



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

August 28, 2012

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

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

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

OLD BUSINESS:

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

Mr. Karll advised the Board that the applicant has submitted a written request to withdraw the petition without prejudice.

On a motion made by Mr. Calder and seconded by Mr. Gauthier, the Board voted unanimously to approve the request to withdraw the petition without prejudice.

- 2) Petition Number 12-29**
Edlira Lamani
RE: 639 Granite Street (Eda's Café)

Mr. Karll advised the Board that the applicant has requested a 90-day extension of the petition.

On a motion made by Mr. Calder and seconded by Mr. Gauthier, the Board voted unanimously to approve a 90-day extension of the petition to be heard at the November, 2012 Zoning Board of Appeal meeting.

- 3) Petition Number 12-34**
T-Mobile Northeast, LLC
RE: 0 Hancock Street/10-40 Plain Street

Present: Martin Cohen, representative for T-Mobile

This is a petition filed by T-Mobile Northeast, LLC, 15 Commerce Way, Norton, MA 02766, regarding the property located at 10-40 Plain Street/0 Hancock Street, Braintree, MA. The applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135- 403, 407, and 1603(B). The applicant seeks a permit, variance and/or finding to modify an existing wireless communication facility located on the roof of the existing building at 10-40 Plain Street/0 Hancock Street, Braintree, all in accordance with the plans of record. The property is located in a Commercial Zoning District as shown on Assessors Plan No. 1031, Plot 5 and contains +/-1,270,209 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 scheduled for August 28, 2012 before the Zoning Board of Appeals at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder.

Evidence

Martin Cohen, a representative for T-Mobile, explained to the Board that the petitioner's equipment is already located on the façade wall along the roof of this building. The applicant is seeking permission to replace six existing antennas with six new antennas of similar size and in the same location. The applicant also seeks permission to replace related equipment located at the site, such as cables and equipment cabinets. The petitioner seeks this modification to replace the existing antennas with new antennas that will provide enhanced Global System for Mobile Communications for its 2G service, enhanced Universal Mobile Telecommunication Systems for its 3G network, and create a platform for the launch of its LTE network in 2013. All of the replacement antennas will be painted to match the color of the building so as to minimize any visual or aesthetic impact.

The building at this site is pre-existing and nonconforming as to height. The building height is 54 Ft., while the Zoning By-law limits building heights in this zoning district to 50 Ft. The maximum height allowed for a penthouse is 12 feet beyond the roof, or 66 feet; however, this building's penthouse is 72 feet high. Neither the building height nor the current antenna height will be altered during the modifications the petitioner now seeks to make. The petitioner was previously granted relief for the installation of the wireless communications antennas and related equipment at this site. Since the applicant is seeking to modify a pre-existing and nonconforming structure, a finding is required under G.L. c. 40A, Section 6.

In addition, the wireless communication link is located within 500 feet of a school, hospital or residence, which is not allowed under Section 135-1603(B) (3) without the permission from the Zoning Board. The petitioner explained that the applicant was previously granted relief from this section to install the antennas. Therefore, the applicant is seeking a modification of its previously granted permit. The proposed antennas will not alter the setbacks of the building or the wireless communications facility from the nearest residence. Since the proposed antennas will be painted to match the façade of the building, the modifications will minimize the visibility of the facility.

As grounds for the finding, the petitioner explained that T-Mobile is in the process of upgrading their wireless communications facilities nationwide to enhance their existing 2G and 3G performance, as well as to create a platform for their LTE network to be launched in 2013. These modifications and installations will also address a gap in coverage and provide adequate and reliable wireless communications services in and around Braintree,

as the location and height of this particular building is uniquely situated to allow the applicant to address its gap in coverage.

In addition to the packet of information entitled "Minor Modification to the Existing T-Mobile Rooftop Wireless Facility, 0 Hancock Street/10-40 Plain Street," the petitioner submitted a copy of their Site Lease Agreement, four sheets entitled "Site Name: B0237/Petrini, 10 Plain Street (0 Hancock Street), Braintree, MA 02184, Norfolk County, Site Number: 4DE2237A," with sheets numbered T-1, C-1, A-1, and A-2, all dated June 16, 2012 and revised June 26, 2012, prepared by Daniel Hamm, RPE of Hudson Design Group, Inc. of North Andover, MA.

