having those culverts placed such as driveway being on top of them or accessory structures. Mr. Connolly further adds that if the Zoning Board of Appeals approves the requested Variances, what safeguards will there be if the drainage cannot be installed due to site conditions.

Mr. Walsh stated to the Zoning Board of Appeals that they have a Civil Engineer under contract to perform stormwater design and grading for this property.

Assistant Director Connor Murphy states that infiltration is not uncommon but is mostly used on larger types of developments. Mr. Murphy further added that Article XII of the Braintree Zoning Bylaw holds jurisdiction on altering a sites topography. Mr Murphy stated that the town has the Stormwater Division within the Department of Public Works that will require stormwater permitting to construct the dwelling.

APPROVED

Chairman Stephen Karll states the recommendation of staff is to continue this matter to the July 25th Meeting. Chairman Karll confirms with the Applicant that they can have their Civil Engineer in attendance for the July Meeting.

Chairman Karll stated they shall entertain a motion on to continue to the July 25, 2022 meeting. Member Michael Ford Motioned to continue the Public Hearing to the July 25, 2022 Meeting. Motion Seconded by Member Timothy Burke. All in Favor: S. Karll – Aye, M. Ford – Aye, T. Burke– Aye.

Chairman Karll calls on the Applicant for 180 Parkside Avenue.

**Petition #22-21
180 Parkside Avenue**

APPROVED

Chairman Karll states he was notified for this petition and will be recusing himself from this matter. Member Ford will be chairing this Application.

Member Michael Ford reads the Legal Notice into record:

“Harrison Kitchen, Applicant, for relief from Bylaw Requirements under Chapters 135-407 and 135-701 to construct a 10 Foot x 20 Foot Rear Deck to the existing Single Family Dwelling. The Applicant seeks a Variance as the deck will have a Rear Yard Setback of 27.7 Feet where 30 Feet is required. The property is located at 180 Parkside Avenue, Braintree, and is zoned Residence B as shown on Assessors Map 2083 Plot 25 with a Land Area of 7,548 +/- Square Feet. “

Member Ford states he is satisfied that abutters have been properly notified. Member Ford confirms that members Gary walker and Timothy Burke. Member Ford added that the Staff Recommendation on this matter was Approval with conditions. Member Ford calls on the Applicant to present.

Mr. Harrison Kitchen presented to the Zoning Board of Appeals the request to construct a rear deck to the rear of the Single-Family Dwelling at 180 Parkside Avenue. Mr. Kitchen detailed the request was for non-habitable space and spoke to the requested Variance as the Deck will have a Rear Yard Setback of 27.7 Feet where 30 Feet is required. Mr. Kitchen stated this was one of the only areas on the property to construct the deck.

Member Michael Ford stated to the ‘Board he did not have concerns of the Applicants request. Member Ford called on members of the Public for any testimony regarding this request. No one from the public chose to speak at the June 27, 2022 Public Hearing.

Member Ford stated the ‘Board shall entertain a motion to close the Public Hearing. Member Gary Walker motioned to close the Public Hearing, Seconded by Member Timothy Burke.

Member Michael Ford stated that the Applicants request was fairly straight forward and the relief requested was deminimis in nature. Member Timothy Burke further added that the request is minor and can be supported.

Member Ford stated the 'Board shall entertain a motion on this matter. Member Gary Walker motioned to approve the request Variance for the Rear Deck, pursuant to the plans presented and the conditions proposed by staff. Motion seconded by member Timothy Burke. All in Favor: M. Ford – Aye, G. Walker – Aye, T. Burke – Aye.

Chairman Karll called on the next Applicant for 15 Frederick Avenue.

