



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

March 19, 2013

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

ALSO PRESENT: Michael McGourty, Local Building Inspector
Carolyn Murray, Town Solicitor

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

NEW BUSINESS:

- 1) Petition Number 13-8**
Paula Orinofsky
RE: 79 Town Street

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. Gauthier, the Board voted unanimously to approve a 30-day extension of the petition to be heard at the April 23, 2013 Zoning Board of Appeal meeting.

- 2) Petition Number 13-9**
David Lehmkuhl
RE: 35 Roc Sam Park Road

Present: David Lehmkuhl, petitioner

Following a presentation by the petitioner and discussion between the applicant and Appeals Board Members, it was recommended by Chairman Karll that the petition be continued at the April 23, 2013 Zoning Board of Appeal meeting at which time earlier Zoning Board decisions on this property will be considered.

On a motion made by Mr. Karll and seconded by Mr. Gauthier, the Board unanimously voted to continue the petition until the April 23, 2013 Zoning Board of Appeal meeting..

3) Petition Number 13-10
Timothy Kirrane
RE: 98 Inglewood Street

Present: Timothy Kirrane, petitioner

This is a petition filed by Timothy Kirrane of 98 Inglewood 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 build a shed dormer on the roof of an existing dwelling, all in accordance with the plans of record. The property is located within a Residential B Zoning District as shown on Assessors' Map 3039, Plot 72, which contains a land area of +/- 9,000 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 on March 19, 2013 before the Zoning Board of Appeals at 7 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Steve Karll, and members Jack Gauthier and Michael Calder, with alternate, Michael Ford.

Evidence

The petitioner, Timothy Kirrane, represented himself and explained that he is seeking permission to alter a pre-existing nonconforming structure located on a nonconforming corner lot. The existing single family house on the lot violates the side yard setback. The Zoning By-law requires a side yard setback of 10 feet, while the existing structure is located 1.7 feet from the westerly side lot line. The existing structure also encroaches into the rear yard setback, as the existing deck is 4.2 feet from the rear lot line, while the Zoning By-law requires a rear yard setback of 30 feet. The lot is also nonconforming as it lacks the 15,000 SF minimum lot size for a Residential B Zoning District. The lot also lacks the minimum lot depth of 100 feet, as the lot contains only 90 feet of depth.

The petitioner seeks to add a 15 ft. x 24 ft. shed dormer to the rear westerly corner of the existing dwelling to raise the existing ceiling height of a second story bedroom and to accommodate a bathroom. The Planning Board report noted that this property was previously granted zoning relief to add a farmer's porch on the front of the house on the westerly side, which also encroaches into the side yard setback. The petitioner explained that the shed dormer would be built within the footprint of the existing dwelling and would not create any new nonconformities; therefore, a finding is required under General Laws Chapter 40A, Section 6.

The petitioner submitted a plan entitled "Plan of Land in Braintree, Massachusetts, 98 Inglewood," dated January 28, 2013, prepared by C.S. Kelley, Land Surveyors, Pembroke, MA.

Ed Sampson, an abutter to the rear at 159 Audubon Avenue, wanted to clarify that no new foundation would be dug, that the first floor would remain as is, and that the addition would be limited to the second floor. Mr. Sampson also requested that the construction be completed in a timely manner. Steve Tresca, an abutter at 68 Vinedale Avenue, echoed that he was not opposed, as long as the construction was completed in a timely fashion.

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

Findings

The Board found that the proposed alteration of the pre-existing nonconforming structure by the addition of a second story shed dormer would fall within the footprint of the existing dwelling and not create any new nonconformities. The Board also found that the proposed alteration will not be more detrimental to the neighborhood than the existing dwelling. 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. Ford, it was unanimously voted to grant the requested relief, subject to the plan presented.

**4) Petition Number 13-11
Jessee Ramsperger, Pro Sign Service for DSW (Designer Shoe Warehouse)
RE: 250 Granite Street**

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. Gauthier, the Board voted unanimously to approve a 30-day extension of the petition to be heard at the April 23, 2013 Zoning Board of Appeal meeting.