No one else spoke in favor of or opposition to the petition. The Planning Board was of the opinion that this application did not trigger Zoning Board approval under Section 135-1603(B) of the Zoning By-laws, and therefore, the Planning Board did not provide a recommendation.

Findings

The Board found that the requested relief was necessary in order to fill a gap in coverage and provide the Town with the most recent wireless communications technology. Further, the Board found that replacing the existing six antennas with six new antennas of the same height and in the same location would not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure 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. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

4) Petition Number 12-35 T-Mobile Northeast, LLC RE: 100 Grossman Drive

Present: Martin Cohen, representative for T-Mobile

This is a petition filed by T-Mobile Northeast, LLC, 15 Commerce Way, Norton, MA 02766, regarding the property located at 100 Grossman Drive, Braintree, MA. The applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135- 403, 407, and 1603(B). The applicant seeks a permit, variance and/or finding to modify an existing wireless communication facility located on the roof of the existing building, all in accordance with the plans of record. The property is located in a Highway Business Zoning District as shown on Assessors Plan No. 2019, Plot 1N and contains +/-207,679 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 scheduled for August 28, 2012 before the Zoning Board of Appeals at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder.

Evidence

Martin Cohen, a representative for T-Mobile, explained to the Board that the petitioner's equipment is already located on the rooftop of this building. The applicant is seeking permission to replace six existing antennas with six new antennas of similar size and in the same location. The applicant also seeks permission to replace related equipment located at the site, such as cables and equipment cabinets. The petitioner seeks this modification to replace the existing antennas with new antennas that will provide enhanced Global System for Mobile Communications for its 2G service, enhanced Universal Mobile Telecommunication Systems for its 3G network, and create a platform for the launch of its LTE network in 2013.

Neither the building height nor the current antenna height will be altered during the modifications the petitioner now seeks to make. The current wireless communications installation on this site is nonconforming under the Zoning By-laws, as the installation is located within 500 feet of a school, residence, hospital or convalescent home, with the nearest residence being approximately 180 feet. However, the petitioner was previously granted relief for the installation of the wireless communications antennas and related equipment at this site. The proposed antennas will not alter the setback from the nearest residence. Since the applicant is seeking to modify a pre-existing and nonconforming structure, a finding is required under G.L. c. 40A, Section 6.

As grounds for the finding, the petitioner explained that T-Mobile is in the process of upgrading their wireless communications facilities nationwide to enhance their existing 2G and 3G performance, as well as to create a platform for their LTE network to be launched in 2013. These modifications and installations will also address a gap in coverage and provide adequate and reliable wireless communications services in and around Braintree, as the location and height of this particular building is uniquely situated to allow the applicant to address its gap in coverage.

In addition to the packet of information entitled "Minor Modification to the Existing T-Mobile Rooftop Wireless Facility, 100 Grossman Drive," the petitioner submitted a copy of their Lease Agreement, four sheets entitled "Site Name: BS593/Braintree Executive Park, 100 Grossman Drive, Braintree, MA 02184, Norfolk County, Site Number: 4BS0593A," with sheets numbered T-1, C-1, A-1, and A-2, all dated June 15, 2012 and revised June 26, 2012, prepared by Daniel Hamm, RPE of Hudson Design Group, Inc. of North Andover, MA.

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

Findings

The Board found that the requested relief was necessary in order to fill a gap in coverage and provide the Town with the most recent wireless communications technology. Further, the Board found that replacing the existing six antennas with six new antennas of the same height and in the same location would not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure 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. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

5) Petition Number 12-36
T-Mobile Northeast, LLC
RE: 531-533 Pond Street

Present: Martin Cohen, representative for T-Mobile

Mr. Karll advised the Board that the applicant has requested a 30-day extension of the petition to allow for their correction of the advertisement..

On a motion made by Mr. Calder and seconded by Mr. Gauthier, the Board voted unanimously to approve a 30-day extension of the petition to be heard at the September 27, 2012 Zoning Board of Appeal meeting.

