



# Department of Municipal Licenses and Inspections

## Zoning Board of Appeals

1 JFK Memorial Drive – Braintree, Massachusetts 02184

Joseph C. Sullivan  
Mayor

### Meeting Minutes

May 26, 2015

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

#### NEW BUSINESS:

- Petition Number: 15-7**  
**Petitioner: Patrick Goff**  
**RE: 105 Milton Road**

Present: Patrick and Emily Goff, Petitioner and Property Owners

This is a petition filed by Patrick Goff of 105 Milton Road in Braintree, MA regarding this same property. The petitioner seeks relief from the Town's Zoning Bylaws Sections 135-403, 407, and 701 in order to alter a pre-existing nonconforming structure to construct a second story over the existing ranch-style single family dwelling. The property is located in a Residence B Watershed Protection Zoning District as shown on Assessors' Plan 1073A, Plot No. 14.

#### Notice

Pursuant to notice duly published in a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on May 26, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford, Members; and Richard McDonough, Alternate.

#### Evidence

Patrick and Emily Goff, representing themselves, explained that their existing dwelling is a single-story Ranch-style dwelling that they would like to add a second story to in order to accommodate a growing family.

The existing lot and structure on the lot are currently non-conforming. The lot contains 12,500 SF, but one acre is the minimum lot size in the Watershed Protection Zoning District. Also, the Residence B Zoning District requires a rear yard setback of 30 feet and minimum lot depth of 100 feet; the existing lot is deficient in both setbacks, offering a 13.6 foot rear yard setback and 77 feet of lot depth. The proposed alteration will be within the existing footprint of the dwelling and not create any new nonconformities. The total height of the dwelling will be 26 feet. No new foundation will be required, as the proposed alterations will remain within the existing footprint of the building. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

The applicant presented a plan entitled "Plan of Land in Braintree, Massachusetts, 105 Milton Road," dated April 1, 2015 and prepared by C.S. Kelley, Land Surveyors, Pembroke, MA.

The Planning Board submitted a recommendation that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing lot and structure. No one else spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the existing lot and structure were pre-existing nonconforming in terms of lot size, rear yard setback and lot depth, as noted above. The Board also found that the proposed addition of a second story within the existing footprint of the house will not create any new zoning nonconformities. The Board further found that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

### **Decision**

On a motion duly made by Mr. Calder and seconded Mr. Ford, the Board unanimously (3-0) voted to grant the relief requested, in accordance with the plan submitted based on a finding that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing lot and structure.

- 2) **Petition Number: 15-8**  
**Petitioner: Susan MacDonald**  
**RE: 35-37 Franklin Street**

Present: Susan and Frank MacDonald, Petitioner and Property Owners

This is a petition filed by Susan MacDonald of 1099 Washington Street in Braintree, MA regarding the property located at 35-37 Franklin Street in Braintree. The petitioner seeks relief from the Town's Zoning Bylaws Sections 135-401, 403, 407, and 701 in order to alter a pre-existing nonconforming structure to raise the roof 3.5 feet in order to expand the living space of the existing over the two-family dwelling. The property is located in a Residence B Watershed Protection Zoning District as shown on Assessors' Plan 1011, Plot No. 61.

### **Notice**

Pursuant to notice duly published in a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on May 26, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Richard McDonough and Michael Ford, Members; and Michael Calder, Alternate.

### **Evidence**

Susan and Frank MacDonald, representing themselves, explained that their existing two-family dwelling lacks sufficient height of the upper story to be fully useable space, and therefore, they would like to raise the roof 3.5 feet to extend the side walls and add front and rear dormers. Each dormer will have four large and two small windows. The petitioners noted that the existing structure have an unusually high foundation, measuring almost the height of one story. The existing lot and structure on the lot are currently non-conforming. The lot contains 8,070 SF, but one acre is the minimum lot size in the Watershed Protection Zoning District. Also, the Residence B Zoning District requires a rear yard setback of 30 feet, a front yard setback of 20 feet, and minimum lot depth of 100 feet; the existing lot is deficient as to these dimensional requirements, offering a 23.2 foot rear yard setback, a 15.5 front yard setback and 73.8 feet of lot depth. The proposed alteration will be within the existing footprint of the dwelling and not create any new nonconformities. The total height of the dwelling will be 34 feet 6 inches from grade to ridge of roof. No new foundation will be required, as the proposed alterations will remain within the existing footprint of the building. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

The applicant presented a plan entitled "Plan of Land in Braintree, Massachusetts, 35/37 Franklin Street," dated April 9, 2015 and prepared by C.S. Kelley, Land Surveyors, Pembroke, MA, along with four sheets of construction drawings numbered A5, A6, A7, and A8, dated 1/5/15 for 35-37 Franklin Street, prepared by Osborn Studio, 22 Emerson Street in Brookline, MA.

