



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 Notes December 22, 2015

IN ATTENDANCE: Stephen Karll, Chair
Michael Calder, Member
Richard McDonough, Member

ALSO PRESENT: Meghan Bayer, Kopelman & Paige (representing 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 at the January 26, 2016 Zoning Board of Appeal meeting.

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

Thayer Academy has requested an extension of the petition, case number 15-10.

On a motion made by Mr. Karll and seconded, the Board unanimously voted to continue the petition at the January 26, 2016 Zoning Board of Appeal meeting.

- 3) Petition No. 15-42
Petitioner: Krishnakant Patel**

RE: 405 Commercial Street, Braintree, MA

Present: Krishnakant Patel, Petitioner and Owner

Mr. Krishnakant requested an extension of the petition, case number 15-42.

On a motion made by Mr. Karll and seconded, the Board unanimously voted to continue the petition at the February 23, 2016 Zoning Board of Appeal meeting.

NEW BUSINESS:

- 1) **Petition No. 15-47**
Petitioner: David Lin (Golden Dragon)
RE: 250 Granite Street, Braintree, MA

Present: Lucy Zhuang, Petitioner on behalf of Property Owner

This is a petition filed by David Lin, 59 Bower Road, Quincy, MA 02169 (owner of property, Simon Properties) for relief from Bylaw requirements under Chapter 135, Sections 135-407 and 904 to install a 28 inch x 224 inch sign with internally lit L.E.D. channel letters. The applicant seeks a permit, variance and/or finding that the 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 December 22, 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.

Evidence

Lucy Zhuang of Statewide Signs appeared on behalf of the Golden Dragon, which is a restaurant located in the South Shore Plaza. The restaurant is adjacent to the south parking structure, in space previously occupied by Legal Seafood. Golden Dragon requests a permit to install one external wall sign, internally lit, measuring 28 inch x 224 inch for a total of 27 square feet to identify and direct the public to the location of the restaurant.

The applicant seeks a variance from Section 135-904.2(A)(5)(g) of the Zoning By-law which limits one wall sign for each business occupying a building and further limits the aggregate signage to 150 SF. This restaurant is located within the South Shore Plaza, with multiple businesses and signs exceeding this aggregate total, and therefore a variance is required of the ZBA.

As grounds for the variance, the petitioner explained that the size of the signage is relatively small in comparison to the size of the overall façade and other signs at the mall.

The Chairman 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.

The applicant presented a color rendering of the proposed sign superimposed on the facade dated September 28, 2015 and prepared by Statewide Sign, Inc. of Quincy, 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 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 from the Bylaw Section 135-904.2 requirements, pursuant to Bylaw Section 135-407, in accordance with the 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.

- 2) Petition No. 15-48**
Petitioner: Richard Chalone
RE: 183 Common Street, Braintree, MA

Present: Richard Chalone, Petitioner and Contractor
Stacy A. Murphy, Property Owner

This is a petition filed by Richard Chalone, 15 Commerce Way, Woburn, MA 01801 (owner of property, Stacy A. Murphy) for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to replace existing rear 7.5 ft. x 17 ft. deck with same size deck, and construct an additional 20 ft. x 14 ft. rear deck with stairs. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located at 183 Common Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2060, Plot 39, and contains a land area of +/- 20,835 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 December 22, 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.

Evidence

Richard Chalone, the petitioner's representative, was joined by Stacy Murphy, the petitioner. Mr. Chalone explained that the petitioner wishes to replace an existing rear 7.5 ft. x 17 ft. deck with the same size deck. The petition also involves constructing an additional 20 ft. x 14 ft. adjoining rear deck with stairs. The petitioner's lot is nonconforming, as it offers only 65 feet of lot width, where 100 feet is required. The petitioner's existing house is nonconforming as to the side yard setback; the house is located 6.2 feet from the left side yard lot line, while the Zoning Bylaw requires a front yard setback of 10 feet. Furthermore, the existing house is also nonconforming as to the rear yard setback; the house is located 3.6 feet from the rear 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 proposed decks will not create any new zoning deficiencies. Furthermore, the property abuts Route 3 to the rear and the deck is being replaced because the existing deck is rotting.

The applicant presented the plan entitled "Plan Showing Proposed Deck & Stairs, 183 Common Street, Braintree, Massachusetts, Norfolk County", dated October 30, 2015 and prepared by Bayview Survey of Abington, MA. The applicant also presented the undated plan entitled "Deck Plan, 183 Common Street".

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 width, as noted above. In addition, The Board found that the existing structure is pre-existing nonconforming in terms of the side and rear yard setbacks. The Board also found that the proposed deck 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, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, in accordance with the plans submitted.

