



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

July 24, 2012

IN ATTENDANCE: Stephen Karll, Chairman
Jack Gauthier, Member
Michael Calder, Member

ALSO PRESENT: Russ Forsberg, Inspector of Buildings

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

NEW BUSINESS:

- 1) **Petition Number 12-26**
Michelle and James Vail
RE: 136 Pleasant View Avenue

Mr. Karll advised the Board that the applicant has requested a 30-day extension of the petition.

On a motion made by Mr. Karll and seconded by Mr. Calder, the Board voted unanimously to approve a 30-day extension of the petition to be heard at the August 28, 2012 Zoning Board of Appeal meeting.

- 2) **Petition Number 12-27**
John and Elena Flemmi
RE: 157 Middle Street

Present: John and Elena Flemmi, petitioner and David Oliver, Builder

This is a petition filed by John and Elena Flemmi of 157 Middle Street, Braintree, MA, regarding the same property, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws under Chapter 135, Sections 135-403, 407, and 701. The applicant seeks a permit, variance and/or finding to construct a two story addition with attached deck, all in accordance with the plans of record. The property is located within a Residential B District as shown on Assessors' Map 2004, Plot 36, and contains a land area of +/- 7706 Sq. Ft.

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 July 24, 2012 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.

Evidence

The petitioners, John and Elena Flemmi, as property owners, along with David Oliver, the builder, appeared before the Board and explained that they are seeking permission to alter a pre-existing nonconforming structure by constructing a second story addition to the rear of the existing single family dwelling. The owners propose to eliminate a deck which is attached to the rear of the dwelling and is located 2.5 feet from the northerly side lot line. The petitioners also noted that the existing structure currently has a projection on the northerly side of the structure that is 4.5 feet from this same side lot line. Thus, the existing structure is pre-existing nonconforming as it currently encroaches into the northerly side lot line.

The lot is pre-existing nonconforming, as it offers 7,706 SF of area where the Zoning By-Law requires a minimum lot area of 15, 000 SF. The lot lacks the minimum lot width, offering only 50 of width where 100 feet is required under the Zoning By-law. As noted above, the existing structure is also non-conforming, as the structure is located 2.5 feet from the side lot line, where a side yard setback of 10 feet is required under the Zoning By-Law.

The petitioners propose to remove the existing encroaching deck. In the area where the original deck was the petitioners propose to construct a deck on the second story addition. In addition, the petitioners propose to construct a 24 ft. x 24 ft. two- story addition that will be located 7.1 feet from the northerly side lot line. The petitioners also propose to construct an 8 ft. x 24 ft. deck on the ground level to the rear of the proposed addition that will also be 7.1 feet from the northerly side lot line. The purported project will double the depth and footprint of the structure overall and will not create any new non-conformities. As the petitioners are proposing to alter a pre-existing nonconforming structure, a finding under G.L. Chapter 40A, Section 6 is required.

The petitioner submitted a plan entitled "Plot Plan, #157 Middle Street, Braintree, MA" dated May 16, 2012, prepared by James McGrath of Weymouth, Ma.

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 applicants' current lot and existing dwelling on the lot are pre-existing nonconforming under the Zoning By-law. The Board further found that the proposed addition to the dwelling would double the depth and footprint of the structure overall and would not create any new conformities. The Board also noted that, at its closest point, the existing structure is located 2.5 feet from the northerly lot line. While the proposed addition will also encroach into this same side yard setback, the Board found that the encroachment is only 7.1 feet, which is less intrusive than the existing structure. Therefore, the Board concluded that the proposed alteration to the existing dwelling 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 by Mr. Gauthier and seconded by Mr. Calder, it was unanimously voted to grant the requested relief, subject to the plan presented.

3) Petition Number 12-28

Sports Authority

RE: 300 Grossman Drive (Unit 2)

Present: Heather Dudro, Agent for petitioner

This is a petition filed by Heather Dudro, authorized representative and agent for Sports Authority, regarding the property located at 300 Grossman Drive, Unit 2. The petitioner seeks signage relief from the Zoning By-law requirements under 135-403, 407, 904.2(A)(5)(a)-(c),(e) and (g) to remove the existing two line sign that states "The Sports Authority" and replace it with a two line "Sports Authority" wall sign. The property is located in a Highway Business District as shown on Assessors' Map No. 2019, Plot 4-7 and contains a land area of +/- 34.36 Acres.