6) Petition Number 12-37
T-Mobile Northeast, LLC
RE: 639 Granite Street

Present: Martin Cohen, representative from T-Mobile

This is a petition filed by T-Mobile Northeast, LLC, 15 Commerce Way, Norton, MA 02766, regarding the property located at 639 Granite Street, Braintree, MA. The applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135- 403, 407, and 1603(B). The applicant seeks a permit, variance and/or finding to modify an existing wireless communication facility located on the roof of the existing building, all in accordance with the plans of record. The property is located in a Commercial Zoning District as shown on Assessors Plan No. 2048, Plot 15A and contains +/-3.57 acres 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 scheduled for August 28, 2012 before the Zoning Board of Appeals at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder.

Evidence

Martin Cohen, a representative for T-Mobile, explained to the Board that the petitioner's equipment is already located on the rooftop of this building. The applicant is seeking permission to replace six existing antennas with six new antennas of similar size and in the same location. The applicant also seeks permission to replace related equipment located at the site, such as cables and equipment cabinets. The petitioner seeks this modification to replace the existing antennas with new antennas that will provide enhanced Global System for Mobile Communications for its 2G service, enhanced Universal Mobile Telecommunication Systems for its 3G network, and create a platform for the launch of its LTE network in 2013.

Neither the building height nor the current antenna height will be altered during the modifications the petitioner now seeks to make. The current wireless communications installation on this site is nonconforming under the Zoning By-laws, as the installation is located within 500 feet of a school, residence, hospital or convalescent home, with the closest residence estimated at 170 feet. However, the petitioner was previously granted relief for the installation of the wireless communications antennas and related equipment at this site via Zoning Board Decision No. 04-77. The proposed antennas will not alter the setbacks of the building or the wireless

communications facility from the nearest residence. Since the applicant is seeking to modify a nonconforming structure, a finding is required under G.L. c. 40A, Section 6.

As grounds for the finding, the petitioner explained that T-Mobile is in the process of upgrading their wireless communications facilities nationwide to enhance their existing 2G and 3G performance, as well as to create a platform for their LTE network to be launched in 2013. These modifications and installations will also address a gap in coverage and provide adequate and reliable wireless communications services in and around Braintree, as the location and height of this particular building is uniquely situated to allow the applicant to address its gap in coverage.

In addition to the packet of information entitled "Minor Modification to the Existing T-Mobile Rooftop Wireless Facility, 639 Granite Street," the petitioner submitted a Letter of Authorization from the property owner, four sheets entitled "Site Name: BS555/639 Granite Street, 639 Granite Street, Braintree, MA 02184, Page 6 Zoning Board of Appeal Meeting Minutes August 28, 2012

Norfolk County, Site Number: 4BS0555E," with sheets numbered T-1, C-1, A-1, and A-2, all dated June 15, 2012 and revised June 26, 2012, prepared by Daniel Hamm, RPE of Hudson Design Group, Inc. of North Andover, MA.

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

Findings

The Board found that the requested relief was necessary in order to fill a gap in coverage and provide the Town with the most recent wireless communications technology. Further, the Board found that replacing the existing six antennas with six new antennas of the same height and in the same location would not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure 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. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

**7) Petition Number 12-38
T-Mobile Northeast, LLC
RE: 100 Grandview Road**

Present: Martin Cohen, representative for T-Mobile

This is a petition filed by T-Mobile Northeast, LLC, 15 Commerce Way, Norton, MA 02766, regarding the property located at 100 Grandview Road, Braintree, MA. The applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135- 403, 407, and 1603(B). The applicant seeks a permit, variance and/or finding to modify an existing wireless communication facility located on the roof of the existing building, all in accordance with the plans of record. The property is located in a Highway Business Zoning District as shown on Assessors Plan No. 2053B, Plot 1T and contains +/-199,940 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 scheduled for August 28, 2012 before the Zoning Board of Appeals at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder.

