



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

May 25, 2010

IN ATTENDANCE: Stephen Karll, Chairman
John Gauthier, Member
Michelle Lauria, Member
Michael Calder, Member
Jay Nuss, Member

ALSO PRESENT: Russell Forsberg, Inspector of Buildings
Carolyn Murray, Town Solicitor

Mr. Karll called the meeting to order at 7:00pm.

OLD BUSINESS:

- 1) Petition Number 10-13**
T-Mobile Northeast, LLC
RE: 197 Quincy Avenue

Mr. Karll advised the Board that the petitioner has submitted a letter requesting a 30-day extension regarding this appeal.

On a motion made by Mr. Gauthier and seconded by Mr. Calder, the Board voted unanimously to approve a 30-day extension until the next Zoning Board of Appeals meeting on June 22, 2010.

- 2) Petition Number 10-14**
Michael Krause
RE: 625 Washington Street

Present: Michael Krause, petitioner

This is a petition filed by Michael Krause of 625 Washington Street, Braintree, MA, regarding the same property, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135-403, 407 and 701. The applicant seeks a permit and/or variance to relocate a 2-car garage and constructing a 10 ft. x 24 ft. addition to the front of the garage, all in accordance with the plan of record. The property is located in a Residence C Zoning District as shown on Assessors Plan No. 2031, Plot 15 and contains 8,944 SF +/- of land.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was held scheduled before the Zoning Board of Appeals on April 27, 2010 and continued by mutual agreement to May 25, 2010 at 7 p.m. at the DPW Administration Building at 90 Pond Street, Braintree, MA. Sitting on this petition was Chairman, Steve Karll, and members, Jack Gauthier and Jay Nuss, with alternates, Michelle Lauria and Michael Calder.

Evidence

Michael Krause presented his petition to the Board, explaining that he proposes to relocate an existing detached 2-car garage in the rear of his property, which is currently accessed via Gardner Terrace and is located 4.8 feet off the rear property line. Mr. Krause proposes to move the garage to be closer to Gardner Terrace, where it will be located 5.5 feet from the rear lot line and 4.2 feet from the side lot line abutting Gardner Terrace. The petitioner also plans to rotate the garage so that the garage is accessed from Washington Street, as opposed to Gardner Terrace. The rotation of the garage to be accessed from Washington Street will require the reconfiguration of the driveway and the addition of pavement; however, all of the combined structures on the lot will comply with the maximum building and lot coverage limits.

Mr. Krause also proposes to construct an addition to the front of the garage; however, he advised the Board that the addition will measure 5 feet x 24 feet, not 10 feet x 24 feet as originally proposed in the petition, so that the final dimensions of the garage will be 29.5 feet x 24.5 feet. The petitioner explained that the need for the addition to the garage is that he owns an extended cab truck, which currently does not fit in the garage. The petitioner also explained that the rear of the garage is presently used for a bathroom and cabana related to the swimming pool. With these revised addition to and relocation of the garage, the structure will encroach into the rear yard setback and side yard setback. The structure will be located 4.8 feet from the rear yard lot line and 4.2 feet from side lot line. According to Zoning By-law Section 135-701(4) and (6), an accessory use such as a detached garage must be located 5 feet from any lot line. Therefore, a variance is required.

As grounds for the variance, the petitioner noted the angled lot lines and the existing location of structures on the lot, including the house, antenna, and swimming pool, making it difficult to locate the garage elsewhere on the lot. The petitioner also explained that the current location of the garage encroaches into the rear yard setback, and the relocated garage will not further encroach into the rear yard setback. The petitioner noted that the side yard setback will be minimally encroached, but explained that this side abuts Gardner Terrace, a private way, and noted that there is an existing stockade fence along this side of the property, which further intrude into Gardner Terrace. Regardless, the petitioner explained that there is no neighbor on the Gardner Terrace side of the property to be impacted by the garage.

The petitioner submitted a plan entitled "Plan of Proposed Garage Relocation, 625 Washington Street, Braintree, Massachusetts," dated March 10, 2010 and revised through May 14, 2010, prepared by John J. Monahan, R.P.E. of Perkins Engineering, Inc., Hingham MA.

No one else spoke in favor of or opposition to the petition. The Planning Board did not submit a recommendation relative to the requested relief, as the Planning Board asked the petitioner to make further revisions to the plan.

Findings

The Board found that the applicant had presented a hardship based on the angled rear lot line and the positioning of existing structures on the lot, making it difficult to locate the garage with the addition elsewhere on the lot without encroaching into setbacks. The Board noted that the present location of the garage encroached into the rear yard setback, but the relocated garage would not encroach further into the rear setback. The Board also found that the encroachment into the side yard setback of 0.2 feet was de minimus, particularly in light of the fact that this side yard lot line runs along Gardner Terrace and does not directly abut a residential lot. 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.

Decision

On a motion made by Mr. Nuss and seconded, it was unanimously voted to grant the requested relief, subject to the plan presented.

APPROVAL OF MINUTES:

On a motion made by Mr. Gauthier and seconded by Mr. Nuss, the Board voted unanimously to accept the meeting minutes of April 27, 2010.

The meeting adjourned at 7:15 pm