



Joseph. C. Sullivan
Mayor

Department of Planning & Community Development Zoning Board of Appeals

1 JFK Memorial Drive
Braintree, MA
www.braintreema.gov

Zoning Board of Appeals (ZBA) Meeting Minutes October 27, 2015

IN ATTENDANCE:

Stephen Karll, Chair
Michael Calder, Member
Richard McDonough, Member
Michael Ford, Member

ALSO PRESENT:

Carolyn Murray, Interim Town Solicitor
Jeremy Rosenberger, Zoning Administrator

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

OLD BUSINESS:

- 1) Petition Number: 14-33
Petitioner: Bonnie Tan
RE: 639 Washington Street**

Bonnie Tan has requested an extension of the petition, case number 14-33.

On a motion made by Mr. Karll and seconded, the Board unanimously voted to continue the petition until the November 24, 2015 Zoning Board of Appeal meeting.

- 2) Petition Number: 15-10
Petitioner: Thayer Academy
RE: 60-80 Campanelli Drive**

Following an introductory presentation by the petitioner's attorney and team, with discussion between the abutters, stakeholders and Appeals Board Members, it was recommended by Chairman Karll that the petition be continued at the December 22, 2015 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, the Board unanimously voted to continue the

petition until the December 22, 2015 Zoning Board of Appeal meeting.

- 3) Petition Number: 15-23**
Petitioner: Annmarie Chase
RE: 30 Barstow Drive

Annmarie Chase has requested an extension of the petition, case number 15-23.

On a motion made by Mr. Karll and seconded, the Board unanimously voted to continue the petition until the November 24, 2015 Zoning Board of Appeal meeting.

NEW BUSINESS:

- 1) Petition No. 15-27**
Petitioner: Joe Ryan
RE: 33 Hillside Avenue, Braintree, MA

Present: Joe Ryan, Petitioner and Property Owner

This is a petition filed by Joe Ryan, 215 West Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, and 701 for a second story addition. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 33 Hillside Avenue, Braintree, MA 02184 and is within a Residential C District Zone, as shown on Assessors Map 3050, Plot 98, and contains a land area of +/-15,750 sq. ft.

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 October 27, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Michael Calder, Michael Ford and Richard McDonough, Members; and Stephen Karll, Chairman, Alternate.

Evidence

Joe Ryan, the petitioner and owner, explained that he wishes to add a second floor onto an existing bungalow style dwelling. The addition will be constructed within the existing footprint. The petitioner's lot is nonconforming, as it contains only 15,350 sq. ft., where 43,560 sq. ft. is required, provides only 75 feet of frontage, where 100 feet is required, offers only 69 feet of lot width, where 100 feet is required, and provides only 155 feet of lot depth, where 200 feet is required. The petitioner's existing house is nonconforming as to the front yard setback; the house is located 5.6 feet from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 50 feet. Furthermore, the existing house is also nonconforming as to the side yard setback; the house is located 12.1 feet from the right side yard lot line, while the Zoning Bylaw requires a side yard setback of 30 feet. The proposed alteration will not create any new nonconformity; accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the rehabilitation and second floor addition to the single family dwelling will be constructed similar to existing neighborhood characteristics and significantly improve an abandoned house.

The applicant presented the plan entitled "Plan of Land in Braintree, Massachusetts, 33 Hillside Avenue", dated September 16, 2015 and prepared by C S Kelley Surveyors of Randolph, MA. The applicant also presented plans and architectural renderings titled "Floor Plans", "Roof Plans" and "Second Floor Plan" dated September 9, 2015 and prepared by G. A. DiCesare Designs. Lastly, the applicant also presented plans and architectural renderings titled "Elevations and Sections", dated October 15, 2015 and prepared by G. A. DiCesare Designs.