Evidence

Martin Cohen, a representative for T-Mobile, explained to the Board that the petitioner's equipment is already located on the rooftop of this building. The applicant is seeking permission to replace six existing antennas with six new antennas of similar size and in the same location. The applicant also seeks permission to replace related equipment located at the site, such as cables and equipment cabinets. The petitioner seeks this modification to replace the existing antennas with new antennas that will provide enhanced Global System for Mobile Communications for its 2G service, enhanced Universal Mobile Telecommunication Systems for its 3G network, and create a platform for the launch of its LTE network in 2013.

Neither the building height nor the current antenna height will be altered during the modifications the petitioner now seeks to make. The building height is currently 50 feet, and the screen wall adds another 11.3 feet in height. The current antennas on the building are 10 feet 4 inches above the height of the building, but the Zoning By-law limits the height of a wireless link to 10 feet above the height of the building. Therefore, the current wireless communications installation on this site is nonconforming under the Zoning By-laws with regard to the height of the installation above the height of the building. However, the petitioner was previously granted relief for the installation of the wireless communications antennas and related equipment at this site. The proposed antennas will not alter the setbacks of the building or the height of the wireless communications facility. Since the applicant is seeking to modify a nonconforming structure, a finding is required under G.L. c. 40A, Section 6.

As grounds for the finding, the petitioner explained that T-Mobile is in the process of upgrading their wireless communications facilities nationwide to enhance their existing 2G and 3G performance, as well as to create a platform for their LTE network to be launched in 2013. These modifications and installations will also address a gap in coverage and provide adequate and reliable wireless communications services in and around Braintree, as the location and height of this particular building is uniquely situated to allow the applicant to address its gap in coverage.

In addition to the packet of information entitled "Minor Modification to the Existing T-Mobile Rooftop Wireless Facility, 639 Granite Street," the petitioner submitted a copy of their Lease Agreement, four sheets entitled "Site Name: BO091/Corcoran, 100 Grandview Drive, Braintree, MA 02184, Norfolk County, Site Number: 4DE2091A," with sheets numbered T-1, C-1, A-1, and A-2, all dated June 14, 2012 and revised June 26, 2012, prepared by Daniel Hamm, RPE of Hudson Design Group, Inc. of North Andover, MA.

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

Findings

The Board found that the requested relief was necessary in order to fill a gap in coverage and provide the Town with the most recent wireless communications technology. Further, the Board found that replacing the existing six antennas with six new antennas of the same height and in the same location would not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure 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. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

**8) Petition Number 12-39
T-Mobile Northeast, LLC
RE: 400 Washington Street**

Present: Martin Cohen, representative for T-Mobile

This is a petition filed by T-Mobile Northeast, LLC, 15 Commerce Way, Norton, MA 02766, regarding the property located at 400 Washington Street, Braintree, MA. The applicant is seeking relief from the Town of Braintree Zoning By-laws Sections 135- 403, 407, and 1603(B). The applicant seeks a permit, variance and/or finding to modify an existing wireless communication facility located on the roof of the existing building, all in accordance with the plans of record. The property is located in a General Business Zoning District as shown on Assessors Plan No. 2024, Plot 62 and contains +/-58,631 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 scheduled for August 28, 2012 before the Zoning Board of Appeals at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder.

Evidence

Martin Cohen, a representative for T-Mobile, explained to the Board that the petitioner's equipment is already located on the rooftop of this building. The applicant is seeking permission to replace three existing antennas with three new antennas of similar size and in the same location. The applicant also seeks permission to replace related equipment located at the site, such as cables and equipment cabinets. The petitioner seeks this modification to replace the existing antennas with new antennas that will provide enhanced Global System for Mobile Communications for its 2G service, enhanced Universal Mobile Telecommunication Systems for its 3G network, and create a platform for the launch of its LTE network in 2013.

Neither the building height nor the current antenna height will be altered during the modifications the petitioner now seeks to make. The building height is currently 50 feet, and the current antennas on the building are 16 feet 4 inches above the height of the building. The Zoning By-law limits the height of a wireless link to 10 feet above the height of the building. Therefore, the current wireless communications installation on this site is nonconforming under the Zoning By-laws with regard to the height of the installation above the height of the building. In addition, the existing wireless link is located within 500 feet of a school, residence, hospital or convalescent home, with the closest residence located at approximately 200 feet. However, the petitioner was previously granted relief for the installation of the wireless communications antennas and related equipment at this site via Zoning Board Decision No. 04-76. The proposed antennas will not alter the setbacks of the building or the height of the wireless communications facility. Since the applicant is seeking to modify a nonconforming structure, a finding is required under G.L. c. 40A, Section 6.

