



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

May 27, 2014

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

ALSO PRESENT: Russell Forsberg, Inspector of Buildings
Peter Morin, Town Solicitor

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

OLD BUSINESS:

- 1) **Petition Number: 13-54**
Petitioner: Gary Gabriel representing Life Resources, Inc.
RE: 100 River Street

After hearing testimony from the petitioner and individuals in opposition to the petition, and having discussion regarding the petition, the Board elected to continue the petition until June 24, 2014, in order to allow the Board members the opportunity to view the property.

On a motion made by Mr. Calder and seconded by Mr. McDonough, the Board voted unanimously to continue the petition to the June 24, 2014 Zoning Board of Appeal meeting.

NEW BUSINESS:

- 2) **Petition Number: 14-13**
Petitioner: Michael Jolls
RE: 85 Vinedale Road

Present: Michael Jolls, petitioner

After hearing testimony from the petitioner and having discussion regarding the petition, the Board elected to continue the petition until June 24, 2014, in order to allow the Board members the opportunity to view the property, and allow the petitioner to provide an alternative architectural plan.

On a motion made by Mr. Calder and seconded by Mr. McDonough, the Board voted unanimously to continue the petition to the June 24, 2014 Zoning Board of Appeal meeting.

- 3) **Petition Number: 14-14**
Petitioner: Cumberland Farms
RE: 833-843 Washington Street

Present: Carol Parker, on behalf of the petitioner.

This is a petition filed by Cumberland Farms regarding the property located at 833-843 Washington Street, Braintree, MA. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407, and 904.5, 904.6 and 135-905, as they pertain to sign height in the Village Overlay District, installation of a second price display sign and installation of light emitting diode ("LED") pump toppers all in accordance with the plans submitted. Both signs will be interchangeable and use colored light not allowed under the Zoning Bylaw. The property is located in a General Business Zoning District within the Village Overlay District and contains +/- .356 acres of land, as shown on Assessors' Map No. 1011, Lot 33.

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 May 27, 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 Richard McDonough and Michael Calder.

Evidence

The petition was presented by Carolyn A. Parker on behalf of Cumberland Farms, who currently operates a convenience store and gas station on the site.

The proposed ground signs are as follows:

1. Cumberland Farms previously received approval from the Board to install a 4'0" x 6'0" LED price sign, but opted to install a 2'6" x 6'0" LED price sign. While the 20' height would be permitted in a General Business District, the Village Overlay restricts sign height to 12 feet, resulting in the need for a variance.
2. A second 2'6" x 6'0" LED price sign with Smart Pay alternator would be installed. Both price signs will display static (non-moving) copy at all times.
3. Price toppers with LED illumination will be placed on the pumps. While they will have the ability to be changed automatically, the price copy will remain static. The prices will alternate every eight seconds to display the Smart Pay alternate price. There will be no variance in the illumination level and no flashing

According to Section 135-904.5.A(1) of the Zoning By-law, gasoline service stations and garages located in a General Business Zoning District are allowed signs as permitted by the Board.

According to Section 135-904.5.A(1)(a)(i) of the Zoning By-law, only one ground sign containing the logo of the oil company is permitted in a General Business zone, provided such sign does not exceed 60 SF in area and

20 feet in height. Section 135-904.6 of the Village Zoning Overlay District reduces the allowed height to 12 feet. This application presents two ground signs, in excess of what is allowed under the aforementioned By-laws; therefore a variance is required.

According to Section 135-904.5.A(1)(b)(i) of the Zoning By-law, one sign displaying the price of gasoline is permitted, provided the sign does not exceed 30 SF in area per face. In this application, the petitioner proposes two ground signs containing price panels and exceeds the 30 SF in total area. Therefore, a variance is required.

According to Section 135-905 of the Zoning By-law, illumination of signs is restricted to white lights. Therefore, a variance is required.

As grounds for the variances, Ms. Parker explained that the site is unique in shape with the zoning district due to its location on a corner lot with traffic approaching from several directions. While the lot is small she contended that due to its corner location it can comfortably accommodate two pricing signs. The site has hosted a gas station and convenience store for over 25 years, so the signage will not be disruptive to the surrounding area, Moreover, one LED sign has been in use at the site. She submitted that the pump toppers will have no adverse impact on neighboring properties.

Ms. Parker stated that the variance requested would not conflict with the general public purposes of the By-Laws and posed no threat to the public health, safety and welfare of Braintree.

No one else spoke in favor of or opposition to the petition. The Planning Board took no vote on this matter.

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 fact that the site has been used as a gas station for many years, the proposed signage will be in the same location as the existing signage, and the overall signage proposed reflects a net reduction in signage height from the previous signage. The Board also acknowledged the location has been operated as a convenience store and gas station for many years. The Board found the signs to be necessary for purposes of visibility, identification of the business and to safely direct the traveling public 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. Calder and seconded by Mr. McDonough, 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. McDonough, the Board voted unanimously to accept the meeting minutes of April 22, 2014.

The Board adjourned the meeting at 8:25pm.