The Planning Board submitted a favorable recommendation. Carol McCarthy, an abutter, questioned the size and height of the proposed addition. She also asked if the addition would negatively impact her property. Chairman Karll explained the proposal would maintain the existing footprint and would not exceed the zoning height regulations. Mr. Ryan added the addition would be similar to existing dwellings in the immediate neighborhood. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the existing lot is pre-existing nonconforming in terms of lot size, lot frontage, lot width and lot depth, as noted above. In addition, The Board found that the existing structure is pre-existing nonconforming in terms of front yard and side yard setbacks. The Board also found that the proposed addition will not create any new zoning non-conformity. 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 and seconded by Mr. Calder, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, in accordance with the plans submitted.

- 2) Petition No. 15-28**
Petitioner: Florian Sulce
RE: 67 Francine Road, Braintree, MA

Present: Florian Sulce, Petitioner and Owner
Klarens Karanxha, Architect

This is a petition filed by Florian Sulce, 67 Francine Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701 to construct a 2nd floor (876 sq. ft.) and 3rd floor addition (427 sq. ft.). The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood than the existing structure. The property is located at 67 Francine Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2088, Plot 35, and contains a land area of +/- 8,450.64 sq. ft.

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 October 27, 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

Florian Sulce, the property owner, and Klarens Karanxha, the proponent's architect, were present to explain the proposed addition to the existing single family dwelling. Mr. Karanxha explained that they had met with the Braintree Zoning Administrator and updated the original submitted plans to reflect four of the five Planning Board conditions, as noted in the Planning Board recommendation dated (insert date). As part of the conditions, the architect noted the proposed pergola/patio structure, as shown on the plan, had been reduced in size to meet the required front yard setback on Alfred Road. As a result, a variance is not necessary. The only condition the applicant did not incorporate, were changes to the proposed third floor storage area. Instead, Mr. Karanxha explained, they increased the height of the second floor and altered the roofline to better incorporate the third floor. The petitioner's lot is nonconforming, as it contains only 8,387 sq. ft., where 15,000 sq. ft. is required, and provides only 75 feet of lot depth, where 100 feet is required. The petitioner's existing house is nonconforming as to the rear yard setback; the house is located 21 feet from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 feet. The proposed alteration creates no new nonconformities. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner's architect noted and provided photographic evidence the addition will be constructed in a scale and context similar to existing neighborhood characteristics.

The applicant presented the plan entitled "Plan of Land in Braintree, Massachusetts, 67 Francine Road," dated October 21, 2015 and prepared by C S Kelley Surveyors of Randolph, MA. The applicant also presented plans and architectural renderings titled "Zoning Review Set" with sheet A-00, A-01, A1-A7, and A-900 thru A-902 dated October 27, 2015 and prepared by KNK Studios.

The Planning Board submitted a favorable recommendation with the following conditions: 1.) Eliminate the need for a front yard variance on Alfred Road by reducing the pergola structure to meet the required setback; 2.) Seek to remove or reduce the 3rd floor storage area as it is out of context and scale with the immediate neighborhood; 3.) Seek to reduce the amount of proposed exterior blank wall area by providing more opportunities for windows; 4.) Provide an updated plot plan that depicts outdoor shed and proposed outdoor patio; and 5.) Seek to enhance the commercial-like design of the proposed new garage door to a more residential type design. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the existing lot and structure to be altered were pre-existing nonconforming in terms of lot size, lot depth, and rear yard setback, as noted above. The Board also found that the proposed addition will not create any new zoning non-conformity. 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. Karll, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, in accordance with the updated plans submitted.

3) Petition No. 15-29
Petitioner: Kevin Arthur
RE: 56 Birch Street, Braintree, MA

Present: Kevin Arthur, Petitioner and Owner

This is a petition filed by Kevin Arthur, 56 Birch Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, and 701 to construct addition of +/- 1,250 sq. ft. to existing single family dwelling. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 56 Birch Street, Braintree, MA 02184 and is within a Residential A District Zone, as shown on Assessors Map 1110, Plot 09, and contains a land area of +/- 15,890 sq. ft.

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 October 27, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Richard McDonough, Members; and Michael Ford, Alternate.