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 July 24, 2012 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, John Gauthier and Michael Calder.

Evidence

The petition was presented by Heather Dudro, agent for Sports Authority, 1050 West Hampden Avenue, Englewood, CO, regarding the Sports Authority retail business located at 300 Grossman Drive, Unit 2, Braintree, MA. The petitioner explained that Sports Authority currently has a wall sign that does not conform to the Zoning By-Laws. The current wall sign is a two line sign advertising "The Sports Authority", the existing wall sign is 392 SF with a height of 11' 4 inches. While the current wall sign does not conform to the Zoning By-laws, the wall sign is not considered a pre-existing nonconforming sign, as the business was constructed on or about 1996, when the Zoning By-law had the same sign height and square footage requirements as exists today. Further, there is no evidence that a sign variance was previously granted for this sign.

The petitioner proposes to erect a new wall sign measuring 309 SF in area, with an overall height of 10 feet and width of 30 feet 11 ¼ inches, with a maximum letter height of 6 feet 1 ¼ inches. The proposed sign consists of a red background with white letters and eliminated the word "the" from the existing sign.

Section 135-904.2(A) (5) (a) of the Zoning By-laws provides that, in a Highway Business Area, no wall sign shall exceed 150 square feet in area. The current wall sign is 392 SF in area, and the newly proposed area of the wall sign will be 309 SF. Therefore, relief in the form of a variance is required. While the signage proposed will still exceed the 150 SF area maximum, the new wall sign will be approximately 25% smaller than the current nonconforming sign.

Section 135-904.2 (A) (5) (b) of the Zoning By-laws provides that, in a Highway Business area, no wall sign shall exceed four feet in overall height. The existing double row sign is 11 feet 4 inches in height, while the

newly proposed height of the wall sign is 10 feet. Therefore, relief in the form of a variance is required. While the new signage will still exceed the four feet in overall height, the height of the proposed signage will be decreased.

Section 135-904.2(A)(5)(c) of the Zoning By-law provides that, in a Highway Business Area, no wall sign shall be visible to the major highway, if a ground sign has been permitted. The petitioner currently has advertisement on the ground pylon directory sign, and both the ground and wall sign on the front of the building will be visible to the major highway. Currently, both ground and wall sign on the front of the building are also visible from a major highway. Since the proposed wall sign and existing ground sign will both be visible to a major highway, a variance is required.

Section 135-904.2(A) (5) (e) of the Zoning By-law provides that, in a Highway Business Area, sign area is limited to one square foot of signage per linear foot of frontage. Said frontage shall be the linear feet of the building which faces the access roadway. In this instance, the building has 190 feet of linear frontage, which would limit the area of a wall sign to 190 SF. The current wall sign exceeds the maximum sign area by providing 392 SF; the proposed wall sign will decrease the sign area to 309 SF. The proposed wall sign continues to exceed the maximum sign area; therefore, relief in the form of a variance is required.

Section 135-904.2(A) (5)(g) of the Zoning By-laws provides that, in a Highway Business Area, no more than one wall sign for each store or business occupying a building shall be permitted. The Zoning By-law further provides: "The aggregate total of all signage allowed shall not exceed 150 square feet in area. Sign permits may be issued only after written permission for said signs is authorized by the Zoning Board of Appeals." The petitioner is proposing modifications to the current wall sign, which remains the only wall sign on the front of the building. However, the aggregate total of all signage exceeds the allotted 150 SF by offering 309 SF. Therefore, relief in the form of a variance is required.

As grounds for the relief sought, the petitioner explained that the shape, size and angle of the building on the lot, particularly the large façade area are grounds for relief for a larger sign than allowed by the Zoning By-laws to be installed on the front façade. The petitioner explained that the Sports Authority is one of many businesses located within the K-Mart Marketplace plaza. This site is surrounding by Route 3 on one side, but is only accessible from Union Street, and therefore, the petitioner asserted that a wall sign is needed to identify the Sports Authority site within the plaza, while a ground sign at the entrance off Union Street is needed to safely direct the traveling public to the site. The petitioner explains that the literal enforcement of the Sign By-law would create a financial hardship to the business by limiting exposure and name recognition in the plaza. The petitioner also contends that the adjoining properties in the area are retail, and the proposed wall sign, while larger than that allowed under the Sign By-law, is proportionate to the building within the plaza and is consistent with the other retail properties.

