



# Department of Municipal Licenses and Inspections

## Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan  
Mayor

### Meeting Minutes

September 27, 2011

**IN ATTENDANCE:** Stephen Karll, Chairman  
John 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.

#### OLD BUSINESS:

- 1) **Petition Number 11-39**  
**Tony DePalma**  
**RE: 451 Quincy Avenue**

Present: Tony DePalma, petitioner

Mr. DePalma presented his petition to the Board. At the conclusion of the presentation, Mr. Gauthier requested that the petitioner prepare and present a landscape and site improvement plan for the Board at the October 25, 2011 meeting.

On a motion made by Mr. Gauthier and seconded by Mr. Calder, the Board voted unanimously to continue the hearing on October 25, 2011, at which time the petitioner must provide a landscape and site improvement plan to the Board..

#### NEW BUSINESS:

- 4) **Petition Number 11-41**  
**Kenneth Nguyen**  
**RE: 69 Davis Road**

Present: Kenneth Nguyen, petitioner

This is a petition filed by Kenneth Nguyen of 69 Davis Road, Braintree, MA regarding the same property. The applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135-403, 407 and 701 to raze an existing single-family home and replace it with a larger single-family dwelling, all in accordance with the plans of record. The property is located in a Residence A Watershed Zoning District as shown on Assessors Plan No. 2024, Plot 25 and contains 20,042 +/- 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 September 27, 2011 at 7 p.m. at the DPW Administration Building at 90 Pond Street, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, Jack Gauthier and Jay Nuss, with alternate, Michael Calder.

### **Evidence**

The petitioner, representing himself, appeared before the Board and explained that he is seeking permission to demolish an existing ranch-style dwelling of approximately 900 SF and replace it with a 3200 SF two-story Colonial-style house. The petitioner explained that the ranch currently measures 40 ft. x 24 ft., while the proposed house will have a slightly larger footprint of 40 ft. x 28 ft. The proposed house will conform to all zoning setbacks and will not create any new nonconformities. The lot is pre-existing nonconforming as to size, as it contains only 20,042 SF of area, while the Zoning By-law requires a minimum of one acre in the Watershed Protection District. Since this petition involves the alteration of a nonconforming lot, a finding is required under Chapter 40A, Section 6.

The petitioner noted that his lot is of comparable size to other lots in the Granite Park area, and the proposed size of his house is also consistent with existing houses in Granite Park.

The petitioner submitted a plan entitled "Plan of Land in Braintree, Massachusetts, 69 Davis Road," dated August 26, 2011, prepared by C.S. Kelley, Land Surveyors of Pembroke, MA, along with three pages of a rendering of the proposed dwelling.

Michael Seto of 79 Davis Road questioned the size of the house and asked to review the plans. Upon reviewing the plans, Mr. Seto expressed concern about the three bay garage doors that will face his house. The petitioner explained that the three bays are needed, as he has a business vehicle that he will keep in his garage. The petitioner explained that he cannot change the configuration of the garage doors to face the street without interfering with the interior lay-out of the dwelling. The Board proposed planting arborvitae along the Seto's property line to screen the garage doors, but Mr. Seto stated they preferred the open space.

Bill Devine, the petitioner's next door neighbor, spoke in favor of the petition.

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

### **Findings**

The Board found that the applicant's current lot is undersized and therefore pre-existing nonconforming. The Board further found that the proposed new dwelling would conform to all zoning setbacks, and therefore, the Board concluded that the proposed alteration to the existing lot would not be substantially more detrimental to the neighborhood than the existing dwelling on the 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 Mr. Gauthier and seconded by Mr. Nuss, it was unanimously voted to grant the requested relief, subject to the plan presented.

**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 August 23, 2011.

The meeting adjourned at 8:20 pm