Evidence

Kevin Arthur, the owner, explained that he seeks to construct an addition that will modernize his 1950's single-family dwelling. He added the scope of the project involves a complete exterior renovation, in addition to an expanded garage and living area. The petitioner's lot is nonconforming, as it contains only 15,890 sq. ft., where 25,000 sq. ft. is required, and provides only 75 feet of lot depth, where 100 feet is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

In addition, a variance is required for relief from the front yard setback requirements due to further encroachment of the proposed garage addition into the front yard area on the paper street. The Zoning Bylaw requires a front yard setback of 20 feet, but the proposed garage addition will be 14.8 feet from the front lot line. The Chairman inquired as to if the proposal would add a second story. The petitioner responded the proposal is does not involve a second-story.

As grounds for the variance, the petitioner noted the siting of the existing dwelling on the corner lot presents a hardship with regard to the addition of the garage. Secondly, the sloping topography of the site presents a further hardship toward siting of the garage expansion, limiting placement to the side yard area. Furthermore, the extremely short, adjacent, non-developed paper street presents a further hardship with regard to expansion of the dwelling.

The applicant presented the plan entitled "Proposed addition, 56 Birch Street, Braintree, Massachusetts" dated February 12, 2007 and prepared by CCR Associates of Quincy, MA. The

applicant also presented plans and architectural renderings entitled "Ranch Remodel" Pages 1, 2 and 3, dated February 23, 2015 and prepared by Bob Burgess.

The Planning Board submitted a favorable recommendation.

No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the proposed improvements and addition to the dwelling would not be substantially more detrimental to the neighborhood. In addition, the Board found the petitioner had presented a hardship with respect to the odd, rhomboidal shape of the lot, due to the short adjacent paper street and sloping topography. The Board further found that the requested relief could be granted without nullifying or derogating from the purpose and intent of the zoning by-laws, and will dramatically improve the health and safety of the community.

Decision

On a motion duly made by Mr. Karll and seconded by Mr. Calder, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, and variances from the minimum front yard requirements, pursuant to Bylaw Section 135-407.

- 4) Petition No. 15-30**
Petitioner: John and Sheila Tanguay
RE: 11 Cain Avenue, Braintree, MA

Present: John and Sheila Tanguay, Petitioner and Owner

This is a petition filed by John and Sheila Tanguay, 11 Cain Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 to construct an 18 ft. x 36 ft. in-ground swimming pool. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood than the existing structure. The property is located at 11 Cain Avenue, Braintree, MA 02184 and is within a Watershed Residential B District Zone, as shown on Assessors Map 1081, Plot 45, and contains a land area of +/- 8,677 sq. ft.

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 October 27, 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

John and Sheila Tanguay, the owners, explained they were before the board seeking relief for proposing an 18 foot by 36 foot swimming pool in the front yard area of Lawson Street, on their corner lot. The petitioner's lot is nonconforming, as it contains only 8,677 sq. ft. where 43, 560

sq. ft. is required in the Watershed Protection Overlay District. Furthermore, the property offers only 78.79 feet of lot depth, where 100 feet is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

In addition, variances are required for relief from front yard, lot coverage and open space requirements. The Zoning Bylaw requires a front yard setback of 20 feet, but the proposed pool will be 13.3 feet from the front lot line on Lawson Street. In addition, the Zoning Bylaw allows a maximum of 20% lot coverage, but the proposal would provide 27% lot coverage. Furthermore, the Zoning Bylaw requires a minimum open space of 80% of the lot, but the proposal only provides 73%.

As grounds for the variance, the petitioner noted the siting of the existing dwelling on the corner lot presents a hardship with regard to the placement of a pool on the property. The applicants noted that their side yard is larger than their rear yard, due to the narrow depth of the lot. Secondly, the placement of the pool will not be seen and will be sited in an area that is already properly screened with a fence and landscaping.

The applicant presented the plan entitled "Certified Plot Plan located at 11 Cain Avenue, Braintree, Massachusetts" dated September 2, 2015 and prepared by Continental Land Survey, LLC of Franklin, MA.

The Planning Board submitted a favorable recommendation.

No one else spoke in favor of or opposition to the petition.