As grounds for the finding, the petitioner explained that T-Mobile is in the process of upgrading their wireless communications facilities nationwide to enhance their existing 2G and 3G performance, as well as to create a platform for their LTE network to be launched in 2013. These modifications and installations will also address a gap in coverage and provide adequate and reliable wireless communications services in and around Braintree, as the location and height of this particular building is uniquely situated to allow the applicant to address its gap in coverage.

In addition to the packet of information entitled "Minor Modification to the Existing T-Mobile Rooftop Wireless Facility, 400 Washington Street," the petitioner submitted a copy of their Lease Agreement, four sheets entitled "Site Name: BN472/400 Washington Street, Braintree, MA 02184, Norfolk County, Site Number: 4BN0472A," with sheets numbered T-1, C-1, A-1, and A-2, all dated June 13, 2012 and revised June 26, 2012, prepared by Daniel Hamm, RPE of Hudson Design Group, Inc. of North Andover, MA.

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

Findings

The Board found that the requested relief was necessary in order to fill a gap in coverage and provide the Town with the most recent wireless communications technology. Further, the Board found that replacing the existing three antennas with three new antennas of the same height and in the same location would not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure 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. Calder and seconded by Mr. Gauthier, it was unanimously voted to grant the requested relief, subject to the plan presented.

9) Petition Number 12-40

Tom Le

RE: 67 Walnut Avenue

Mr. Karll advised the Board that the applicant has submitted a written request for a 30-day extension of the petition.

On a motion made by Mr. Calder and seconded by Mr. Gauthier, the Board voted unanimously to approve a 30-day extension of the petition to be heard at the September 27, 2012 Zoning Board of Appeal meeting.

10) Petition Number 12-41

Back Bay Sign for Everbrite on behalf of Vitamin Shoppe

RE: 50 Forbes Road

Present: Jason Parillo, Back Bay Sign representing the petitioner

This is a petition filed by Back Bay Sign for Everbrite, 425 Riverside Avenue, Medford, MA 02155 on behalf of Vitamin Shoppe regarding the property located at 50 Forbes Road in Braintree. The property is owned by Carpenter and Company, Inc., 200 University Road, Cambridge, MA 02138. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, and 904.2 to install a second wall sign.

The property is located in a Highway Business District and contains +/- 5.36 acres of land, as shown on Assessors' Map No. 2043, Plots 1 and 1A.

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 scheduled for August 28, 2012 at 7 p.m. at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder.

Evidence

The petition was presented by Jason Parillo of Back Bay Sign, who has been hired to design and install the sign for the Vitamin Shoppe, which will be located at 50 Forbes Road, within the newly redeveloped South Shore Place. This site contains a hotel and cluster of commercial buildings located within a single plaza. The Vitamin Shoppe is a new tenant to be located at the end of a row of one of the retail buildings, located closest to Route 128.

The Vitamin Shoppe is a national chain, with a store currently located at Five Corners in Braintree, which will be relocating to South Shore Place. The property owner has already applied for and obtained sign relief for wall signage and a pylon sign for various retail tenants at this site. One of those previously approved wall signs is reserved for the Vitamin Shoppe, and that sign measures 28 SF and will be located over the entrance to the shop, which faces the interior parking lot and Granite Street. However, the Vitamin Shoppe is seeking a second wall sign which measures 27.74 SF and is proposed to be located on the northerly side elevation of the building facing Route 128. The signage proposed is consistent with the store's national brand, which consists of white letters outlined in blue against a yellow field. The proposed sign measures 15 feet, 1/6 inches in length and 22 inches in height. The sign will be internally lit with white LED lights.