- 3) Petition No. 15-49**
Petitioner: Zotos and Anastasia Lefteris, Trustees, NCZ 970 Washington Street Trust, and Braintree House of Pizza, LLC
RE: 970 Washington Street, Braintree, MA

Present: Frank Marinelli, Attorney representing Owner
Anastasia and Zotos Lefteris, Property Owners

This is a petition filed by Zotos and Anastasia Lefteris, Trustees, NCZ 970 Washington Street Trust, and Braintree House of Pizza, LLC, c/o 958 Washington Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 613, 701, 806 and 814 to improve and occupy the existing nonconforming building for the Braintree House of

Pizza. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 970 Washington Street, Braintree, MA 02184 and is within a General Business District Zone and the Village Zoning Overlay District, as shown on Assessors Map 1009, Plot 42, and contains a land area of +/- 2,490 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 December 22, 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.

Evidence

The petitioner was represented by Attorney Frank Marinelli, who explained that the applicant seeks to relocate an existing pizza shop to the 970 Washington Street. The proposed location currently contains a pet grooming business and associated office space on the second floor. The proposed location has been in operation as a retail use and without any parking amenities since the adoption of the section of the zoning bylaw from which the petitioner seeks relief.

The petitioner's lot is nonconforming, as it contains only 2,490 sq. ft., where 15,000 sq. ft. is required in the General Business District ("GBD") and 5,000-15,000 sq. ft. in the Village Overlay District ("VOD"), provides only 42 feet of lot frontage; where 50 feet is required in the GBD and 25-50 feet in the VOD, provides only 42 feet of lot width, where 100 feet is required in the GBD and 25-50 feet in the VOD; provides only 58 feet of lot depth, where 100 feet is required in the GBD and 60-85 feet is required in the VOD.

The petitioner's existing building is nonconforming as to the front yard setback; the building is located 0 feet from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 10 feet in the GBD and 0-10 feet in the VOD. Secondly, the petitioner's existing building as to the side yard setback, the building is located 0 feet from the side yard lot lines, while the Zoning Bylaw requires a side yard setback of 10 feet in the GBD and 0-10 feet in the VOD. Furthermore, the existing building is also nonconforming as to the rear yard setback; the building is located 0 feet from rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 20 feet in both the GBD and VOD. In addition, the petitioner's existing building is non-conforming as to maximum building coverage requirement; the building coverage is 100% of the existing property, while the Zoning Bylaw allows a maximum of 70% in the GBD and 80% in the VOD. Also, the petitioner's existing building is non-conforming as to maximum lot coverage requirement; the lot coverage is 100% of the existing property, while the Zoning Bylaw allows a maximum of 90% in the GBD and 90% in the VOD. Lastly, the petitioner's existing building is non-conforming as to minimum open space requirement; the provided open space is 0% of the existing property, while the Zoning Bylaw requires a minimum of 10% in the GBD and 10% in the VOD. The proposed alteration will not create any new nonconformity; accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

Variances are required for relief from the minimum parking and loading space requirements. Pursuant to Section 135-806, the Zoning Bylaw requires a minimum of 1 space per 100 sq. ft. for fast food uses, but the proposal would provide 0 parking spaces. In addition, pursuant to

Section 135-814, the Zoning Bylaw requires 1 loading space, but the proposal would provide 0 loading spaces.

As grounds for the variances, the petitioner noted the sloping topography and financial hardship related to the existing building which was constructed in the 1930's without any provisions for parking. Furthermore, Attorney Marinelli noted the proposed new restaurant would be consistent with past uses of the site and similar to uses in South Braintree Square. Lastly, Mr. Marinelli noted the proposed use would be consistent with the spirit and intent of the zoning bylaws.

The applicant presented the plan entitled "Plot Plan in Braintree, Massachusetts", dated November 19, 2015 and prepared by James C. Vafiades of Waltham, MA. The applicant also presented plans entitled "Floor Plans" and "Second Floor Plans", dated July 15, 2015 and prepared by Kritikos Associates Architects of Peabody, MA. The applicant also presented untitled and undated architectural renderings.

The Planning Board submitted a favorable recommendation.

A letter was submitted by the Braintree Chamber of Commerce in support of the petition. The petitioner submitted a support letter with a total of 15 signatures. A letter was submitted by District 5 Town Councilor, Michael J. Owens in support of the petition. Mr. Owens also was on hand to speak in support of the petition. Crystal Evans, a resident of Hall Avenue, spoke in support of the petition. 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 area, 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 the front, side and rear yard setbacks, building coverage, lot coverage and provided open space. The Board also found that the proposed change of use 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. In addition, the Board found the petitioner had presented a hardship with respect to reuse of the existing building and the inability to occupy the building for an allowed use without zoning relief. 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 of benefit to the community.

