



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

April 23, 2013

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

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

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

OLD BUSINESS:

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

Present: Paula Orinofsky, 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 until the May 21, 2013 Zoning Board of Appeal meeting, at which time the petitioner will provide title search information to the Board.

On a motion made by Mr. Karll and seconded by Mr. Ford, the Board unanimously voted to continue the petition until the May 21, 2013 Zoning Board of Appeal meeting.

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

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

On a motion made by Mr. Gauthier and seconded by Mr. Ford, the Board voted unanimously to approve a 30-day extension of the petition to be heard at the May 21, 2013 Zoning Board of Appeal meeting.

3) Petition Number 13-11
Pro Sign Service on behalf of DSW (Designer Shoe Warehouse)
RE: 250 Granite Street

Present: Jessee Ramsperger of Pro Sign Service, on behalf of DSW.

This is a petition filed by Pro Sign Service of 110 Forge River Pkwy., Raynham, MA 02767, on behalf of DSW (Designer Shoe Warehouse), regarding the property located at 250 Granite Street in Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, and 904.2 to install two exterior wall signs, all in accordance with the plans submitted. The property is located in a Highway Business Zoning District and contains +/- 111.67 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 March 19, 2013, but was continued to April 23, 2013 at 7 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Ford.

Evidence

The petition was presented by Jessee Ramsperger of Pro Sign Service, who appeared on behalf of DSW. Mr. Ramsperger explained that DSW has moved into the South Shore Plaza in space previously occupied by Filene's Basement. The petitioner currently has a sign on the multiple tenant sign located on the façade of the South Garage; the sign package was previously approved and is not part of the current application.

This petition seeks two exterior signs to be installed in the same locations as Filene's Basement signs. One sign is proposed to be located over the exterior direct entrance door and measures 21' by 71" or 10.35 SF. The other sign is proposed to be located on the exterior façade facing the South Garage and measures 2' 10" by 25' 2 3/4" or 77.39 SF. The total area of signage requested under this petition is 87.74 SF. Both signs will consist of white letters on a black background stating "DSW Designer Shoe Warehouse". Both signs will be internally lit with white LED lights.

Zoning By-law Section 904.2.A(5)(e) limits wall sign area to one square foot per linear foot of frontage. The linear frontage of the South Shore Plaza is undetermined, and therefore, it cannot be determined whether these signs comply. In addition, Section 904.2.A(5)(g) limits each business to one wall sign with an aggregate total of all wall signs not to exceed 150 SF of area, unless permitted by the Board. The applicant has requested two wall signs, but the wall signs do not exceed the 150 SF limit. Therefore, variances from the Sign By-law are required.

The petitioner explained that DSW simply wants to install signage in the same locations as the prior tenant, Filene's Basement. The applicant also explained that the additional signage was necessary to identify the business and to safely direct the traveling public to the site. As further grounds for a hardship, the applicant noted the vast site of the South Shore Plaza with multiple tenants and the fact that DSW's location is set back at a great distance from the main access road, Granite Street, and is partially obscured by the South Garage, thereby limiting its visibility.

No one else spoke in favor of or opposition to the petition. By a vote of 4-0-0, the Planning Board recommended favorable action on the petition.

The petitioner submitted a packet of materials entitled “DSW Designer Shoe Warehouse Store #29449 – Braintree, MA Sign Proposal” consisting of Cover Page, Site Map, Photo renderings, proposed Signage Dimensions and LOI – Signage Section, all of which are undated except that approval from Simon Property Group was dated January 11, 2013. The plans were prepared by Sign Innovation of Harmony, PA.

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 expansive size of the lot, with multiple tenants occupying the site, the vast setback of this particular tenant from the main roadway, and the fact that DSW’s location is partially obscured by the South Garage. The Board further found that the proposed signage was necessary to identify the business 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. Ford, it was unanimously voted 3-0 to grant the requested relief, subject to the plans presented.