Section 135-904.2(a)(5)(g) of the Zoning By-laws states: "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 square feet in area. Sign permit may be issued only after written permissions for said signs is authorized by the Zoning Board of Appeals." The aggregate total of all approved signage for this mixed use center currently exceeds 150 SF in area, and therefore, a variance from the Sign By-law is required.

As grounds for the requested relief, the applicant explained that the retail building is nestled within this plaza, with the front of the retail stores facing an interior parking lot behind two other retail buildings. The building where the Vitamin Shoppe is to be located is set back some distance from both Forbes Road and Granite Street, and is therefore not easily visible to the travelling public along those roads. By placing the proposed sign along the Route 128 side of the building, the sign is designed to attract the traveling public from Route 128 to the proper exit off the highway and on to Forbes Road into the plaza. In response to a question from the Board, the petitioner advised that the sign would be located at an elevation of approximately 18 feet from the ground.

The petitioner submitted four sheets with renderings for "Vitamin Shoppe", prepared by Everbrite dated 4/3/12. The petitioner also submitted seven aerial views of South Shore Place and the Vitamin Shoppe's proposed location within the plaza.

No one else spoke in favor of or opposition to the petition. The Planning Board was of the opinion that there is sufficient signage for this plaza and vote 4-1-0 against the recommended relief.

Findings

The Board found that the petitioner had demonstrated the need for relief from the Zoning By-law. Specifically, the Board found that the proposed wall sign is necessary to identify the location of the business as it is setback from the direct access road and to direct the public traveling through the South Shore Place site. The Board also found that the petitioner had demonstrated a hardship due to the size of this lot with multiple businesses located at the site and based on the fact that the store is located behind two other buildings, limiting its visibility. The Board further found that the proposed wall sign would increase the business' visibility and improve traffic circulation which would lead to safer traffic conditions and greater public convenience in directing traffic to the site. The Board also noted that the sign will not face any residential area and concluded that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating the intent and purpose 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 subject to the condition that the sign be illuminated one hour before dusk until one hour after closing.

11) Petition Number 12-42 Batten Bros., Inc. on behalf of Californian Pizza Kitchen RE: 250 Granite Street

Present: John Connor of Batten Brothers representing the petitioner

This is a petition filed by Batten Bros., Inc. 893 Main Street, Wakefield, MA on behalf of California Pizza Kitchen regarding the property located at 250 Granite Street in Braintree. The property is owned by Braintree Property Associates c/o Simon Property Group, P.O. Box 6120, Indianapolis, IN. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, and 904.2 to install one wall sign that projects over a public walkway. The property is located in a Highway Business District and contains +/- 111.645 acres of land, as shown on Assessors' Map No. 2089, Plot 22.

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 scheduled for August 28, 2012 at 7 p.m. at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder.

Evidence

The petition was presented by John Connors of Batten Bros., Inc., who has been hired to design and install the sign for California Pizza Kitchen, which is located at 250 Granite Street, within the South Shore Plaza. This site contains a cluster of commercial buildings located within a single plaza. California Pizza Kitchen is an existing restaurant located near the south parking facility, in the corner between Legal Seafood and the Nordstrom's wing.

California Pizza Kitchen has previously approved signage for this location. One of those previously approved signs is a 12.46 SF diamond-shaped wall sign located within the alley/public walkway tucked behind the south parking facility and leading into the Nordstrom's wing of the South Shore Plaza. This sign is currently

mounted flush against the building, but the petitioner now seeks to rotate this sign 180 degrees away from the side of the building so that the sign will project over a 22 foot wide public walkway, just above California Pizza Kitchen's only exterior entrance. This existing sign is also the only exterior wall for this restaurant.

According to Section 135-904.2(A)(4) of the Zoning By-laws: "No projecting signs which extend over a public way shall be allowed." Since the proposed sign will project over a public walkway, a variance is required.

As grounds for the variance, the petitioner explained the unique location of the restaurant with the South Shore Plaza, with no visibility on a main access way and obscured by the south parking facility structure. The restaurant's exterior entrance is tucked in at the end of a public walkway, with little, if any, visibility from the access way. By rotating this sign, the restaurant's visibility will improve as will directing the traveling public to its site. The proposed sign will project approximately 5 feet from the side of the building. In addition, the restaurant is not visible from any major artery. The lack of access and visibility from within the plaza, combined with the fact that the restaurant is tucked into a corner and partially obscured by the parking facility, requires signage sufficient for customers to locate the restaurant and be safely directed to it.

