



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 October 25, 2016

IN ATTENDANCE:

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

ALSO PRESENT:

Jeremy Rosenberger, Zoning Administrator
Christine Stickney, Director, Department of Planning and
Community Development

Mr. Karll called the meeting to order at 6:30pm.

PUBLIC HEARING:

Pursuant to notice duly published in a newspaper in general circulation and posted at Town Hall, a public hearing was held by the Zoning Board of Appeals ("the Board") at Town Hall, One JFK Memorial Drive, Braintree, MA on October 25, 2016 at 6:30 p.m. at which the Board unanimously voted to approve the following enclosed documents:

- 1.) Town of Braintree, Zoning Board of Appeals, *Comprehensive Permit Regulations*, dated October 25, 2016;
- 2.) Town of Braintree, Zoning Board of Appeals, *Rule Regarding Review Fees*, dated October 25, 2016; and
- 3.) Town of Braintree, Zoning Board of Appeals, *Petition Fee Schedule*, dated October 25, 2016.

NEW BUSINESS:

- 1) Petition Number: 16-38
Petitioner: Michael Garrity
RE: 38 Elmwood Avenue**

Michael Garrity, 38 Elmwood Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403, 609 and 701 to construct a 26.5 ft. x 22 ft., two-story, rear addition and 9 ft. x 8.7 ft. front portico. 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 38 Elmwood Avenue, Braintree, MA 02184 and is within a Watershed Residential B District Zone, as shown on Assessors Map 1019, Plot 59, and contains a land area of +/- 7,686 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, Section 11, 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 25, 2016 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

Michael Garrity, the petitioner, explained he is seeking relief to construct a two-story, rear addition and a front portico with stairs. The rear addition would have an approximately 461 sq. ft. footprint. Mr. Garrity added the proposal would expand the existing kitchen with new living/dining room space on the first floor and a new master bedroom suite on the second floor. Mr. Garrity discussed the existing single family is non-conforming with regard to the existing front yard and side yard setbacks. Lastly, Mr. Garrity added the proposed addition will not create any new zoning nonconformity and has the support of his direct abutters and neighbors.

The petitioner's existing lot is nonconforming, as it contains only 8,428 sq. ft., where 43,560 sq. ft. is required, and provides only 65 feet of lot width, where 100 feet is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the dwelling is located 16.8 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 ft. Also, the existing dwelling is nonconforming as to the side yard setback; the dwelling is located 7.4 ft. from the side yard lot line, while the Zoning bylaw requires a side yard setback of 10 ft. The proposed addition will not create any new zoning nonconformity. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the addition will not generate any new zoning nonconformity. Secondly, the petitioner noted the addition will be similar to the existing neighborhood architectural characteristics and will not be more detrimental to the neighborhood.

The applicant presented the plan entitled "Plan of Land in Braintree, Massachusetts, 38 Elmwood Ave., dated September 13, 2016 and prepared by CS Kelley Land Surveyors of Pembroke, MA. The applicant also presented floor plans and architectural renderings entitled "Garrity Residence", labeled A-001, P-002, C-100, AD-1.0 thru AD-1.2, A-100 thru A-102, A-200, A-201, A-202 and A-301, 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 area and width, as noted above. In addition, the Board found that the existing dwelling is pre-existing nonconforming in terms of the front yard setback and left side yard setback. The Board also found that the proposed addition would not create any new zoning nonconformity. The Board further found that the proposed addition will be designed appropriately and be comparable in size relative to the existing housing stock. Lastly, the Board found the proposed addition will not be substantially more detrimental to the neighborhood than the existing nonconforming 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.

- 2) Petition Number: 16-40
Petitioner: TGLE Realty c/o Jack Tran
RE: 304 Common Street**

Jack Tran, the petitioner, after discussion with the ZBA, requested to withdraw the petition without prejudice.