The petitioner submitted four unlabeled sheets dated January 20, 2012 and February 17, 2012 with renderings of the current and proposed signs for the Sports Authority. Included in the sheets is a traffic layout and floor plan depicting the Sports Authority store.

By a vote of 5-0-0, the Planning Board recommended favorable action on the requested relief. No one else spoke in favor of or opposition to the petition.

Findings

With regard to the dimensions of the wall sign, the Board found that while the signage proposed exceeds what is allowed under the Zoning By-law, the proposed signage represents a 25% reduction in size than the existing wall sign. In addition, the Board noted that the proposed wall sign includes a reduction in overall height as

well as total square footage. The Board also found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed wall sign is necessary to identify the location of the business and for the traveling public to be safely directed to the business. The Board also found that while the wall sign derogates significantly from the maximum signage allowed, it is an improvement over the existing signage. Therefore, the relief can be granted without resulting in a substantial detriment to the public good and will not nullify the intent of the Zoning By-law.

Decision

On motion made by Mr. Calder and seconded by Mr. Gauthier, it was unanimously voted 3-0 to grant the requested relief, subject to the plans presented and with the restriction that the sign be illuminated with white lights and subject to the condition that the sign be turned on at dusk and off one hour after store closing.

4) Petition Number 12-29

Edlira Lamani

RE: 639 Granite Street (Eda's Café)

Mr. Karll advised the Board that the applicant has requested a 30-day extension of the petition.

On a motion made by Mr. Karll and seconded by Mr. Calder, the Board voted unanimously to approve a 30-day extension of the petition to be heard at the August 28, 2012 Zoning Board of Appeal meeting.

5) Petition Number 12-30

William Brophy

RE: 7 School Street West

Present: William Brophy, petitioner and builder; and Jessah Livelov, property owner

This is a petition filed by William Brophy, the contractor, on behalf of Jessah Livelov, the owner of 7 School Street West, Braintree, MA regarding the same property. The applicant is seeking relief from the Town of Braintree Zoning By-laws Chapter 135, Sections 135-403, 407, and 701 to construct a second story addition, all in accordance with the plans of record. The property is located within a Residential B District as shown on Assessors' Map 2060, Plot 8A, and contains a land area of +/- 4.365 Sq. Ft 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 July 24, 2012 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.

Evidence

The petitioner, Jessah Livelov, was represented by contractor, William Brophy, who explained to the Board that the petitioner is seeking permission to alter a pre-existing non-conforming structure located on a non-conforming lot by building a second story addition. The second story addition will include two bedrooms, a full bathroom, and closet space. The dwelling is a pre-existing nonconforming structure on a pre-existing non-conforming lot. The proposed addition will be over the existing footprint and will not further violate any of the existing non-conformities.

The lot and dwelling are pre-existing nonconforming. The lot is pre-existing nonconforming, as it offers only 4,525 SF of area, where the Zoning By-law requires a minimum lot size of 15,000 SF. The lot lacks the minimum lot width, offering only 56.5 feet, while the Zoning By-law requires 100 feet of width. The lot further lacks the minimum lot depth, as it offers only 99 feet, while the Zoning By-law requires 100 feet. The structure on the lot is also pre-existing nonconforming, as the structure is located 5 feet from the easterly side lot line, while the Zoning By-law requires a 10 foot side yard setback. The structure is also pre-existing nonconforming with respect to the rear yard setback, as the house is located 1.7 feet from the rear lot line, while the Zoning By-law requires a minimum setback of 30 feet. The proposed addition will fall within the footprint of the existing structure and will not further violate any of the existing non-conformities. Therefore a finding under G.L. Chapter 40A, Section 6 is required.

The petitioner submitted a plan entitled "Building Permit Plot Plan in Braintree (Norfolk County), MA, #7 School Street West," dated June, 6, 2012 prepared by E.T. Engineering Enterprises, Inc. of Bridgewater, MA. The applicant also submitted plans of the existing floor plans, proposed floor plans, existing and proposed front and side and rear elevation, prepared by Dennis J. Swart, Architecture, LLC.