Findings

The Board found that proposed pool would not be substantially more detrimental to the neighborhood. In addition, the Board found the siting of the existing dwelling on the corner lot and the narrow depth of the lot presents a hardship with regard to the addition of the swimming pool, significantly limiting its placement. The Board further found that the requested relief could be granted without nullifying or derogating from the purpose and intent of the zoning by-laws, and will be appropriately screened from view.

Decision

On a motion duly made by Mr. Karll and seconded by Mr. Ford, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, and variances from the front yard, maximum lot coverage and minimum open space requirements, pursuant to Bylaw Section 135-407.

- 5) Petition No. 15-31**
Petitioner: William and Kathleen Connolly
RE: 32 Judson Street, Braintree, MA

Present: Frank Marinelli, Petitioner's Attorney, Petitioner and Owner

This is a petition filed William and Kathleen Connolly, 32 Judson Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701 to construct an approximately 10ft. x 15ft. deck. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood than the existing structure. The

property is located at 32 Judson Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2036, Plot 36, and contains a land area of +/- 5,509 sq. ft.

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 October 27, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Richard McDonough, Members; and Michael Ford, Alternate.

Evidence

Attorney Frank Marinelli, representing the owners William and Kathleen Connolly, explained the owners wish to add a 10 foot by 15 foot rear deck. Attorney Marinelli further explained the owners have been continually improving the property and structure, most recently going before the Board of Appeals in 2014 to construct a porch addition. The petitioner's lot is nonconforming, as it contains only 5,509 sq. ft., where 15,000 sq. ft. is required, offers only 78 feet of lot width, where 100 feet is required, and provides only 71.20 feet of lot depth, where 100 feet is required. The petitioner's existing house is also nonconforming as to the front yard setback; the porch is located 13.8 feet from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 feet. In addition, the existing detached garage is nonconforming as to the side yard setback; the garage is located 2.7 feet from the side yard line, while the Zoning Bylaw requires a side yard setback of 5 feet. Lastly, the existing detached garage is nonconforming as to the rear yard setback; the garage is located 3.1 feet from the rear yard line, while the Zoning Bylaw requires a rear yard setback of 5 feet. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

In addition, a variance is required for relief from the rear yard setback requirements due to further encroachment into the rear yard setback with regard to the proposed deck. The Zoning Bylaw requires a rear yard setback of 30 feet, but the deck addition will be 14.3 feet from the rear lot line.

As grounds for the variance, Mr. Marinelli highlighted many of the existing homes and lots on Judson Street and the surrounding neighborhood were nonconforming. This lot in particular contains only 71.2 feet of lot depth, which, combined with the existing placement of the dwelling, makes it difficult to locate a deck elsewhere on the lot in compliance with the setback requirements. Secondly, Attorney Marinelli emphasized the owners have been continuously improving their property and thus increasing the value of the neighborhood. Furthermore, he noted the undersized lot and age of the existing home is problematic and presented a hardship that could have easily been remedied by demolition of the existing structure. However, the owners want to continue to utilize a home that is over a hundred years old and similar in characteristics to that of the neighborhood.

The applicant presented the plan entitled "Certified Plot Plan Showing Proposed Conditions at 32 Judson Street, Braintree, Massachusetts" dated July 17, 2015 and prepared by Boston Survey, Inc. of Charlestown, MA. The applicant also presented plans and architectural renderings entitled "Connolly Residence Deck Addition", Sheet A-1, dated September 28, 2015 and prepared by Seger Architects, Inc. of Salem, MA.

The Planning Board submitted a favorable recommendation with the following condition: 1.) Proposed deck to remain unenclosed; modifications that create living space or an enclosure will require relief from the Zoning Board of Appeals.

No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the proposed deck would not be substantially more detrimental to the neighborhood as the pre-existing non-conforming lot and structure were similar to other lots and structures in the immediate neighborhood. In addition, the Board found the petitioner had presented a hardship with respect to the narrow depth of the lot and the reuse of the older home without zoning relief. Furthermore, the Board found size and shape of the lot presented a hardship as to placement of a rear deck. The Board further found that the requested relief could be granted without nullifying or derogating from the purpose and intent of the zoning by-laws.