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

- 3) Petition Number: 16-41
Petitioner: Christopher Garvey
RE: 71 Prospect Street North**

Christopher Garvey, 71 Prospect Street North, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to demolish existing single family dwelling and construct new, two story single-family dwelling with a 36' x 42.6' footprint. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 71 Prospect Street North, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2032, Plot 30, and contains a land area of +/- 5,066 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, Section 11, 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 25, 2016 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

Christopher Garvey, the petitioner, explained he is seeking to demolish an existing single family dwelling with a footprint of approximately 1,008 sq. ft. and construct a single family dwelling with a 36' x 42.6' building footprint (1,533 sq. ft.). The petitioner has submitted preliminary elevations depicting a cape-style, 1.5-story, three-bedroom home. The petitioner has discussed the proposed new dwelling will likely be comparable in size to the submitted preliminary elevations, but is currently finalizing floor plans and elevations to determine the actual future dwelling size. Chairman Karll asked Mr. Garvey why he had not submitted elevations and floor plans as directed by the Zoning Administrator and recommended by the Planning Board. Mr. Garvey replied he did not want to pursue the significant financial expense with regard to plans unless the proposed project would be approved. Mr. Garvey further described the additional space that would be available with the new proposed dwelling is much needed as the existing bungalow style house is small in comparison to the existing neighborhood. Lastly, Mr. Garvey added the proposed reconstruction will not create any new zoning nonconformity.

The petitioner's existing lot is nonconforming, as it contains only 5,066 sq. ft., where 15,000 sq. ft. is required, provides only 60.27 ft. of lot width, where 100 ft. is required and provides only +/- 84 ft. of lot width, where 100 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the dwelling is located 10.2 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 ft. Also, the petitioner's dwelling is nonconforming as to the left side yard setback; the dwelling is located 5.2 ft. from the left side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 ft. Furthermore, the petitioner's existing dwelling is nonconforming as to the rear yard setback; the dwelling is located +/-19.7 ft. from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 ft. The proposed reconstruction will not create any new zoning nonconformity. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the proposed reconstruction will not generate any new zoning nonconformity. Secondly, the petitioner noted the proposed new dwelling footprint will conform to the rear yard setback requirement of 30 ft., as the existing dwelling does not. Lastly, the petitioner noted the new dwelling will be well-designed, similar to the existing neighborhood characteristics and not more detrimental to the neighborhood.

The applicant presented the plan entitled "Plan of Land, 71 Prospect Street North, Braintree, Massachusetts (Existing), dated August 9, 2016 and prepared by Hoyt Land Surveying of Weymouth, MA. The applicant also presented the plan entitled "Plan of Land, 71 Prospect Street North, Braintree, Massachusetts, dated September 19, 2016 and prepared by Hoyt Land Surveying of Weymouth, MA. The applicant also presented architectural renderings, untitled, undated and with no preparer listed.

The Planning Board, by a vote of 3-2, provided an unfavorable recommendation due to insufficient elevation/floor plans. Thomas M. Bowes, District 3 Councilor, Braintree Town Council, submitted a letter of objection, dated October 24, 2016. John Volpini of 165 Pleasant View Avenue, Braintree, submitted an email of objection, dated October 20, 2016. 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, width and depth, as noted above. In addition, the Board found that the existing dwelling is pre-existing nonconforming in terms of the front yard setback, left side yard setback and rear yard setback. The Board also found that the proposed new single family dwelling's footprint will not create any new zoning non-conformity. The Board found the proposed new dwelling footprint will conform to the rear yard setback regulation of 30 ft., as the existing dwelling's rear yard setback of 19.7 ft. does not. The Board further found that the proposed new dwelling will be designed appropriately and be comparable in size relative to the existing housing stock. Lastly, the Board found the proposed addition will 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, with the condition that elevations and floor plans, in addition to any changes to the footprint beyond 1,533 sq. ft. of the proposed single family dwelling, shall be submitted to the Zoning Administrator for review and approval/verification prior to issuance of a building permit.

- 4) Petition Number: 16-42
Petitioner: Raymond Yu
Property Owner: 39-41 Brooks Drive LLC
RE: 39-41 Brooks Drive**

Raymond Yu, 675 VFW Parkway #210, Chestnut Hill, MA 02467 (Property Owner, 39-41 Brooks Drive, LLC) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.2 and 908 to install one (1) 15'1" x 6'3" illuminated main/front entrance wall sign, one (1) 7'8" x 5'6" illuminated main entrance monument sign and three (3) additional, 6' x 2'2" directory monument signs. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 39-41 Brooks Drive, Braintree, MA 02184 and is within a Watershed Highway Business District Zone, as shown on Assessors Map 2053D, Plot 02, and contains a land area of +/- 3 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, Section 11, 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 25, 2016 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

Raymond Yu of Pandamonium Design, the petitioner, explained the property owner, Symmons Industries, is seeking to provide new and updated signage for the expansion of Symmons at 39-41 Brooks Drive. Symmons, the property owner of 39-41 Brooks Drive, occupies the majority of

the building. The proposed signage is part of a rebranding effort and aesthetic improvements to their properties. Mr. Yu discussed the proposed signage package includes one (1) 15'1" x 6'3" illuminated main/front entrance wall sign, one (1) 7'8" x 5'6" illuminated main entrance monument sign and three (3) additional, 6' x 2'2" directory monument signs. Chairman Karl inquired if the proposed wall sign would be seen from the roadway. Mr. Yu replied that it will be slightly visible from Brooks Drive, but mostly faces the entranceway to the property off of Brooks Drive.

