



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

February 26, 2013

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

ALSO PRESENT: Eric Erskine, Local Building Inspector
Carolyn Murray, Town Solicitor

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

NEW BUSINESS:

- 1) Petition Number 13-6**
Thomas Fitzgerald
RE: 7-11 Independence Avenue

Mr. Karll advised the Board that the applicant has requested a 60-day extension of the petition.

On a motion made by Mr. Ford and seconded by Mr. Gauthier, the Board voted unanimously to approve a 60-day extension of the petition to be heard at the April 23, 2013 Zoning Board of Appeal meeting.

- 2) Petition Number 13-7**
Edward Lau, President of the Tian Ann Jih Der Sheng Daw Yuann Temple
RE: 49-59 Hayward Street

Present: Edward Lau, President of the Temple

This is a petition filed by Edward Lau, President of the Tian Ann Jih Der Sheng Daw Yuann Temple (hereinafter, the "Temple") of 49-59 Hayward Street, Braintree, regarding the same property. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, and 903 to install three signs, all in accordance with the plans submitted. The property is located in a Residential B Zoning District and contains +/- 78,133 SF of land, as shown on Assessors' Map No. 3058, 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 held on February 26, 2013 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, with alternate, Michael Ford.

Evidence

The petition was presented by Edward Lau, President of the Temple, who explained that the Temple has recently completed its new construction and the installation of new signs complements the new structure. The Temple plans on installing three signs described below:

1. One wall sign measuring 32.75 inches high by 100.25 inches long for a total area of 22.6 SF is proposed to be located over the balcony on the building's façade, which is set back more than 100 feet from the Hayward Street lot line. This sign will bear the name of the Temple in Chinese letters.
2. A second sign is proposed across the top and along the sides of the ceremonial arch, located 20.6 feet from the front property line. Horizontally across the top of the arch is a sign bearing the name of the Temple in English and Chinese. Along the vertical legs to the arch is an inspirational poem in Chinese letters. The total area of the signage along the arch is 45 SF.
3. The third sign is a ground sign located in front of 49 Hayward Street, set back 5 feet from the front property line, with a total area of 20 SF. This sign contains the hours of the Temple's services. This sign was the original sign for the Temple before the new structure was built.

Section 135-903 of the Zoning By-laws limits what signs are allowed in a Residential Zoning District. However, the Temple is a religious use, which enjoys some protection from zoning under G.L. Chapter 40A, Section 3. Section 135-903.A(2) allows a religious institution in a residential zoning district to erect two bulletin or announcement boards, not to exceed 20 SF in area, but the sign cannot be located closer to the front lot line than one half the depth of the required front yard setback. The front yard setback is 20 feet, and therefore, the sign is not allowed to be closer than 10 feet from the front lot line. The proposed ground sign is an announcement board that complies with the overall area dimensional requirement; however, the sign is 5 feet closer to the front lot line than allowed under the Zoning By-law, and therefore, zoning relief is required.

Section 135-903. A (3) allows two signs for a permitted nonresidential use, provided neither exceeds 20 SF in area. The area of the proposed wall sign over the balcony slightly exceeds the 20 SF limit. It is not clear whether the signage on the ceremonial archway is to be treated as a ground sign or a second wall sign. To the extent that the signage on the ceremonial archway is considered a wall sign, the signage requested exceeds the 20 SF limit under the Zoning By-law. While the ceremonial archway sign may resemble a ground sign, such signs are not permitted in a Residential Zoning District. However, the ceremonial archway is an architectural feature integral to the Temple and serves a religious purpose, separate and apart from any signage affixed thereto, and therefore, the archway is not a typical ground sign as seen in business zoning districts. As noted above, the Temple enjoys some protection from literal enforcement of zoning restrictions under General Laws Chapter 40A, Section 3. Still, the Town is permitted to impose reasonable dimensional requirements on religious structures.

Acknowledging the protection afforded to religious uses under Chapter 40A, the planning Board noted that the sign package presented by the Temple was fairly compliant with zoning requirements and aesthetically pleasing. Mr. Lau explained that the signage was necessary to properly identify the Temple, to direct people to the main entrance, and to advise of the hours of services. Mr. Lau also stated that he spoke with some

residential neighbors, who indicated that the signs blend in well with the neighborhood. In response to a question posed by a Board member, Mr. Lau advised that there were no plans to illuminate any of these signs at this time.

The Senior Pastor for the Temple, speaking through Mr. Lau, expressed her support for the petition and expressed her gratitude for the cooperation exhibited by Town officials. No one else spoke in favor of or opposition to the petition. By a vote of 5-0-0, the Planning Board recommended favorable action on the petition.

The petitioner submitted three color photos of the proposed signage from various vantage points as well as one sheet of specifications for the ceremonial archway.

Findings

The Board found that the petitioner had demonstrated the need for relief from the Zoning By-law. Specifically, the Board found that the Temple is a religious use located in a residential zoning district, with strict limitations on signage. The Board found that the Temple is afforded certain exemptions from zoning requirements under General Laws Chapter 40A, Section 3. The Board further found that the proposed signage was necessary to identify the Temple, to safely direct the public traveling to the site, and to inform the public of the hours of services, which, in turn would lead to safer traffic conditions and greater public convenience. The Board also concluded 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 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.

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 January 22, 2013.

The Board adjourned the meeting at 7:35 pm.