Decision

On a motion duly made by Mr. Karl and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, and variances from the rear yard setback requirements, pursuant to Bylaw Section 135-407 subject to submitted plans and the condition that the proposed deck is to remain unenclosed and modifications that create living space or an enclosure will require relief from the Zoning Board of Appeals.

6) Petition No. 15-32
Petitioner: Richard Vena Design & Construction
RE: 40 Wellington Street, Braintree, MA

Present: Richard and Brandy Vena, owners of Richard Vena Design & Construction, representing owners

This is a petition filed by Richard Vena Design & Construction, Inc., 1033 Liberty Street, Braintree, MA 02184 on behalf of the owners, Daniel and Carol Batchelder, for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701 to construct a front farmer's porch, rear decks, side deck and second floor addition. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood than the existing structure. The property is located at 40 Wellington Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3053, Plot 46, and contains a land area of +/- 10,019 sq. ft.

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 October 27, 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

Richard and Brandy Vena, owners of Richard Vena Design & Construction, were present at the hearing representing the property owners Dan and Carol Batchelder. They explained the owners are seeking to add a second floor to an existing one story single family dwelling. The owners are hoping to add more living space, including a master bedroom. In addition, Mr. Vena added that a new farmer's porch and new rear deck would be constructed. The petitioner's lot is nonconforming, as it contains only 10,019 sq. ft., where 15,000 sq. ft. is required, and provides only 80 feet of lot depth, where 100 feet is required. The petitioner's existing house is nonconforming as to the front yard setback; the front deck is located 14.2 feet from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 feet. As part of the proposal, the existing front deck will be removed and replaced with a new front porch that will be 16.42 feet from the front yard lot line. The petitioner's existing house is also nonconforming as to the rear yard setback; the rear porch is located 21.58 feet from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 feet. As part of the proposal, the existing rear deck will be removed and replaced with a new rear deck that will be 23.34 feet from the rear yard lot line. The proposed alteration will not create any new nonconformity. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the additions will slightly decrease the existing front and rear yard setback non-conformities.

The applicant presented the plan entitled "Site Plan of Existing & Proposed Conditions in Braintree, Massachusetts," dated August 24, 2015 and prepared by C W. Garvey Co., Inc. of Whitman, MA. The applicant also presented plans and architectural renderings titled "Proposed", "Proposed Front Elevation", "Proposed Rear Elevation", "Proposed First Floor Plan", "Proposed Second Floor Plan", and "Proposed Foundation Flooring Plan", dated June 14, 2015 and prepared by Richard Vena Design and Construction of Braintree, MA.

The Planning Board submitted a favorable recommendation.

No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the existing lot is pre-existing nonconforming in terms of lot size and lot depth, as noted above. In addition, The Board found that the existing structure is pre-existing nonconforming in terms of front yard and rear yard setbacks. The Board also found that the proposed addition will not create any new zoning non-conformity. 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. Karll and seconded by Mr. Calder, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, in accordance with the plans submitted.

- 7) Petition No. 15-34**
Petitioner: Back Bay Sign, representing tenant Red Robin
RE: 250 Granite Street, Braintree, MA

Present: Jason Parillo, Back Bay Sign, representing Red Robin

This is a petition filed by Back Bay Sign, 65 Industrial Way, Wilmington, MA 01877, on behalf of Red Robin as a tenant of South Shore Plaza at 250 Granite Street, Braintree, MA (owner, Braintree Property Associates) for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701, 904 to install two Red Robin wall signs totaling 123.64 sq. ft. at the South Shore Plaza. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 250 Granite Street, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2089, Plot 22, and contains a land area of +/- 111.67 acres.

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 October 27, 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

Jason Parillo of Back Bay Sign appeared on behalf of Red Robin. Mr. Parillo explained the restaurant is located in the South Shore Plaza, near the south parking structure, in space previously occupied by Legal Seafood. Red Robin requests a permit to install two external wall signs, totaling 84.125 sq. ft. Mr. Parillo explained that per conversations with Planning Staff, the original proposal has been reduced in total square footage for both signs from 123.64 sq. ft.