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's current lot and existing dwelling on the lot are pre-existing nonconforming under the Zoning By-law. The Board further found that the proposed addition to the dwelling would conform to the existing footprint of the dwelling and not create any new nonconformities. Therefore, the Board concluded that the proposed alteration to the existing dwelling 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 by Mr. Gauthier and seconded by Mr. Calder, it was unanimously voted to grant the requested relief, subject to the plan presented.

6) Petition Number 12-31

Ellen M. Mullane

RE: 70 Robbie Road

Present: Ellen M. Mullane, petitioner and property owner

This is a petition filed by Ellen Mullane of 70 Robbie Road, Braintree, MA, regarding the same property, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws Chapter 135, Sections 135-403, 407, and 701 for lot width from 100 Ft. to 90.4 Ft from the rear property. The applicant is seeking a permit and/or variance to adjust a property line shared with 62 Robbie Road, all in accordance with the plans of record. The property is located in Residence B Zoning District as shown on Assessors' Plan No. 3027, Plot 9W and contains a land area of +/- 17,340 SF.

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 July 24, 2012, 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.

Evidence

Ellen Mullane, the property owner, presented this petition on behalf of herself to the Board, explaining that she has been owner of the home since 1966 and has had the same neighbors since that time. The petitioner requests a variance from the minimum lot width requirement of 100 feet as required by the Zoning By-laws in order to adjust a common lot line shared with 62 Robbie Road. At the present time, the lot has an existing 118 feet of width, which complies with the Zoning By-law; however, the existing lot has an angled lot line that currently runs through the house owned by Kevin and Paula Wiles at 62 Robbie Road. The petitioner would like to correct this situation by moving the lot line to the northeast, but in doing this, the petitioner's lot width will decrease to 90.4 feet in the rear of her lot, thus requiring a variance.

The petitioner's lot and existing dwelling are currently conforming. However, the present use of the land has the applicant's boundary line running directly through a bedroom and back yard of 62 Robbie Road.

As grounds for the variance, the applicant noted the shape of the parcel as irregular, with angles, as opposed to straight lot lines. The dwelling already exists and the lack of a change in the boundary line would create a hardship in the possible sale of this parcel or 62 Robbie Road due to the current lot line. Neither parcel may be sold at the present time due to the lot lines, and thus a financial hardship also exists.

The petitioner submitted a plan entitled "Plan of Land, 62 Robbie Road, Braintree, MA" dated June 18, 2012, prepared by Neponset Valley Survey Assoc., Inc. of Quincy, MA.

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 petitioner had presented a hardship based on the irregular shape of the lot. The Board also found that the granting of the requested relief was unique to this and the adjoining parcel and not generally applicable to the surrounding zoning district. 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. Calder, it was unanimously voted to grant the requested relief, subject to the plan presented.

- 7) Petition Number 12-32**
Kevin G. Wiles
RE: 62 Robbie Road

Present: Kevin G. Wiles, petitioner and property owner

This is a petition filed by Kevin Wiles of 62 Robbie Road, Braintree, MA, regarding the same property, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws Chapter 135, Sections 135-403, 407, and 701 to alter a pre-existing nonconforming lot by adjusting the common lot line shared with #70 Robbie Road. The property is located within Residence B Zoning District as shown on Assessors' Plan No. 3027, Plot 9V and contains a land area of +/- 16,800 SF.

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 July 24, 2012, 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.

Evidence

Kevin Wiles, the property owner, presented his petition to the Board, explaining that he has been owner of the home since 1967 and has had the same neighbors at #70 Robbie Road since that time. Currently, the shared lot line between these two properties runs through the petitioner's existing house, rendering each property unmarketable in its current form. The petitioner proposes to relocate the common side boundary by moving the lot line to the northeast, and in so doing, the lot width behind his dwelling will be made more conforming, as it will increase from 32 feet to 65.4 feet. Despite the proposed increase in lot width, the lot will remain non-conforming as it does not meet the requisite minimum lot width of 100 feet as required by the Zoning By-laws. Since the petitioner is proposing to alter a pre-existing nonconforming lot, a finding under G.L Chapter 40A, Section 6 is required.

