



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

May 24, 2011

IN ATTENDANCE: Stephen Karll, Chairman
Jack Gauthier, 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.

NEW BUSINESS:

- 1) Petition Number 11-22**
William D. Cleggett
RE: 35 Oak Street East

Present: William Cleggett, petitioner

This is a petition filed by William D. Cleggett of 35 Oak Street East, 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 is seeking a permit and/or variance to demolish an existing garage and replace it with a new garage with a family room above, all in accordance with the plans of record. The property is located in a Residence B Zoning District as shown on Assessors Plan No. 3011, Plot 12 and contains 8,400 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 before the Zoning Board of Appeals on May 24, 2011 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 Michael Calder, with alternate, Jay Nuss.

Evidence

Page 2 RE: Zoning Board of Appeals Meeting Minutes May 24, 2011

William Cleggett, the property owner, presented this petition to the Board, explaining that he proposes to raze an existing attached garage and replace it with a 12.2 ft. x 33.4 ft. attached garage with a family room above. At its closest point, the addition will be 3.3 feet off the easterly side lot line, and at its farthest point, the addition will be located 4.6 feet off the side lot line. The Zoning By-law requires a side yard setback of 10 feet, and therefore, a variance is required.

The applicant's lot and existing dwelling are pre-existing nonconforming. The Residence B Zoning District requires a minimum lot size of 15,000 SF, but this lot contains only 8,400 SF. The lot also lacks the required 100 feet of width, as the lot offers only 70 feet of width. In addition, the applicant's house is currently nonconforming, as the existing garage is located 6.3 feet off of the easterly side yard lot line.

As grounds for the variance, the applicant noted the slope of the lot and presented pictures to the Board demonstrating that the floor of the garage is not level. By rebuilding the garage, the floor will be level. The applicant also submitted color photos of other houses in the neighborhood whose garages are very close to the side yard lot line as an example that his proposed addition would not be out of character for the neighborhood.

The petitioner submitted a plan entitled "Plan of Land in Braintree, Massachusetts," dated March 16, 2011, prepared by C.S. Kelley Land Surveyors of Pembroke. The applicant also submitted ten color photos depicting the house and yard, as well as an example of other houses in the neighborhood. In addition, the applicant submitted letters in support of his petition signed by Kyra Mercado of 29 Oak Street East, who is the immediate abutter on the easterly side of the applicant's lot and the abutter to be most affected by the grant of this petition. Letters of support were also submitted by Richard Grey of 36 Oak Street East, Lauren Spark of 19 Oak Street East, Edward Norton of 50 Oak Street East, Chung Tom of 41 Oak Street East and Marcia Willwerth of 42 Oak Street East. The applicant's wife, Jeanne, noted her support for the petition.

No one else spoke in favor of or opposition to the petition. The Planning Board voted 5-0-0 to recommend favorable action on the requested relief.

Findings

The Board found that the applicant had presented a hardship based on the topography of the lot, and specifically, the slope of the land in the garage. The Board also noted that the existing garage encroaches into the easterly side lot line and that other houses in the neighborhood have garages located very close to the side lot line; therefore, the Board found that the granting of the requested relief would not be substantially more detrimental to the neighborhood than the existing structure. Further, 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. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

2) Petition Number 11-23
Brian Knapp
RE: 14 Howard Court

Present: Brian Knapp, petitioner

Page 3 RE: Zoning Board of Appeals Meeting Minutes May 24, 2011

This is a petition filed by Brian Knapp of 14 Howard Court, 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 is seeking a permit and/or variance to construct a deck to the rear of his house, all in accordance with the plans of record. The property is located in a Residence B Zoning District as shown on Assessors Plan No. 3063, Plot 04 and contains 6,232.5 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 before the Zoning Board of Appeals on May 24, 2011 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 alternate, Michael Calder.

Evidence

Brian Knapp, the property owner, presented this petition to the Board, explaining that he proposes to add a 13 ft. x 28.7 ft. deck to the rear of his dwelling. The width of the deck will be aligned with the house. At its closest point, the deck will be 22.3 feet off the rear lot line, and at its farthest point, the deck will be located 24.39 feet off the rear lot line. The Zoning By-law requires a rear yard setback of 30 feet, and therefore, a variance is required.

The applicant's lot and existing dwelling are pre-existing nonconforming. The Residence B Zoning District requires a minimum lot size of 15,000 SF, but this lot contains only 6,232.5 SF. The lot also lacks the required 100 feet of width, as the lot offers only 63 feet of width towards the front of the property and 75 feet of width to the rear. The lot also lacks the required lot depth of 100 feet, as the lot contains only 94 feet of depth. In addition, the applicant's house is currently nonconforming, as the existing house slightly encroaches into the front yard setback. The Zoning By-law requires a front yard setback of 20 feet, while the applicant's house is located 19.6 feet off the front yard lot line. The applicant's garage also encroaches into the rear yard setback of 5 feet for an accessory structure, as the garage is located on the rear lot line.

As grounds for the variance, the applicant noted the irregular wedge shape of the lot and the presence of ledge in the backyard. The applicant also explained the topography of his neighborhood, with his abutters to the rear being located in some instances at an elevation of 40 feet higher than the applicant's property. The applicant presented eight black and white pictures to the Board demonstrating this steep topography in the back of the applicant's property as well as examples of other decks in the neighborhood to show that his proposed deck would not be out of character for the neighborhood.

The petitioner submitted a plan entitled "Plan of Land in Braintree, Massachusetts," dated March 21, 2011, prepared by C.S. Kelley Land Surveyors of Pembroke.

No one else spoke in favor of or opposition to the petition. The Planning Board voted 4-0-0 to take no action on this petition due to the failure of the applicant to appear at the Planning Board meeting.

Findings

The Board found that the applicant had presented a hardship based on the topography of the lot, specifically, the presence of ledge in the backyard, as well as the irregular wedge shape of the lot. The Board also noted the steep sloping topography and higher elevation of the properties to the rear of the applicant, making applicant's proposed deck virtually invisible to the rear abutters, and therefore, the Board found that the granting of the
Page 4 RE: Zoning Board of Appeals Meeting Minutes May 24, 2011

requested relief would not be substantially more detrimental to the neighborhood than the existing structure on the lot. Further, 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. Gauthier and seconded by Mr. Nuss, it was unanimously voted to grant the requested relief, subject to the plan presented.

3) Petition Number 11-24
Arlene M. Powers
RE: 153 Middle Street

Mr. Karll advised the Board that the petitioner has submitted a letter requesting a 60-day extension regarding this appeal.

On a motion made by Mr. Calder and seconded by Mr. Gauthier, the Board voted unanimously to approve a 60-day extension until the Zoning Board of Appeals meeting on July 26, 2011.

4) Petition Number 11-25
Thomas J. King, Jr. and Catherine M. King
RE: 42 Jersey Avenue

Mr. Karll advised the Board that the petitioner has submitted a letter requesting a 60-day extension regarding this appeal.

On a motion made by Mr. Gauthier and seconded by Mr. Nuss, the Board voted unanimously to approve a 60-day extension until the Zoning Board of Appeals meeting on July 26, 2011.

APPROVAL OF MINUTES:

On a motion made by Mr. Calder and seconded by Mr. Gauthier, the Board voted unanimously to accept the meeting minutes of April 26, 2011.

The meeting adjourned at 7:30 pm