The petitioner is seeking the following variances/relief:

- Variance from Section 135-904.2(A)(1)(g) of the Zoning By-laws which states, "One secondary ground sign may be permitted by the Zoning Board of Appeals if it determines that the nature of the use of the premises, the architecture of the building, or the location with reference to the street or way is such that additional ground signs should be granted in the public interest. The total of all ground signs visible to the access road shall not exceed 150 sq. ft. in area." The petitioner is proposing three (3) secondary directional ground signs. The total square footage of the monument ground sign and three (3) secondary ground signs is 83 sq. ft.; and
- Variance from Section 135-904.2(A)(5)(b) of the Zoning By-laws which states, "No wall sign shall exceed four feet in overall height." The proposed wall sign located at the main entrance is 6' 3" in height.

As grounds for the variances, Mr. Yu explained to the Board, the existing building is uniquely situated on the large three acre property. The building is situated on a corner lot, bordered by roadways on three sides, and has a number of access points. Symmons has occupied the buildings along Brooks Drive since at least the 1970's. As Symmons is seeking to update their onsite signage, they are proposing a reasonably sized monument ground sign which meets the signage requirements. Mr. Yu also explained Symmons is proposing three (3) reasonably-sized secondary directory ground signs. The secondary ground signs will assist the traveling public to safely and effectively locate the appropriate entrances and exits on the three acre site. In addition, Mr. Yu discussed Symmons is proposing one wall sign that requires a variance to modestly exceed the four foot height allowance for wall signs. Mr. Yu expressed the proposed wall sign is modest in size, in scale with the building, and only exceeds the height due to a small segment of company graphics.

The petitioner presented signage plans entitled, "Zoning Board of Appeal Review, Symmons Exterior Sign Package, 39 Brooks Drive, Braintree, MA", dated September 16, 2016, numbered 1 thru 5, and prepared by Pandamonium Design of Chestnut Hill, MA.

The Planning Board submitted a favorable recommendation with the following conditions:

1.) Directory signs to not exceed four (4) feet in height; 2.) No sign illumination from 1am-6am, pursuant to Section 135-905; 3.) Any displacement/removal of existing shrubs/trees shall be replaced with same quantity/type onsite and depicted on a plan prior to issuance of a building permit; and 4.) Due to increase in lot coverage of 15 sq. ft. by proposed monument sign, an increase of 15 sq. ft. of open space/landscaping shall be installed and depicted on a plan prior to issuance of a building permit. No one else at the Zoning Board of Appeals spoke in favor of or opposition to the petition.

Findings

The Board found that the proposed wall sign, when analyzed in relationship to the existing building and immediate area, is appropriate in design, size and scale. In addition, the Board found that the wall sign only exceeds the allowed height due to a small area of company graphics extending above the lettering. The Board further found the location of the building is uniquely situated on the property as the building is a corner lot bordered by roadways on three sides, and has a number of access points. As such, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed secondary ground signs are necessary to identify the location of the business and for the traveling public and customers to be safely directed to and from the business. As a result, the Board found relief can be granted without resulting in a substantial detriment to the public good and will not nullify the intent of the Zoning By-law.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested variances from the Bylaw Section 135-904.1 and 904.6 requirements, pursuant to Bylaw Section 135-407 and 908, in accordance with the plans submitted, with the following conditions:

- 1.) Secondary directory ground signs to not exceed four (4) feet in height;
- 2.) No sign illumination from 1am-6am, pursuant to Section 135-905;
- 3.) Any displacement/removal of existing shrubs/trees shall be replaced with same quantity/type onsite and depicted on a plan prior to issuance of a building permit; and
- 4.) Due to increase in lot coverage of 15 sq. ft. by proposed main monument sign, an increase of 15 sq. ft. of open space/landscaping shall be installed and depicted on a plan prior to issuance of a building permit.