Decision

On a motion duly made by and seconded, the Board unanimously (3-0) voted to grant requested findings, pursuant to Bylaw Section 135, 403 and the requested variances from the Bylaw Section 135-806 and 814 requirements, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

- 4) Petition No. 15-50**
Petitioner: Penns Hill Development
RE: 3 Howie Road, Braintree, MA

Present: Frank & Joseph Boncaldo, Petitioner and Owners

This is a petition filed by Penns Hill Development, LLC, 12 Chickadee Lane, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct a 1,022 sq. ft., 1.5 story addition over the existing first floor. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located at 3 Howie Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2037, Plot 18 and contains a land area of +/- 7,797.24 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 December 22, 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.

Evidence

Frank Boncaldo, the petitioner, joined by his brother Joseph, explained he seeks to construct a 1,022 sq. ft., 1.5 story addition over the existing first floor. The addition will be constructed within the existing footprint. The petitioner's lot is nonconforming, as it contains only 7,800 sq. ft., where 15,000 sq. ft. is required, provides only 94 feet of lot width, where 100 feet is required, and provides only 74 feet of lot depth, where 100 feet is required. The petitioner's existing house is nonconforming as to the front yard setback; the house is located 19 feet from the front yard lot line on Acorn Street, while the Zoning Bylaw requires a front yard setback of 20 feet. Furthermore, the existing house is also nonconforming as to the rear yard setback; the house is located 12 feet from the rear 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 second floor addition to the single family dwelling will be constructed similar to existing neighborhood characteristics. The proposed addition will be the same height as the abutting 2.5 story colonial.

The applicant presented the plan entitled "Proposed Addition, 3 Howie Road, Braintree, Massachusetts", dated October 31 and November 22, 2015 and prepared by Essex Engineering and Survey of Newton Lower Falls, MA. The applicant also presented undated plans and architectural renderings entitled "Existing Condition Plans" and "Proposed Addition A1 & A2", prepared by Brian R. Saluti of Sharon, 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, lot width and lot depth, as noted above. In addition, The Board found that the existing structure is pre-existing nonconforming in terms of the front and rear yard setbacks. The Board also found that the proposed addition will be within the existing foot print and not create any new zoning nonconformity. 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, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, in accordance with the plans submitted.

- 5) Petition No. 15-51**
Petitioner: Benjamin Stanton
RE: 175 Hollingsworth Avenue, Braintree, MA

Present: Benjamin Stanton, Petitioner and Owner

This is a petition filed by Benjamin Stanton, 175 Hollingsworth Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 609 and 701 to construct a two story rear addition of +/- 1,250 sq. ft. to an existing single family dwelling. 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 at 175 Hollingsworth Avenue, Braintree, MA 02184, and is within a Residential B Watershed District Zone, as shown on Assessors Map 1017, Plot 13, and contains a land area of +/- 8,205 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 December 22, 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.

Evidence

Benjamin Stanton, the owner and petitioner, explained that he wishes to provide more living area by constructing a first and second floor rear addition. The petitioner's lot is nonconforming, as it contains only 8,205 sq. ft. where 43,560 sq. ft. is required and provides only +/- 76 feet of lot width, where 100 feet is required, and provides +/- 96 feet of lot depth, where 100 feet is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

In addition, the petitioner proposes to construct a rear addition that will further encroach into the rear yard setback, which requires a variance. The existing screened sunroom porch is 28.5 feet from the rear lot line. The Zoning Bylaw requires a rear yard setback of 30 feet, but the proposed addition, will be at its maximum, 27.5 feet from rear lot line.

As grounds for the variance, the petitioner noted the rear addition is only for an additional one foot extension into the rear yard. The petitioner also reiterated the location of the existing non-conforming building on the corner lot, in addition to the irregular shape of the lot, as a hardship.

The applicant presented the plan entitled "Addition Plan, No., 175 Hollingsworth Ave., Braintree, MA", dated November 14, 2015 and prepared by Antonio Land Surveyors, Inc. The applicant also presented the plans and architectural renderings entitled "Stanton Residence", with Sheets A-001 thru A-004, AD-1.1 thru AD-1.2, A-101 thru A-102, EX-201 thru EX-204, A-201 thru A-204, A-302 thru A-303, and AD-1.1, undated and prepared by Chris Wortley Design of Scituate, 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, lot width and lot depth, as noted above. In addition, The Board found that the existing structure is pre-existing nonconforming in terms of the rear yard setback. The Board found the petitioner had presented a hardship based on the irregular shape of the property, the sloping topography and location of the existing dwelling on the corner lot. 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 without substantial detriment to the neighborhood and public good.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, and a variance from the minimum rear yard setback, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

- 6) Petition No. 15-52**
Petitioner: Braintree Electric Light Department (BELD)
RE: 120 Plain Street, Braintree, MA

BELD has requested an extension of the petition, case number 15-52.

On a motion made by Mr. Karll and seconded, the Board unanimously voted to continue the petition at the January 26, 2016 Zoning Board of Appeal meeting.

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 November 24, 2015.

The Board adjourned the meeting at 9:30 pm.