NEW BUSINESS:

4) Petition Number 13-13
Paula Orinofsky
RE: 65 Town Street

Present: Paula Orinofsky, 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 until the May 21, 2013 Zoning Board of Appeal meeting, at which time the petitioner will provide title search information to the Board.

On a motion made by Mr. Karll and seconded by Mr. Ford, the Board unanimously voted to continue the petition until the May 21, 2013 Zoning Board of Appeal meeting.

5) Petition Number 13-14
Uno Restaurants, LLC
RE: 250 Granite Street

Present: Attorney Carl Johnson, representing petitioner
Michael Harrison of Uno Restaurants, LLC
Joe DeLuca of Millennium Design Group.

This is a petition filed by Uno Restaurants, LLC of 100 Charles Park Road, West Roxbury, MA 02132 regarding the property located at 250 Granite Street in Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, 701 and 904.2 to modify the roofline and to

replace exterior wall signs, all in accordance with the plans submitted. The property is located in a Highway Business Zoning District. The lot on which Uno's is located contains +/- 49,010 SF of land, as shown on Assessors' Map No. 2089, Plot 22; however, this parcel is part of a larger site, that of the South Shore Plaza, which contains +/- 111.67 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 April 23, 2013 at 7 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Stephen Karll, and members, John Gauthier and Michael Ford.

Evidence

The petition was presented by Attorney Carl Johnson, who appeared along with Michael Harrison of Uno Restaurants, LLC and Joe DeLuca of Millennium Design Group. Attorney Johnson explained that the restaurant chain has undergone a national re-branding and that the proposed changes to its façade and signage are consistent with the re-branding. Attorney Johnson explained that Uno Restaurants operates a restaurant from a free-standing building that is part of the larger South Shore Plaza complex. The Uno Restaurant was constructed in the location of the former Howard Johnson's restaurant, following receipt of a Special permit from the Planning Board (Decision 92-7 dated July 2, 1992) and a Zoning Board of Appeals Decision (Case No. 1794 dated May 12, 1992). Attorney Johnson provided copies of these prior decision in which both the Planning Board and Zoning Board granted relief to Uno Restaurant to alter a non-conforming structure and a variance from former Zoning By-law Section 135-712, Buffer Strip, a Section that is now found under Section 135-702 of the current Zoning By-laws.

Specifically, in 1992, Uno Restaurants applied for a finding to alter a pre-existing non-conforming structure, i.e. the existing Howard Johnson's restaurant, to improve and construct a 1,582 SF addition. The existing Howard Johnson's restaurant was located within 100 feet of the Open Space Conservancy District ("OSC") line, and therefore, violated the buffer strip requirement set forth in Section 135-712, adopted by the 1987 Annual Town Meeting, which prohibited any building or part thereof from being located within 100 feet of the OSC district line. Also in 1987, the Town Meeting re-zoned the parcels on which the South Shore Plaza are located today from a General Business Zoning District to a Highway Business Zoning District. A year later in 1988, Town Meeting re-zoned a parcel of land abutting the South Shore Plaza site from a Residence B Zoning District to Open Space Conservancy Zoning District. As part of the planned improvements to the building, Uno Restaurant proposed raising the roof and increasing the footprint of the building. Both the Zoning Board of Appeals and the Planning Board granted the requested relief. Subsequently, the Zoning Board has issued similar relief to Circuit City (the former cinema building) and Brew Moon restaurant (the former Sullivan Tire site), acknowledging both structures as pre-existing nonconforming structures that violate the 100 foot buffer strip by virtue of their existence prior to the adoption of the Buffer Strip By-law.

In its present application, Uno Restaurant seeks relief to modify its building by adding an architectural tower. While the tower is an alteration to the pre-existing nonconforming structure, it is proposed at a height of 35 feet, which does not exceed the maximum height limit of 45-50 feet imposed by the Zoning By-laws. However, the Planning Board questioned whether a variance would be needed to physically alter this building, given its location within the 100 foot buffer strip adjacent to the OSC zone. Since the restaurant previously received zoning relief to encroach upon the 100 foot buffer strip and the proposed alteration of the tower does not create a new zoning nonconformity, Attorney Johnson argued that no further zoning relief was required for the physical alteration of the structure.