**Petition #22-22
15 Frederick Road**

APPROVED

Chairman Karll reads the legal notice into record:

“Emily Ego, Applicant, for Relief from Bylaw Requirements under chapters 135-402, 135-403, 135-407, 135-601 and 135-701, to demolish an existing secondary egress and construct a three story enclosed secondary egress in addition to enclosing the front porch. The Applicant seeks a Finding to alter and extend the Pre-Existing Non-Conforming Use of a Three Family Dwelling. The Applicant also seeks a Variance for the proposed enclosed secondary egress as it will have a Side Yard Setback of 6.5 Feet where 10 Feet is required. The property is located at 15 Frederick Road, Braintree, and is zoned Residence B and Residence C as shown on Assessors Map 1009 Plots 16 and 17 with a land area of 16,210 Square Feet. “

Emily Ego, Applicant, and their Architect, Stephanie Metz, were present before the Zoning Board of Appeals to demolish an existing second secondary egress and construct a three story enclosed secondary egress in addition to enclosing the front porch. Chairman Karll read the legal notice into record and stated he was satisfied that abutters had been properly notified. Chairman Karll stated the Staff Recommendation is approval with conditions. Ms. Metz presented to the Zoning Board of Appeals plans and documents for the proposed addition, demonstrating the Pre-Existing Non-Conforming Lot and the Pre-Existing Non-Conforming Three Family Dwelling. Ms. Metz stated the Applicant was seeking to reconstruct the secondary means of egress which would have a Side Yard Setback of 6.5 Feet and conform to the required height in a Residence B Zone. Ms. Metz further added that the Applicant is seeking to enclose the existing front porch into a sunroom for the first floor unit. Ms. Ego spoke to the relief that is required. Ms. Ego stated that the application was filed for a Variance for the Side Yard Setback and for a Finding to enclose the front porch and alter the layout of Three Family Dwelling. Ms. Ego spoke to the benefits of the new secondary egress as it will be internal and provide for a safer situation.

Chairman Stephen Karll confirmed with staff that the Use of the Property as a 3 unit Multi Family Dwelling is a Pre-Existing Non-Conforming Use. Chairman Karll stated the improvements are fairly straight forward.

Chairman Karll called on Members of the Public to speak in favor or in opposition of the Applicants request. Gloria Murray of 19 Frederick Road offered support for the Applicants request. Jeffrey DaSilva of 18 Thayer Place stated he had no objections to the Applicants request. No one from the Public offered opposition of the requested relief.

Chairman Karll stated they shall entertain a motion to close the Public Hearing. Member Michael Ford motioned to close the Public Hearing, seconded by Member Gary Walker.

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

Chairman Karll states they shall entertain a motion on this Application. Member Gary Walker motioned to approve the requested Variance with hardships related to the shape of the lot, and a finding that the alterations to the Pre-Existing Non-Conforming Use would not be substantially more detrimental than the existing Non-Conformity – pursuant to the plans as presented and conditions as proposed by staff. Motion Seconded by Member Michael Ford. All in Favor: S. Karll – Aye, M. Ford -Aye, G. Walker – Aye.

Chairman Karll called on the Applicant for 4 Plymouth Avenue.

APPROVED

**Petition #22-23
4 Plymouth Avenue**

Chairman Karll read the legal notice into record:

“Jason D. Rotondo, Applicant, for relief from Bylaw Requirements under chapters 135-403, 135-407, 135-609, and 135-701 to construct a two story addition and second floor addition to the Non-Conforming Single Family Dwelling. The Applicant seeks Findings as the proposed second floor addition will be within the Non-Conforming Rear Yard Setback of 19.4 Feet and the Non-Conforming Side Yard Setback of 1 Feet. The Applicant also seeks a Variance as the proposed two-story addition will have a Side Yard Setback of 5.8 Feet where 10 Feet is required. The property is located at 4 Plymouth Avenue, is zoned Residence B and within the Watershed Protection District, as shown on Assessors Map 1080 Plot 13 with a land area of 5,000 Square Feet.”

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 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.

Mr. Rotondo presented to the Zoning Board of Appeals plans and documents for the proposed addition, demonstrating the Pre-Existing Non-Conforming Lot and the Pre-Existing Non-

Conforming Single Family Dwelling. Mr. Rotondo further added that the existing living space was contained within the 1st floor and partial second floor of the dwelling.