The applicant seeks a variance from Section 135-904.2(A) (5) (b) of the Zoning By-laws which limits wall signs to four feet in height. The proposed logo sign exceeds four feet in height due to the artistic elements of the sign and the second exterior sign is five feet in height. Furthermore, the applicant seeks a variance from Section 135-904.2(A) (5) (e) of the Zoning By-laws which limits total signage area to one square foot of signage per linear foot of frontage. The linear frontage of the restaurant is 70ft, which would limit total signage square area to 79 feet, but the proposed signage totals 84.124 sq. ft. Lastly, the applicant seeks a variance from Section 135-904.2(A) (5) (g) of the Zoning By-laws which allows for only one wall sign for each store or business. The signage proposal is for two wall signs.

The Chairman asked where the restaurant is located in the mall. Mr. Parillo responded that the restaurant will be in the former Legal Seafood location, facing the parking garage. Chairman Karll also questioned the time of day that the illuminated sign would be shut off, to which the applicant responded that the restaurant complies with the guidelines established by the South Shore Plaza. Furthermore, the petitioner explained the language of "Brew" on the proposed signage is testament to the restaurant's dedication toward providing local brewery products in their stores and is part of the restaurant's brand. The petitioner added they are in discussions with local breweries.

As grounds for the variance, the petitioner noted the proposed signage has been reduced in total square footage, comparable to the linear footage of the Red Robin restaurant. Furthermore, the petitioner noted the proposed signage is necessary for visibility due to the location of the restaurant facing the existing large parking garage.

The applicant presented the plan entitled "Submitted" and "Alternate", dated September 21, 2015 and prepared by Fairmount Sign Company of Detroit, MA.

The Planning Board recommended an extension of the appeal.

No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the proposed signage was modest in size in comparison to the overall scale of the South Shore Plaza. The Board also found that the proposed signage was necessary to identify the location of the restaurant and to direct the traveling public to the location, particularly where this restaurant is not visible to a main street but is facing the south parking structure. The Board further found that the proposed signage would be consistent with the purposes and goals of the bylaw.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested variances, pursuant to Bylaw Section 135-904.2, and variances from the signage requirements, in accordance with the updated plans submitted and subject to the condition that the illuminated sign be shut off within the guidelines established by the South Shore Plaza, and if there are no such guidelines, that the illuminated sign be shut off one hour after closing, pursuant to Bylaw Section 135-407.

- 8) Petition No. 15-35**
Petitioner: Mass Property Holdings, LLC.
RE: 7 Sheraton Avenue & 0 Priscilla Avenue, Braintree, MA

Present: Attorney Kevin O'Reilly, representing the owners

Following a presentation by the petitioner's attorney and discussion between the abutters and neighborhood stakeholders and Appeals Board Members, it was recommended by Chairman Karll that the owner/attorney meet with the neighborhood to discuss the petition. As such, Chairman Karll recommended the petition be continued at the November 24, 2015 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, the Board unanimously voted to continue the petition until the November 24, 2015 Zoning Board of Appeal meeting.

- 9) Petition No. 15-36**
Petitioner: 14 Jersey Avenue, LLC.
RE: 14-16 Jersey Avenue, Braintree, MA

Present: Attorney Thomas Cavanagh, representing the owners
Mike Rahain, manager of 14 Jersey Avenue, LLC.

This is a petition filed by 14 Jersey Avenue, LLC, 65 Reservoir Road, Quincy, MA 02169 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701, to demolish existing two-family dwelling and erect new two-story, two-family dwelling. The applicant seeks a

permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood than the existing structure. The property is located at 14-16 Jersey Avenue, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2004, Plot 24, and contains a land area of +/- 8,125 sq. ft.

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 October 27, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Michael Calder, Michael Ford and Richard McDonough, Members; and Stephen Karll, Chairman, Alternate.