With respect to the signage proposal, Uno Restaurant currently has two roof signs measuring 123 SF, two wall signs measuring 37.12 SF, three Uno signs measuring 7.25 SF each and two pizzeria signs measuring 2.5 SF each, for total aggregate signage of 171.87 SF. Uno restaurant proposes to remove all existing signs and install new wall signs as follows:

1. One sign stating “Uno Pizzeria & Grill” measuring 12’ by 3’9” or 63 SF to be located on the tower façade in black and white letters;
2. One sign stating “Est. 1943” measuring 10’ by 10’ 10” or 6.5 SF to be located on the tower façade in black letters; and
3. One oval sign stating “Uno” measuring 6’9” by 4’8” or 32 SF to be located on the façade to the far right of the restaurant’s entrance.

The total area of the proposed signage is 101.50, for an overall reduction of 70.37 SF. All signs will be illuminated with white LED lights. The lights are proposed to be programmed on a sensor so that all lights will be on from dusk until approximately 2 am for safety purposes.

Zoning By-law Section 904.2.A(5)(b) limits a wall sign to four feet in overall height, and two of the proposed signs exceed this height limitation; therefore a variance is required. Section 904.2.A(5)(e) limits wall sign area to one square foot per linear foot of frontage. The linear frontage of the South Shore Plaza is undetermined, and therefore, it cannot be determined whether these signs comply. In addition, Section 904.2.A(5)(g) limits each business to one wall sign with an aggregate total of all wall signs not to exceed 150 SF of area, unless permitted by the Board. The applicant has requested three wall signs, but the wall signs do not exceed the 150 SF limit. Therefore, variances from the Sign By-law are required.

As grounds for relief, Attorney Johnson noted topographical conditions that are unique to Uno Restaurant. The restaurant is a free-standing building located within the larger South Shore Plaza complex. The restaurant is located within a basin at a lower elevation than Granite Street or the interior service road off of which it is located. The building is also set back a great distance from the main access road, Granite Street and is partially obscured by landscaping along the plaza service road. By constructing the tower, Uno restaurant is literally raising its visibility, and by placing signage on the tower, Uno Restaurant will be more easily identifiable to the traveling public, which in turn will promote safer traffic circulation within the plaza.

The applicant submitted plans entitled “Uno Chicago Grill, South Shore Plaza, Braintree, MA,” prepared by Millennium Design Associates of Braintree dated November 20, 2012 and revised through April 19, 2013, consisting of sheets “A3 Noted Floor Plan,” “A5 Front and Left Exterior Elevations,” and “A6 Right and rear Exterior Elevations.” The applicant also submitted a packet of material detailing the prior zoning relief granted for this location, as well as a color rendering of the proposed modified façade and signs and three color photos of existing signage.

No one else spoke in favor of or opposition to the petition. The Planning Board offered no recommendation, but requested the applicant return to the Planning Board with information regarding the need for a variance from the OSC buffer strip discussed above.

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 expansive size of the lot, with multiple tenants occupying the site, the vast setback of this particular tenant from the main roadway, and the fact that

Uno Restaurant is located in a depressed basin, whose visibility is partially obscured by Uno's location behind a landscaped area. The Board further found that the proposed signage was necessary to identify the business 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 found that, since the restaurant previously received zoning relief to encroach upon the 100 foot buffer strip and the proposed alteration of the tower does not create a new zoning nonconformity, no variance was required or further zoning relief was required for the physical alteration of the structure. Finally, the Board 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. Ford, 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. Ford and seconded by Mr. Gauthier, the Board voted unanimously to accept the meeting minutes of March 19, 2013.

The Board adjourned the meeting at 8:35 pm.