Under G.L. c.40A, Section 11, the Zoning Board of Appeals grant of the variance relief will not take effect until it has been recorded, along with the Town Clerk's certification of no appeal or that an appeal has been dismissed or denied, in the Norfolk County Registry of Deeds.

- 5) **Petition Number: 16-43**
 Petitioner: Liberty Bay Credit Union
 Property Owner: Sun Life Assurance Co. of Canada
 RE: 300 Granite Street**

Liberty Bay Credit Union, 350 Granite Street, Braintree, MA 02184 (Property Owner, Sun Life Assurance Co. of Canada) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.2 and 908 to install two (2) illuminated wall signs (98.42 sq. ft. each) and install 7.73 sq. ft. tenant panel on existing ground directory sign. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 300 Granite Street, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2040, Plot 13, and contains a land area of +/- 4.39 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, Section 11, 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 25, 2016 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 petitioners, explained Liberty Bay Credit Union is in the process of moving their existing “back offices” at 350 Granite Street into some of the space (third and fourth floors) formerly occupied by Fidelity Investments. Liberty Bay Credit Union would occupy approximately 30,000 sq. ft. of floor space. To support the petitioners new location, Attorney Marinelli discussed the petitioners are seeking relief to install two illuminated wall signs (98.42 sq. ft. each) and tenant panel (7.73 sq. ft.) on an existing directory ground sign. Mr. Marinelli added, the small monument directional ground sign is located in the middle of the office building’s parking area on the access roadway off of Granite Street. The directional ground sign is not visible from Granite Street, and barely visible from the access roadway.

The petitioners seek the following variances/relief:

- Variance from Section 135-904.1(A)(5)(b) of the Zoning By-laws which states, “Wall signs for businesses occupying other than the first floor may be permitted by the Zoning Board of Appeals. Said permit shall require the written permission of the owner of the property. Secondary wall signs shall not exceed 48 square feet in area. No more than two such secondary wall signs shall be allowed for any building.” Liberty Bay Credit Union will lease space within the existing four-story office building and has received permission from the owner of the property to pursue signage relief; and
- Variance from Section 135-904.1(A)(5)(b) of the Zoning By-laws which states, “No more than one wall sign for each store or business occupying a building shall be permitted. The aggregate total of all signage allowed shall not exceed 150 square feet in area. Sign permit may be issued only after written permission for said signs is authorized by the Zoning Board of Appeals.” The proposal includes (2) Liberty Bay Credit Union wall signs on the north and south elevations, with an aggregate signage total of 196.84 sq. ft.

As grounds for the variances, Attorney Marinelli explained to the Board, the building is uniquely situated. The building, which fronts Granite Street, but is accessed off of an unnamed access/service roadway, is located at a lower elevation than Granite Street. Also, the building is heavily screened by the unmaintained vegetation along Granite Street. Attorney Marinelli expressed scaling the wall signs to align with the linear frontage of approximately 140 ft. would produce signage too small for the large building and significantly reduce visibility and directional guidance to the general public. In addition, the proposed signage will not be directly oriented to the residences across the roadway. Furthermore, the proposed signage lettering will be of a ‘slimmer’ font/design than the previous Fidelity block channel letters. Lastly, Mr. Marinelli highlighted the total proposed signage square footage is only slightly larger than the prior 166.46 sq. ft. of Fidelity signage approved by the ZBA on 7/27/2004 (Case #04-67).

The petitioners presented signage plans entitled “Liberty Bay Credit Union”, dated September 21, 2016, sheets 01 thru 04, and prepared by Sign Design of Brockton, MA.

The Planning Board submitted a favorable recommendation with the condition of no sign illumination between the hours of 1am and 6am. No one else at the Zoning Board of Appeals

spoke in favor of or opposition to the petition.

Findings

The Board found that the proposed signage, when analyzed in relationship to the building and previous tenant signage, is appropriate in design, size and scale. The Board found the location of the building is uniquely situated on the property as the building is located at a lower elevation than the main roadway. In addition, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed wall signs are necessary to identify the location of the business and for the traveling public to be safely directed to the businesses. Lastly, the Board found that the wall signs would be slim in nature, of a better design than the former Fidelity signage, and consistent with the architectural style of the existing building. As a result, the Board found relief can be granted without resulting in a substantial detriment to the public good and will not nullify the intent of the Zoning By-law.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested variances from the Bylaw Section 135-904.1 and 904.6 requirements, pursuant to Bylaw Section 135-407 and 908, in accordance with the plans submitted, and subject to the condition of no sign illumination between the hours of 1am and 6am.