Evidence

Attorney Thomas Cavanagh was present representing the owners, 14 Jersey Ave. LLC. Mike Rahain, manager of 14 Jersey Ave. LLC was also present. Attorney Cavanagh explained the current property provides a two-family structure of approximately 1,994 sq. ft. He further explained the owners are seeking to demolish the existing structure and replace it with a new two-family dwelling, approximately 32 feet by 52 feet in size. The petitioner's lot is nonconforming, as it contains only 8,125 sq. ft., where 15,000 sq. ft. is required, provides only 97 feet of lot width, where 100 feet is required, and offers only 82.76 feet of lot depth, where 100 feet is required. The petitioner's existing house is nonconforming as to the front yard setback; the existing front stair structure is located 5.6 feet from the front yard lot line and the proposed new stair structure would be 15 feet from the front yard lot line. The Zoning Bylaw requires a front yard setback of 20 feet. Furthermore, the existing house is also nonconforming, as the existing dwelling is a legal non-conforming two family dwelling. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the dwelling will significantly improve the neighborhood and alleviate the existing side yard and rear yard setback deficiencies. Mr. Calder questioned the petitioner as to the height of the existing structure and if any renderings of the new proposed structure is provided. Mr. Cavanagh responded the existing structure is two and a half stories and that preliminary elevations were submitted as part of the application.

The applicant presented the plans titled "Site Plan, 14-16 Jersey Avenue, Braintree, Massachusetts for Michael Grehan" and "Existing Conditions, Site Plan, 14-16 Jersey Avenue, Braintree, Massachusetts for Michael Grehan", dated September 2, 2015 and prepared by Civil Environmental Consultants, LLC. of Peabody, MA.

The Planning Board submitted a favorable recommendation.

No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the existing lot is pre-existing nonconforming in terms of lot size, width and depth, as noted above. In addition, the Board found that the existing structure is pre-existing nonconforming in terms of front yard setback and will be lessened with the proposed new structure. The Board also found that the proposed reconstruction will not create any new

zoning non-conformity and alleviate the existing structure's side yard and rear yard setback deficiencies. The Board further found that the proposed alterations and continuance of the pre-existing nonconforming two-family use 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. Karll, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, in accordance with the plans submitted.

10) Petition No. 15-37
Petitioner: Laurie and Robert Melchionda
RE: 64 Howie Road, Braintree, MA

Present: Laurie and Robert Melchionda, owners

This is a petition filed by Laurie and Robert Melchionda, 64 Howie Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701, to construct a new 22ft. x 24ft. garage and 6ft. x 36.8ft. front farmer's porch. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 64 Howie Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2061, Plot 40, and contains a land area of +/- 17,105 sq. ft.

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 October 27, 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

Laurie and Robert Melchionda, the owners, explained they wish to add a two car garage and front farmer's porch onto an existing single family dwelling. The petitioner's lot is nonconforming, as it provides only 74.4 feet of lot width, where 100 feet is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

In addition, a variance is required for relief from the front yard setback requirements due to encroachment of the proposed garage into the front yard area. The Zoning Bylaw requires a front yard setback of 20 feet, but the proposed garage addition will be 15.4 feet from the front lot line. Furthermore, a variance is required for relief from the side yard setback requirements due to the further encroachment into the side yard area of the proposed garage. The Zoning Bylaw requires a side yard setback of 10 feet, but the proposed attached garage addition will be 3.4 feet from the side yard lot line.

As grounds for the variance, the petitioner noted the irregular shape of the lot, including wetlands and a rear sloping topography, limit the placement of the garage addition to the proposed location.

Secondly, the design of the proposed addition will be in harmony with the existing neighborhood. Chairman Karll questioned the petitioners if they would be able to reduce the proposed width of the garage to align with the existing building. The petitioners responded that any reduction would reduce the functionality of the proposed garage. The petitioners also noted that they share a common driveway with 56 Howie Road, so the garage is designed to line up with the driveway.