As noted above, the petitioner's lot is currently pre-existing non-conforming as to lot width. The existing structure on the lot is also pre-existing nonconforming, as the dwelling encroaches into the side yard setback shared with #70 Robbie Road and does not meet the 10 foot setback required by the Zoning By-law. The proposed alteration of the common side boundary line will increase the minimum lot width to 65.4 feet and grant the parcel the minimum side yard setback as required by the Zoning By-law.

The petitioner submitted a plan entitled "Plan of Land, 62 Robbie Road, Braintree, MA" dated June 18, 2012, prepared by Neponset Valley Survey Assoc., Inc. of Quincy, MA.

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's current lot is pre-existing nonconforming under the Zoning By-law. The Board further found that the proposed alteration to the common side boundary would grant the lot the minimum side yard setback and decrease the non-conforming lot width by increasing the dimensions. Therefore, the Board concluded that the proposed alteration to the lot would not be substantially more detrimental to the neighborhood than the existing 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. Gauthier and seconded by Mr. Calder, it was unanimously voted to grant the requested relief, subject to the plan presented.

8) Petition Number 12-33

Guitar Center

RE: 255 Grossman Drive, Unit 4

Present: Dave Brink, agent for the petitioner; and Jonathan Parker with the Guitar Center

This is a petition filed by Dave Brink, authorized representative and agent for Guitar Center of 5795 Lindero Canyon Road, Westlake Village, CA, 91362, regarding the property located at 255 Grossman Drive, Unit 4. The petitioner seeks signage relief from the Zoning By-law requirements under Chapter 135, Sections 135-403, 407, 904.2 (5)(b)-(e) and (g) to allow a store front sign taller than 4 Feet, an additional sign on the store front to read "Studios", and additional logo wall sign on the east wall facing Route 3 to reach northbound traffic. The property is located within a Highway Business District, as shown on Assessors' Map 2019, Plot 4-4, and contains a land area of +/- 34.36 Acres.

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 July 24, 2012 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, John Gauthier and Michael Calder.

Evidence

The petition was presented by Dave Brink, agent for Guitar Center, regarding the retail business located at 255 Grossman Drive, Unit 4, Braintree, MA. Petitioner is seeking relief to construct a store front sign taller than 4 ft., an additional sign on the store front to read "Studios", and an additional logo wall sign on the east wall facing Route 3 to reach northbound traffic. A two part wall sign is proposed on the north façade, which is the building's elevation that includes the main entrance: over the main entrance, the petitioner proposes a sign stating "Guitar Center" in red letters, with the "G" in guitar shaped like a guitar on a background shaped like a guitar pick, and underneath the main sign is a smaller wall sign advertising "Studio" and "Lessons", with white letters against a black field. The sign over the main entrance has an overall height of 8.45 feet and an area of 118.20 SF. The wall sign proposed on the eastern elevation, which faces Route 3, will be a smaller version of the "Guitar Center" sign over the main entrance, with an overall eight of 7 feet and an area of 46.97 SF. The Guitar Center also has space on the existing pylon sign for the plaza, located at the entrance off Union Street.

Section 135-904.2 (A) (5) (b) of the Zoning By-law provides that, in a Highway Business Area, no wall sign shall exceed four feet in overall height. The sign proposed on the north elevation over the main entrance has an overall height of 8.45 Ft. The sign proposed on the east elevation facing the highway has an overall height of 7 Ft. The two sign proposals exceed the four feet maximum overall height; therefore, relief in the form of a variance is required.

Section 135-904.2 (A)(5) (c) of the Zoning By-law provides that, in a Highway Business Area, no wall sign shall be visible to the major highway, if a ground sign has been permitted. The petitioner's retail store has space on the existing pylon sign that is visible to Route 3. In addition, both of the proposed wall signs are visible from Route 3; therefore, relief in the form of a variance is required.

Section 135-904.2 (A) (5) (d) of the Zoning By-law provides that, in a Highway Business Area, “A permitted wall sign visible to the major highway shall contain the name and address of the user of the property and contain no other advertising material or commercial message unless specifically authorized by the Zoning Board of Appeal.” The petitioner is proposing a wall sign that advertises the music lessons and studio space offered at the store. Beneath the proposed “Guitar Center” wall sign over the main entrance, the petitioner proposes a sign to advertising “Studio” and “Lessons”. Therefore, relief in the form of a variance is required.