**5) Petition Number 13-12
T.G.I. Fridays/Carlson Restaurants, c/o JMK Development, LLC
RE: 60 Forbes Road**

Present: Attorney Frank Marinelli representing the petitioner
Bud Fermini, Carlson Restaurant Group

This is a petition filed by TGI Fridays/Carlson Restaurants, c/o JMK Development, LLC, 1900 Preston Road, Plano, TX, 75093, regarding the property located at 60 Forbes Road in Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, 701 and 904 to install three exterior wall signs, all in accordance with the plans submitted. The property is located in a Highway Business Zoning District and contains +/- 10.21 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 held on March 19, 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 Attorney Frank Marinelli, who appeared with Bud Fermini of Carlson Restaurant Group. Attorney Marinelli explained that the site is the location of the new South Shore Place, complete with the Hyatt Hotel and an adjacent retail pavilion. TGI Fridays was at this location when the prior hotel, The Sheraton Tara, was located on this site. In fact, the existing TGI Fridays was physically attached to and accessible from the former Sheraton Tara on the westerly side of the restaurant. With the demolition of the Sheraton Tara Hotel, TGI Fridays is now a freestanding building on the lower level pavilion retained on this site.

Attorney Marinelli also explained that TGI Fridays has undergone national re-branding, and the proposed signage reflect the new look of the restaurant. This particular location is considered one of TGI Fridays flagship stores, and the new look includes new exterior wall finishes, awnings, lights, and new façade. Three new wall signs are proposed:

1. One wall sign on the front or south elevation above the main entrance on Forbes Road, facing Granite Street. This internally illuminated sign measures 3 feet 5 ¼ inches in height by 8 feet 5 inches in length for a total area of 28.9 SF. This sign will replace the existing wall sign which currently has an area of 24.25 SF. The new signage reflects a decrease in text, as the new sign no longer includes the phrase “In here, it’s always Friday.” Instead, the new sign will consist of the letters TGI in a vertical position adjacent to the “F” in Fridays.
2. A second wall sign will be located on the east elevation facing Forbes Road. This sign will also be internally illuminated and will state “TGI Fridays” in a manner similar to the façade sign. The applicant measured this sign as 35.35 SF, but the Planning Department staff calculated an area of 42.71 SF, which includes the entire sign field.
3. The third wall sign is requested for the westerly elevation facing the new retail interior parking area. This sign is also internally illuminated, states “TGI Fridays” and measures 4 feet 2 inches in height by 10 feet 3 inches in length, for a total area of 36.35 SF.

Section 135-904.2 (A) (5) (b) of the Zoning By-laws limits a wall sign to 4 feet in height. The proposed sign from the east elevation has an overall height of 4 feet 2 inches, and therefore, a variance is required.

Section 135-904.2 (A)(5)(e) of the Zoning By-laws limits sign area to one square foot per linear foot of frontage, with frontage meaning the side of the building that faces the access roadway. The linear frontage of the restaurant is 79 feet 3 inches, and therefore, the wall signs would be limited to 79.25 SF of signage. The total area of all proposed signage is 107.96 SF, and therefore a variance is required.

Section 135-904.2 (A) (5)(g) of the Zoning By-laws states that no more than one wall sign for each business occupying a building is permitted, with the total of all signage not to exceed 150 SF. Although the total signage requested is under 150 SF, the petitioner seeks three wall signs, and therefore, a variance is required.

As grounds for the requested relief, Attorney Marinelli noted that the signage is needed to properly identify the restaurant and to safely direct the traveling public to the site. With the redevelopment of this site, TGI Fridays is now a free-standing building within a retail pavilion of other stores and restaurants. Although located on Forbes Road, most of the traveling public will be coming from Granite Street, and as the restaurant is set back at some distance from Granite Street, the signage is necessary to direct the public. In addition, the site’s topography slopes significantly from west to east, and the lot is irregularly shaped, with Forbes Road curving into and around the site at intervals. The overall redevelopment of the site with different curb cuts and site circulation warrant the signage, so that the restaurant can be identified from all sides, with the exception of the north elevation where the loading dock is located.

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 two sheets of color renderings of the proposed signage prepared by Poole and Drennan Design Studio. The petitioner also submitted plans entitled "TGI Fridays, 50 Forbes Road, Braintree, MA," with sheets numbered G-102 Signage, A-201 Exterior Demo/New Elevations, A-202 Exterior Demo/New Elevations, and A-203 Exterior Demo/New Elevations, dated December 21, 2012 prepared by Tim R. Poole, Architect, of Dallas, Texas.

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 signage was warranted based on the irregular shape of the lot, the varying elevations of the lot, the reconfiguration of buildings on the lot due to the removal of structures and the overall redevelopment of the site, and the location of the restaurant within this newly reconfigured site. The Board further found that the proposed signage was necessary to identify the restaurant and to safely direct the public traveling to the site, 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. Gauthier and seconded by Mr. Calder, 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 February 26, 2013.

The Board adjourned the meeting at 9:15 pm.