Mr. Rontondo stated the relief needed is a Finding for the second story addition which will be within the Non-Conforming Rear Yard Setback of 19.4 Feet and the Non-Conforming Side Yard Setback of 1 Feet and a Variance for the Side Yard setback due Northwest as it will have a setback of 5.8 Feet. Mr. Rotondo stated the proposed addition would allow for an at grade garage from the existing driveway with living space on the second floor of the addition. The addition would also allow to reconfigure the existing first and second floor layouts. Mr. Rontondo cited that the abutter at 1762 Washington Street would not be impacted as there dwelling is the furthest away from any of the other direct abutters.

Chairman Karll stated that given the existing location of the house, it would be difficult constructing an addition that met the Applicable setbacks. Chairman Karll opens to other members of the 'Board. Member Ford states he does not have any questions or comments at this time.

Chairman Karll opened to members of the public for any testimony. No one from the Public offered support or spoke in opposition of the requested relief.

Member Michael Ford motioned to close the Public Hearing, seconded by Member Timothy Burke. Chairman Stephen Karll stated there does not seem to be any issues with this request. Chairman Karll confirms with the Applicant that they have reviewed the conditions as proposed by staff. Member Michael Ford stated to the board he does not have any concerns regarding the Applicants request.

Chairman Karll states they shall entertain a motion on this Application. Member Michael Ford motioned to approve the requested Variance with hardships related to the topography of the site and shape of the existing structure relative to the lot, and a finding that the additions within the Non-Conforming Rear Yard Setback and Side Yard Setback would not be substantially more detrimental than the existing Non-Conformity – pursuant to the plans as presented and conditions as proposed by staff. Motion Seconded by Member Timothy Burke. All in Favor: M. Ford – Aye, G. Walker – Aye, T. Burke – Aye.

Chairman Karll called on the next Petition 22-24, 18 Thayer Place.

**Petition #22-24
18 Thayer Place**

APPROVED

Chairman Karll read the legal notice into record:

“Phillip Baker, Applicant, for relief from Bylaw Requirements under chapters 135-403, and 135-701 to construct a second story addition and kitchen bump out to the Pre-Existing Non-Conforming Single Family Dwelling. The Applicant seeks Findings to construct the second story addition and single story addition within the Non-Conforming Side Yard Setback of 4.4 Feet and the Non-

Conforming Rear Yard Setback of 23 Feet. The property is located at 18 Thayer Place, is zoned Residence C, as shown on Assessors Map 1009 Plot 29 with a land area of 5,785 Square Feet. “

Phillip Baker, Applicant, alongside with owners Jefferey and Mary DaSilva, were present before the Zoning Board of Appeals to construct a second story addition and renovate the first floor of the Single Family Dwelling. Chairman Karll read the legal notice into record and stated he was satisfied that abutters had been properly notified. Chairman Karll stated the Staff Recommendation is approval with conditions.

Mr. Phillip Baker presented plans for the proposed renovation to the existing Non-Conforming Single Family Dwelling. Mr. Baker stated to the 'Board that the DaSilva's were seeking to expand and reconfigure the Single Family Dwelling by constructing a second story addition and bump out on the first floor. Mr. Baker further explained that the improvements would allow for an increase in living space amongst the first floor and bedroom space within the second floor. Mr. Baker stated that the Applicant is in need of Findings as the Single Family Dwelling is Non-Conforming with respect to the Side and Rear Yard Setbacks.

Chairman Karll opened to members of the audience for testimony regarding the relief requested. Emily Ego of 15 Frederick Road offered support for the relief requested. The Applicant submitted letters of support from abutters within the neighborhood.

Member Michael Ford stated that the Applicants request was fairly straight forward. Member Gary Walker stated he had no objections to the Applicants required.

Member Michael Ford motioned to close the Public Hearing, seconded by Member Gary Walker. Chairman Stephen Karll stated there does not seem to be any issues with this request. Chairman Karll confirms with the Applicant that they have reviewed the conditions as proposed by staff.

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

Assistant Director Connor R Murphy stated the minutes on the agenda are being edited and will be available at the next meeting.

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, M.Ford - Aye, G. Walker - Aye.

Meeting Adjourned at 8:56 PM.

APPROVED