



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

January 28, 2014

IN ATTENDANCE: Stephen Karll, Chairman
Michael Calder, Member
Michael Ford, Member
Richard McDonough, Member

ALSO PRESENT: Michael McGourty, Local Building Inspector
Peter Morin, Town Solicitor

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

NEW BUSINESS:

- 1) Petition Number 14-1**
Salvatore Montillo
RE: 54 Davis Road

Mr. Karll advised the Board that the applicant has withdrawn the petition without prejudice.

On a motion made by Mr. Calder and seconded by Mr. Ford, it was unanimously voted 3-0 to accept the request to withdraw the petition without prejudice.

- 2) Petition Number 14-2**
Siu Wong
RE: 1107 Liberty Street

Present: Siu Wong, petitioner

This is a petition filed by Siu Wong of 1107 Liberty Street, Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, and 701 to sell a piece of land to a neighbor at 11 Trainor Drive, Braintree, MA 02184. The total lot size after the sale will be under the minimum lot size of 15,000 square feet. The applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located within a Residential B District, as shown on Assessor's Map 1098, Plot 5M and contains a land area of approximately 15,065 square feet.

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 January 28, 2014 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 Michael Calder and Michael Ford, with alternate, Richard McDonough.

Evidence

The petition was presented by the property owner Ms. Siu Wong. She explained that a her neighbor Paul Giannino, who owns an adjoining parcel on 11 Trainor Drive Braintree, MA 02184 has been using approximately 1221 square feet of her 15,065 square foot lot located on 1107 Liberty Street. In an effort to avoid a dispute between neighbors, Ms. Wong has agreed to sell the 1221 square feet in question to Mr. Giannino. This sale would leave her with a 13,920 square foot lot, under the minimum lot size of 15,000 square feet. The Planning Board viewed the topography of the property and noted a six foot slope from the Liberty Street lot down to the Trainor Drive lot. There have been landscape improvements made by Mr. Giannino and a fence has been erected that demarks the proposed new boundary. The Planning Board found that the reduction in the size of the 1107 Liberty Street lot will not result in substantial detriment to the public good or the neighborhood overall. The Board further found that the reduction in lot size will not nullify or derogate from the intent of the Zoning Bylaw. The proposed alteration will not increase density, will not derogate neighborhood integrity and will serve to resolve a potential legal dispute over property ownership.

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

The petitioner submitted a plan prepared on September 11, 2013 by C.S. Kelley land Surveyors identifying the adjoining lots and the portion of the 1107 Liberty Street lot to be conveyed. Mr. Paul Gianinno appeared and spoke in favor of the petition. No one spoke in opposition and the public hearing was closed.

Findings

The Board found that the petitioner had demonstrated the need for relief from the Zoning By-law. Specifically, the Board found that the conveyance of the land in question would serve to resolve a potential legal dispute. The Board ensured that the petitioner was aware of the consequences of reducing her lot size, and after due consideration had concluded that the conveyance was in her best interest. 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. Ford and seconded by Mr. Calder, it was unanimously voted 3-0 to grant the requested relief, subject to the plans presented.

3) Petition Number 14-3

Wood on Wood Road, Inc./Thomas Sullivan, President

RE: 236-240 Wood Road

Present: Attorney Frank Marinelli representing the petitioner

This is a petition filed by Wood on Wood Inc., owners of the property located at 236-240 Wood Road, Braintree, MA regarding the same property, in which the applicant is seeking relief from the Town of Braintree Zoning Bylaw 135-904.(5) for an existing wall sign cabinet. The applicant seeks a permit, variance and/or finding to approve and or validate an existing internally illuminated sign cabinet, four (4) feet high by twenty (20) feet wide and related signage attached to the southeasterly-facing façade of the building at 240 Wood Road. The sign box was used by the previous tenant of the building and is intended for continued use by the future tenant. The property is located within a Highway Business District as shown on Assessors' Map 2053B, Lot 6, which contains a land area of approximately 3.3 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 scheduled for January 28, 2014, 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 were Chairman Stephen Karll, Michael Ford and Richard McDonough, with the alternate Michael Calder.