The applicant presented the plan entitled "Plot of Land in Braintree, Massachusetts, 64 Howie Road", dated September 23, 2015 and prepared by C S Kelley Land Surveyors of Pembroke, MA. The applicant also presented plans and architectural renderings entitled "Proposed Addition Project" with pages "Existing House Front Elevation View", "New Garage Addition & Front Porch Front Elevation View", and "Overview Layout", undated and prepared by Creative Home Improvements of Braintree, MA.

The Planning Board submitted a favorable recommendation.

The applicant submitted a letter of support from the neighborhood containing seventeen signatures. In addition, Carolyn Moore, an abutter at 56 Howie Road, spoke in favor of the petition. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the proposed garage addition on the pre-existing nonconforming lot and structure would not be substantially more detrimental to the neighborhood. In addition, the Board found the irregular shape of the lot presents a hardship with regard to the addition of the garage, significantly limiting its placement. The Board further found that the requested relief could be granted without nullifying or derogating from the purpose and intent of the zoning by-laws, and will be appropriately designed.

Decision

On a motion duly made by Mr. Karll and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, and variances from the front yard and side yard requirements, pursuant to Bylaw Section 135-407.

- 11) Petition No. 15-38**
Petitioner: Joanne Cardello
RE: 89 Norfolk Road, Braintree, MA

Mr. Karll advised the Board that the petitioner has submitted a written request to withdraw the petition without prejudice.

On a motion made by Mr. Calder and seconded by Mr. McDonough, the Board voted 3-0 to grant the petitioners request to withdraw the petition without prejudice.

- 12) Petition No. 15-39**
Petitioner: Thomas and Christine Canavan
RE: 87 Trefton Drive, Braintree, MA

Present: Brian McGourty, contractor
Thomas and Christine Canavan, owners

This is a petition filed by Thomas and Christine Canavan, 87 Trefton Drive, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701, to demolish single family dwelling due to fire, and construct a new single family dwelling. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 87 Trefton Drive, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3039, Plot 11, and contains a land area of +/- 6,011.28 sq. ft.

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 October 27, 2015 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Richard McDonough, Members; and Michael Calder, Alternate.

Evidence

Brian McGourty, representing the owners Thomas and Christine Canavan, who were also present, explained that he seeks to demolish an existing fire damaged single family dwelling and construct a new single family that will meet all the zoning setbacks. The petitioner's lot is nonconforming, as it contains only 6,000 sq. ft., where 15,000 sq. ft. is required, offers only 60 feet of lot width, where 100 feet is required, and provides only 82.76 feet of lot depth, where 100 feet is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted reconstruction of the existing fire damaged dwelling will significantly improve the neighborhood. In addition, the new dwelling will alleviate the existing structure's front and rear yard setback non-conformities. Chairman Karll questioned what the style of the proposed dwelling would be. The applicant responded the new dwelling would be a colonial style home, replacing a bungalow style home.

The applicant presented the plan entitled "Plan of Land in Braintree, Massachusetts, 87 Trefton Drive," dated September 25, 2015 and prepared by C S Kelley Land Surveyors of Pembroke, MA. The applicant also presented the plan entitled "Plan of Land in Braintree, Massachusetts, 87 Trefton Drive," dated September 1, 2015 and prepared by C S Kelley Land Surveyors of Pembroke, MA. The applicant also presented elevation and floor plans titled "87 Trefton Drive, Braintree, MA", undated and prepared by Walter McKinnon of Weymouth, MA. The Planning Board submitted a favorable recommendation.

No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the existing lot is pre-existing nonconforming in terms of lot size, width and depth, as noted above. The Board also found that the proposed reconstruction will not create any new zoning non-conformity and alleviate the existing structure's front and side yard setback deficiencies. The Board further found that the proposed reconstruction would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

Decision

On a motion duly made by Mr. Karll and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, in accordance with the plans submitted.

APPROVAL OF MINUTES:

On a motion made by Mr. Ford and seconded by Mr. McDonough, the Board voted 3-0 to accept the meeting minutes of September 28, 2015.

The Board adjourned the meeting at 11:00 pm.