The Planning Board submitted a recommendation that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing lot and structure. However, the Planning Board suggested that the petitioners consider changing the pitch of the roof, so it would not be so flat, which appeared to be inconsistent with the style of the structure. The petitioners explained that, after consulting with their architect, if the pitch of the roof was altered, they would lose the new windows which are architecturally consistent with the overall facade of the structure. No one else spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the existing lot and structure were pre-existing nonconforming in terms of lot size, front and rear yard setback, and lot depth, as noted above. The Board also found that the proposed addition of raising the roof 3.5 feet to increase the living space of the second story within the existing footprint of the house will not create any new zoning nonconformities. The Board further found that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

### **Decision**

On a motion duly made by Mr. Ford and seconded by Mr. McDonough, the Board unanimously (3-0) voted to grant the relief requested, in accordance with the plans submitted based on a finding that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing lot and structure.

- 3) **Petition Number: 15-9**  
**Petitioner: Ying Jian Zhong**  
**RE: 23 River Street**

**Present: Ying Jian Zhong, Petitioner and Property Owner**

This is a petition filed by Ying Jian Zhong of 23 River Street in Braintree, MA regarding this same property. The petitioner seeks relief from the Town's Zoning Bylaws Sections 135-401, 403, 407, and 701 in order to alter a pre-existing nonconforming structure to raise the roof over the second story of the existing single family dwelling. The property is located in a Residence C Watershed Protection Zoning District as shown on Assessors' Plan 2024, Plot No. 58.

### **Notice**

Pursuant to notice duly published in a newspaper in general circulation and posted at Town Hall, and by written notice pursuant to G.L. Chapter 40A, mailed to all parties in interest, a public hearing was held by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA on May 26, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford, Members; and Richard McDonough, Alternate.

### **Evidence**

Ying Jian Zhong, representing himself, explained that his existing dwelling is a single-story dwelling that he would like to raise the roof 3 feet in order to expand the living space of the second story. The existing lot and structure on the lot are currently nonconforming. The lot contains 4,177SF, but one acre is the minimum lot size in the Watershed Protection Zoning District. Also, the Residence C Zoning District requires a side yard setback of 30 feet, a rear yard setback of 50 feet, minimum lot width of 200 feet and minimum lot depth of 200 feet. The existing lot is deficient in all of these setbacks, offering side yard setbacks of 3.9 feet and 7.2 feet, a 21.9 foot rear yard setback, 34 feet of lot width and 123 feet of lot depth. The proposed alteration will be within the existing footprint of the dwelling and not create any new nonconformities. The total height of the dwelling will be 25 feet 6 inches. No new foundation will be required, as the proposed alterations will remain within the existing footprint of the building. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

The applicant presented a plan entitled "Plot Plan Existing Conditions, Assessor Map 24, Parcel 58, 23 River Street, Braintree, MA," dated 3/31/15 and revised 4/23/15, prepared by Hawk Consulting, Inc. of Sutton, MA, along with construction drawing D-1 dated 3/15/15 prepared by Vina Design, Inc.

The Planning Board submitted a recommendation that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing lot and structure. No one else spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the existing lot and structure were pre-existing nonconforming in terms of lot size, side and rear yard setbacks, and lot width and depth, as noted above. The Board also found that the proposed addition of raising the roof 3 feet to enlarge the second story within the existing footprint of the house will not create any new zoning nonconformities. The Board further found that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

### **Decision**

On a motion duly made by Mr. Calder and seconded by Mr. Ford, the Board unanimously (3-0) voted to grant the relief requested, in accordance with the plan submitted based on a finding that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing lot and structure.

- 4) Petition Number: 15-10**  
**Petitioner: Jay I. Hanflig, Trustee and Thayer Academy**  
**RE: 60-80 Campanelli Drive**

Present: Attorney Susan Murphy, Law Offices of Dain and Torpy representing the petitioner

Attorney Murphy, on behalf of the petitioner requested a sixty day continuance of the petition.

On a motion made by Mr. Calder and seconded by Mr. Ford, the Board voted 3-0 to continue the petition to the July 28, 2015 Zoning Board of Appeals meeting.

**APPROVAL OF MINUTES:**

On a motion made by Mr. Calder and seconded by Mr. McDonough, the Board voted 4-0 to accept the meeting minutes of March 24, 2015 and April 28, 2015.

The Board adjourned the meeting at 7.39 pm.