Evidence

The petition was presented by Attorney Frank Marinelli, on behalf of the property owner Wood on Wood Inc. The existing sign cabinet is eighty (80) square feet in size. It has been on the building for a number of years. There are other wall signs on the building including one on the entry side of the building. The sign in question is considered a secondary sign. Zoning Bylaw 135-904.2(A)(5) subsections (a) through (g) address various aspects of signs including the size (no more than 150 square feet), height (no more than four feet), prohibiting the placement of a wall sign visible to a major highway if a ground sign is permitted, limit the content of a major wall sign on a building adjacent to a major highway, limit the square footage of the wall sign to the linear footage of the building frontage, limit the size of secondary wall signs to forty eight (48) square feet and the number of secondary wall signs to two that may be placed on the building and the total square footage shall not exceed 150 square feet. Though no measurements were taken of the entry sign, it is likely the aggregate total of signage on the building is greater than 150 square feet.

As grounds for the variance, the petitioner stated that the building is located to the rear of the property with limited visibility along Wood Road as well as having primary frontage along Interstate 93. The site has a severe slope that varies from a ground elevation of 152 square feet in the front to approximately 115 feet at the rear of the building located at 240 Wood Road. The interstate is below the building at an approximate elevation of 107 feet. The visibility of the building from Wood Road is further obscured by another building in front of it. A number of other buildings on Wood Road have wall or ground signs that are visible from Interstate 93. The petitioner provided a series of photographs to the Board displaying the building location, topography issues and the existing sign.

By a vote of 5-0, the Planning Board recommended favorable action on the relief requested, based on their belief that relief could be granted without nullifying or derogating from the intent or purpose of the Zoning Bylaw.

No one else spoke in favor of or opposition to the petition and the public hearing was closed.

Findings

The Board agreed with the Petitioner's assertions that that the property was unique due to slope, setback and visibility issues caused by another building on the lot, creating a hardship requiring signage to announce the

location. Further, the Board determined that the signage has been in place for some time without nullifying or derogating the intent and purpose of the Zoning Bylaw and is in keeping with relief granted for neighboring properties.

Decision

On a motion made by Mr. McDonough and seconded by Mr. Ford, it was unanimously voted 3-0 to grant the requested relief, allowing an internally lit sign cabinet that will be turned off no later than one hour after the closing of business hours (10:00p.m.) subject to the plan presented.

4) Petition Number 14-4

459 West Street, LLC represented by Attorney Carl R. Johnson, III

RE: 459 West Street

Present: Attorney Carl Johnson representing the petitioner

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

On a motion made by Mr. Calder and seconded by Mr. Ford, the Board unanimously voted 3-0 to grant a 60 day extension to be heard at the March 25, 2014 Zoning Board of Appeals meeting.

5) Petition Number 14-5

Diane Vo

RE: 69 Tenney Road

Present: Attorney Derek Small, representing the petitioner.

This is a petition filed by Diane Vo of 199 Schoosett Road Pembroke, MA regarding property she owns at 69 Tenney Road, Braintree, MA 02184, in which the applicant is seeking relief from the Town of Braintree Zoning By-laws under Chapter 135, Sections 135-403, 407, 701 to demolish an existing one-family house and erect a new one-family home with a two-car garage. The applicant seeks a permit, variance and/or finding that the proposed alteration will not be detrimental to the neighborhood. The property is located within a Residence B District Zone as shown on Assessors Map 1005, Plot 58 and contains a land area of approximately 9586 square feet.

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 January 28, 2014 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 Michael Calder and Michael Ford, with alternate, Richard McDonough.

Evidence

The property owner, represented by Attorney Derek Small, explained that she has purchased the home located at 69 Tenney Road. The present lot, which is located to the rear of the Thayer Public Library consists of approximately 9587 square feet of land and includes an 864 square foot ranch style home. The petitioner is seeking to demolish the existing home and construct a new 2.5 story single family home with approximately 2700 square feet of living space and an attached two car garage. A driveway would be added to the lot to access the garage. The proposed structure meets or exceeds all required setbacks

By a vote of 5-0-0, the Planning Board voted to recommend favorable action on the requested relief.

No one else spoke in favor of or opposition to the petition and the public hearing was closed.

Findings

The Board found that the proposed style of the dwelling and its placement on the lot benefits the neighborhood by taking advantage of the lot depth and placing the garage to the rear of the dwelling. The resulting structure is not substantially more detrimental to the neighborhood than the existing dwelling and that relief could be granted without denigrating or nullifying the intent or purpose of the Zoning Bylaw.

Decision

On a motion made by Mr. Calder and seconded by Mr. Ford, it was unanimously voted to provide the requested relief.

APPROVAL OF MINUTES:

On a motion made by Mr. Calder and seconded by Mr. McDonough, the Board voted unanimously to accept the meeting minutes of January 8, 2014.

The Board adjourned the meeting at 8:15pm.