



Joseph. C. Sullivan  
Mayor

## Department of Planning & Community Development Zoning Board of Appeals

1 JFK Memorial Drive  
Braintree, MA  
www.braintreema.gov

**APPROVED**

### Zoning Board of Appeals (ZBA) Meeting Minutes August 26, 2019

**IN ATTENDANCE:** Stephen Karll, Chair  
Michael Ford, Member  
Richard McDonough, Member  
Stephen Sciascia, Associate  
Gary Walker, Associate

**ALSO PRESENT:** Melissa SantucciRozzi  
Assistant Director-Planning & Community Development

Pursuant to notice duly published in 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 August 26, 2019 at 7 p.m.

Chairman Karll calls the meeting to order at 7:00 PM and explains the process for hearing petitions before the Zoning Board of Appeals.

#### **CONTINUED PETITIONS:**

##### **Petition #19-25**

##### **282 Middle Street**

Kara Bendery, 282 Middle Street, Braintree, MA 02184 for relief from Zoning Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 to construct a 16' X 15.5" (248 SF) deck at the rear of the existing dwelling. The deck is proposed to be 1.2 LF from the property line and is deficient of the required 10' LF side yard setback. The applicant seeks a permit, variance and/or finding that the proposed project is not more substantially detrimental to the neighborhood. The property is located at 282 Middle Street, Braintree, MA 02184 and is zoned Residential B, as shown on Assessors Map 2011, Plot 02 and contains a land area of +/- 5,710 SF.

Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman, Michael Ford and Richard McDonough with Gary Walker, Alternate. Chairman Karll is satisfied that the abutters and the abutters to the abutters have been duly notified. The Planning Board had no recommendation on this matter. Staff recommendation is found on the third page of the Staff Report.

Assistant Director SantucciRozzi explained that she had a couple of recommendations and a couple of questions. Her first recommendation is that the deck be shifted two feet to the south so that there is at least 4 feet between the property line and the deck. The applicant is proposing two feet. There were also no elevations submitted. This entire deck will be visible from the street, so the composition of the deck, the materials, screening of the underneath, all of those items are important. Staff is asking that all of those materials be supplied for review. The house, as it exists now, has five steps, and the deck shows only two steps. Staff is uncertain about whether that is accurate or it is an error, and this needs to be clarified. Staff is asking that the Plot Plan be updated to include the revised lot coverage and open space. If the Zoning Board is supportive of the Staff Recommendation, these items must be shown on stamped professional plans prior to filing of the decision.

In addition, Planning Staff proposed three standard conditions: 1.) any deviations to the approved plans are subject to review and approval by the ZBA; 2.) a Site As-Built plan must be submitted by the Applicant prior to issuance of a Certificate of Occupancy; 3.) the deck shall remain and open structure.

Bob Butler, on behalf of the Applicant Kara Bendery, has lived in the house since 2012. He is the General Contractor on this job, and has been working on the project after hours and on weekends. He didn't realize they needed a drawing for the deck. They came before the Zoning Board to build an addition, because the house was very small, and they didn't realize how much they would miss the deck. Mr. Butler provides pictures to the ZBA which show that their neighbor has a garage two feet off the property line. Mr. Butler highlights where the deck is proposed, and he mentions that he asked his neighbor on the deck side to write a letter and she would not. Assistant Director SantucciRozzi explains that the Plot Plan was updated, as it wasn't drawn correctly initially. Staff highlights her recommendation to move the deck two feet on the Plot Plan.

Mr. Butler is agreeable to having four feet between the deck and the property line, as requested by staff. Mr. Butler explains that it will be composite material with lattice around the underneath. He is not certain how many steps there will be because the grade comes up. Mr. Butler clarifies that, if he was just doing this with a Building Permit and a 10 foot setback, he would still need a drawing. Chairman Karll explains that they want to make sure that what you are building is in accordance with the drawing. Staff explains that this is visible from the street, and she explains that they did a nice job with the addition and this blends. Mr. Butler discusses fencing that he proposes installing.

Assistant Director asks whether the Applicant will be reworking the walkway to the driveway. If so, this also needs to be added to the Plan. Chairman Karll explains that all of this needs to be on the Plan because when it is approved, it is subject to the Plan. Chairman Karll also mentions that he would like to see the deck 4 feet from the side. Mr. Butler reiterates that he will build the deck according to what is approved. Chairman Karll asks if the Applicant can hand-draw these items on the plan. Assistant Director SantucciRozzi explains that the Applicant can hand-draw this, but if the Board is comfortable with making these stipulations, until those materials are received, we simply don't file the decision. Chairman Karll is hesitant to approve the matter subject to receipt of plans because the decision needs to be filed within 14 days. Member McDonough states that the conditions are pretty specific, and the bottom line is the Applicant agrees with the four foot setback from the lot line. Chairman Karll states the ZBA has approved Petitions before subject to the Plan being amended.

Staff asks if the Applicant will be keeping the deck the same size or will they be shaving two feet off the deck. Staff recommendation was that the whole thing slides. Member McDonough explains

it either needs to be reduced in size by two feet or relocated. Ms. Bendery proposes getting the revised plan to the Planning Department this week. Chairman Karll explains that the Zoning Board can approved this subject to the amended Plan coming in showing that the deck is four feet off the side yard, and he has no preference between reducing size or sliding the deck down.

Assistant Director SantucciRozzi confirms the items needed from the Applicant. We need the plan of what the deck will look like with materials, elevations, correct stairs; we need the updated lot coverage and open space calculations; we need to know how the walkway is going to meet the driveway. Chairman Karll reiterates that all of that needs to be on the Plan.

Chairman Karll asks if there is anyone else in favor.

Dean and Kara Parsons, 10 Marshall Street, are neighbors that are in favor of this Petition.

There is no one opposed.

Member Sciascia mentions the recent history of applicants reducing the deck size and improving the setback, but enclosing decks to make additions to houses. Staff and Chairman Karll clarified that any change in that manner would need to come back before the Zoning Board for approval.

Member Ford **MOTION** to approve the Petition, subject to an amended Plan being filed by the Applicant, showing a four foot setback, materials being used, elevations, correct stair information, lot coverage and open space calculations and information on the walkway the petition; seconded by Member McDonough; voted 3:0:0 (voting: Karll, Ford, McDonough).

**APPROVAL OF MINUTES:**

On a **MOTION** duly made by Member Ford and seconded by Member McDonough, the Board voted 3-0 to accept the meeting minutes from the June 24, 2019 Regular Session, The July 22, 2019 Regular Session and the July 22, 2019 Executive Session.

The Board adjourned the meeting at 7:27 PM.

Respectfully submitted,  
Louise Quinlan

**APPROVED**