Section 135-904.2 (A) (5) (e) of the Zoning By-law provides: “Sign area is further limited to one square foot of signage per linear foot of frontage. Said frontage shall be the linear feet of the building which faces the access roadway. ”The access roadway to this location is the access drive that loops around the building, and depending on how it is interpreted, three sides of the building could be deemed to front on the access roadway. In terms of the proposed signage, the north façade is 110 linear feet, and the east façade is 140 feet. Since the petitioner proposes 165.17 SF of wall signage, relief in the form of a variance is required.

Section 135-904.2 (A) (5) (g) of the Zoning By-law provides: “No more than one wall sign for each store or business occupying a building shall be permitted. The aggregate total of all signage allowed shall not exceed 150 SF in area. Sign permit may be issued only after written permission for said signs is authorized by the Zoning Board of Appeals.” The petitioner will not be occupying the entire building as there is a second tenant proposed. However, the petitioner is proposing three wall signs that total 165.17 SF, therefore, relief in the form of a variance is required.

As grounds for the relief sought, the petitioner explained that a 4’ tall sign on the storefront will be too small to advertise effectively which, in turn, will impact patrons trying to identify the business and for the traveling public to be safely directed to the business. In fact, the petitioner presented a rendering of a sign on the storefront built in compliance with the Town’s Zoning By-laws, and the sign is virtually illegible to someone standing in the parking area out in front of the store. The proposed sign will allow the Guitar Center national brand to be easily recognized from Route 3. The petitioner also noted that the shape, size and location of the building on the lot are grounds for relief for a larger sign than allowed by the Zoning By-laws to be installed on the front façade. The petitioner explained that the Guitar Center is one of many businesses located within the K-Mart Marketplace plaza, This site is surrounding by Route 3 on one side, but is only accessible from Union Street, and therefore, the petitioner asserted that a wall sign is needed to identify the Guitar Center site within the plaza, while a ground sign at the entrance off Union Street is needed to safely direct the traveling public to the site. The petitioner explains that the literal enforcement of the Sign By-law would create a financial hardship to the business by limiting exposure and name recognition in the plaza. Further, the petitioner contends that the adjoining properties in the area are also Highway Business that have been granted relief from the Zoning By-Laws and granting of relief for the Guitar Center will allow for signage that is consistent with the other retail properties. The petitioner also stated that the building’s location in the plaza is unique as it has limited visibility on various sides at various locations.

The petitioner presented a packet of materials prepared by Don Kelsey, Senior Construction Manager for the Guitar Center dated June 21, 2012, including undated and untitled renderings of the proposed wall signs for the north façade and east elevation prepared by Harmon Sign.

By a vote of 5-0-0, the Planning Board recommended favorable on the action. No one else spoke in favor or opposition to the petition.

Findings

The Board found that while the wall signage may exceed what is allowed under the Zoning By-laws, the wall signs, when analyzed in relationship to their locations on the two elevations, appear appropriate in size and scale. While the overall height of the proposed wall sign exceeds the By-law maximum of 4 feet, the Board found that the actual letters on the sign are 18 inches high. The Board also found that, while the total aggregate square footage of the wall sign exceeds the 150 SF limit under the Zoning By-law, the aggregate total of all wall signs is 165.17 SF, which the Board found not to be overly excessive. The Board also found the proposed wall signs to be proportionate to the size of the building. Furthermore, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed wall sign is necessary to identify the location of the business and for the traveling public to be safely directed to the business due to the unique location of the building in the Plaza and the limited visibility on various sides at various locations. Therefore, relief can be granted without resulting in substantial detriment to the public good and will not nullify the intent of the Zoning By-law.

Decision

On motion made by Mr. Calder and seconded by Mr. Gauthier, it was unanimously voted 3-0 to grant the requested relief, subject to the plans presented, and with the conditions that the sign be illuminated by white lights and subject to the sign being turned on at dusk and off one hour after store closing.

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 June 19, 2012.

The Board adjourned the meeting at 7:50pm.