The signage proposed is consistent with the restaurant's national brand. The wall sign over the exterior entrance to the restaurant is a yellow and black diamond with a black palm tree in the background with the words "California Pizza Kitchen" written in two lines over the trunk of the tree. The proposed sign measures 3 feet 7 ¼ inches in height and 4 feet 11 ¼ inches in width, for a total of 12.46 SF.

In response to concerns raised by Board members about the safety of a sign projecting over a public walkway, the petitioner advised that under the State Building Code, the sign would be more than adequately anchored to the building. Board members also expressed concern about signs projecting over public walkways, while the petitioner pointed to other signs within the walkway, which, while not projecting, could pose a similar safety concern. The applicant also noted that the walkway is 22 feet wide, which should provide ample space for pedestrians to walk safely.

The petitioner submitted four sheets with renderings for "California Pizza Kitchen", including a cover sheet, Drawings numbered 12-0000-R5 for pages 204 of 4, prepared by Signage Solutions of Anaheim, CA dated 4/30/12 with revisions through 6/14/12, and two renderings entitled "Photo View from Parking Structure", and "Plan View of Public Way", prepared by Batten Bros., Inc. of Wakefield, MA dated 7/25/12.

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

Findings

The Board found that the petitioner had demonstrated the need for relief from the Zoning By-law. Specifically, the Board found that the proposed wall sign is necessary to identify the location of the business as it is setback from the direct access road and to direct the public traveling through the South Shore Plaza site. The Board also found that the petitioner had demonstrated a hardship due to the size of this lot with multiple businesses located at the site and based on the fact that the restaurant is tucked in a corner with little visibility. The Board found that the proposed wall sign would increase the business' visibility and improve traffic circulation which would lead to safer traffic conditions and greater public convenience in directing traffic to the site. The Board also noted that the sign will not face any residential area and concluded that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating the intent and purpose of the Zoning By-law.

Decision

On motion made by Mr. Calder and seconded by Mr. Karll, it was voted 2-1 to grant the requested relief, subject to the plans presented.

12) Petition Number 12-43

G.B. New England 2, LLC

RE: 178 Washington Street, 96 Church Street and 90 Church Street

Present: Attorney Frank Marinelli representing the petitioner, Trustees, a representative of CVS and Brian Dunden from R. J. O'Connell & Associates, civil engineers for the site.

This is a petition filed by G.B. New England 2, LLC of 14 Breakneck Hill Road, Suite 101. Lincoln, RI 02865 regarding the property at 178 Washington Street, 96 Church Street and 90 Church Street, Braintree, in which the applicant seeks relief from the Town of Braintree Zoning By-laws Sections 135-403, 407, and 701. The applicant is seeking a permit, variance and/or finding to redevelop the site to construct a CVS retail store and pharmacy with a drive-through pharmacy, all in accordance with the plans of record. The properties are located in Residence C and General Business Zoning Districts as shown on Assessors Plans No. 2062, Plots 27, 27A and 27B and Plan No. 2064, Plot No. 5A, containing a combined area of 72,017 +/- 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 scheduled for August 28, 2012 at 7 p.m. at Town Hall at One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Calder.

Evidence

The petition was presented by Attorney Frank Marinelli, who appeared with the Trustees, representative of CVS and Brian Dunden from R. J. O'Connell & Associates, civil engineers for the site. Attorney Marinelli explained that there are three existing buildings among these lots which are proposed to be demolished and the lots combined to allow for the construction of a new CVS store and pharmacy. Currently, the site is occupied by a used car dealership, an automotive repair shop, a body shop and related trailers, with such uses requiring special permits or grandfathering under the Town's Zoning By-laws. One lot also contains a two-family dwelling, owned by the trustees, whose entire back yard was paved to accommodate the adjacent automotive uses. The proposed CVS store is a use allowed as of right within the General Business Zoning District.

It should be noted that the proposed redevelopment of this site requires a request to re-zone a portion of the site, a Site plan review Application and an Approval Under the Subdivision Law Not Required Plan to be endorsed by the Planning Board. This instant petition before the Zoning Board of Appeals does not address any of this zoning relief; rather, this petition relates only to rear and front yard setback variances and a finding under G.L. Chapter 40A, Section 6.

The current buildings on the site are pre-existing nonconforming, and therefore, the proposed demolition of these buildings and redevelopment of this site requires a finding pursuant to G.L. Chapter 40A, Section 6. The proposed CVS would have a footprint of 12,900 SF and provide 75 parking spaces, which exceeds the parking required. The proposed CVS is compliant with all dimensional requirements of the Zoning By-laws with the exception of front and rear yard setbacks. The front of the proposed CVS will be Church Street and is proposed to be located 4 feet from the front lot line. The Zoning By-law requires a front yard setback of 10

feet; however, the existing structure on the lot offers a front yard setback of only 1.07 feet. The proposed CVS drive-thru canopy encroaches into the rear yard setback, as it is proposed to be located 14.11 feet off the rear lot line, while the Zoning By-law requires a rear yard setback of 20 feet. The existing structures on this site conform as to rear yard setback.

As grounds for the variances, Attorney Marinelli noted the irregular shape of the lot, noting that the site is 4 ½ times wider than it is deep and that the lot grows narrower as it approaches Washington Street. The topography of the site slopes from east to west to the depressed MBTA railroad tracks. These lots have also been the subject of multiple land takings, further contributing to the irregular shape of the lot and the hardship for conforming to the Zoning By-law requirements. The site is unique in that it is bounded on two sides by streets and one side by the MBTA rail line. Attorney Marinelli also stated that the existing structures on the site present a hardship, as they do not lend themselves to be retrofitted to any other use. The proposed CVS reflects the store's "village" design, with the storefront pulled forward towards the street to create a streetscape.

Attorney Marinelli also explained that the proposed redevelopment will drastically improve the site and not be substantially more detrimental. Currently, the site contains three buildings and excessive pavement. The proposed CVS will increase open space from the existing 8.1% to 23%, reduce lot coverage from the existing 91.9% to 77% and increase landscaping from the existing 2.8% to 12.8%. Attorney Marinelli also asserted that the proposed use as a retail store/pharmacy is less detrimental to the neighborhood than an automotive shop with paint fumes, petroleum products and noisy air guns. CVS will also use more diffuse lighting than the existing car dealership. The CVS development is also proposing to close two existing curb cuts to provide for better site circulation and traffic patterns.

The applicant submitted a plan entitled "CVS Pharmacy, 12,900 SF Type 'A' Center Entrance Double Drive Thru, Store Number: RELO 686, 178 Washington Street, Braintree, MA," dated 5/25/2012, prepared by R. J. O'Connell & Associates, Inc. of Stoneham, MA.

The Planning Board voted 5-0-0 in favor of the requested relief. An abutter, Jeff Edelson of 78 Pleasant Street, asked questions about the line of site exiting the CVS with only a 4 foot setback, the ability to take a left turn when exiting the site, the location of the dumpster, hours of operation, lighting, and the ability to move the building closer to Washington Street. Brian Dunden of R.J. O'Connell advised that the project will require a traffic study and Planning Board review, where many of these concerns may be addressed. With respect to locating the building closer to Washington Street, Mr. Dunden advised that this configuration was considered but rejected because of the need to accommodate loading docks, emergency vehicles and to improve site circulation. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the applicant had demonstrated a hardship based on the unique shape and topography of the lot, specifically the fact that the lot is bounded on two side by streets and one side by the MBTA and the fact that the lot tapers as it approaches Washington Street. The Board also found that the applicant had demonstrated a hardship based on the land takings that have affected the shape of these lots. The Board also found that the proposed redevelopment of the site as a CVS would not be substantially more detrimental to the neighborhood than the existing used car dealership and related uses and structures on the site. 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.

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 July 24, 2012.

The Board adjourned the meeting at 8:28pm.