- 6) Petition Number: 16-44
Petitioner: Deana Ferrini
RE: 44 Brewster Avenue**

Deana Ferrini, 11 Brewster Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 609 and 701 to construct a one-story, 476 sq. ft. rear addition that does not meet the rear yard setback requirements. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 11 Brewster Avenue, Braintree, MA 02184 and is within a Watershed Residential B District Zone, as shown on Assessors Map 1078, Plot 02, and contains a land area of +/- 8,500 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, Section 11, 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 25, 2016 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 no alternate.

Evidence

David and Deanni Ferrini, the petitioners, discussed they are seeking to construct a one story, rear addition with a footprint of approximately 476 sq. ft. The proposed rear addition would provide a new enlarged kitchen with accompanying dining space. Mr. Ferrini highlighted, as discussed by the Zoning Administrator and Planning Board, the proposed addition would likely require access across the adjacent Town of Braintree property for construction vehicles. Mrs.

Ferrini discussed she had been instructed by the Mayor's Office to seek a right-of-way permit from the Town's Public Works Department (PWD). Mrs. Ferrini added the PWD did not have any objection to issuing a permit, dependent upon ZBA approval. Chairman Karll asked the petitioners as to why the addition cannot be built without encroaching into the rear yard setback. Mr. Ferrini responded that due to the many additions to the existing single family dwelling, there are internal layout and height issues that necessitate the encroachment into the rear yard setback.

The petitioner's lot is nonconforming, as it contains only 8,500 sq. ft., where 43,560 sq. ft. is required and provides only 85 ft. of lot width, where 100 feet is required. The petitioner's existing single family dwelling is nonconforming as to the right side yard setback; the dwelling is located 4.89 ft. from the right side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 ft. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

A variance is required for relief from the rear yard setback requirements. The existing dwelling is 34.14 ft. from the rear yard lot line. The proposed addition will encroach into the rear yard lot line, with a resultant rear yard setback of 21.33 ft. The Zoning Bylaw requires a rear yard setback of 30 feet.

As grounds for the variance, Mrs. Ferrini described the rear yard contains ledge and a capped underground septic system that necessitates the proposed location of the rear yard addition. In addition, Mrs. Ferrini explained an existing rear bulkhead further necessitates the proposed location and size of the rear addition. Lastly, Mrs. Ferrini highlighted the addition will be similar in size compared to dwellings in the immediate area, be appropriately designed, and is supported by the direct abutters.

The applicant presented the plan entitled "Certified Plot Plan Located at 11 Brewster Avenue, Braintree, MA", dated September 7, 2016 and prepared by C.S. Kelley Land Surveyors of Pembroke, MA. The applicant also presented the plan entitled "Certified Plot Plan Showing Proposed Conditions at 11 Brewster Avenue, Braintree, MA", dated September 15, 2016 and prepared by C.S. Kelley Land Surveyors of Pembroke, MA. The applicant also presented floor plans and architectural renderings titled "Ferrini Family Addition", numbered 1-4, dated August 31, 2016 and prepared by HOMESTYLEdesigns of Weymouth, MA.

The Planning Board submitted an unfavorable recommendation due to lack of unique hardship related to soil, shape or topography. James Lochiatto, of 29 Brewster Avenue, spoke in support of the petitioners. Amy Wallace, of 14 Brewster Avenue, asked that any proposed construction activities not adversely affect her property. Carl Johnson, of 13 Brewster Avenue, asked the petitioner seek the appropriate Town of Braintree approvals to utilize the abutting town property for construction access and also post an appropriate bond to cover any potential damages. Cielito Warrick, of 1898 Washington Street, a direct abutter to the property, submitted a letter of support on October 11, 2016. 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 width, as noted above. The Board found that the existing single family dwelling is pre-existing nonconforming in terms of the right side yard setback. In addition, the Board found the petitioner had presented a hardship with respect to the locations of existing ledge, former septic system and existing bulkhead in the rear of the lot, limiting the placement of the addition to the proposed rear yard location. The Board also found that the requested relief was consistent with

prior granted zoning relief. The Board further found the petitioner had demonstrated the proposed addition would not be more detrimental to the neighborhood by providing evidence of abutter support. Therefore, the Board 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 and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, and variance from rear yard setback requirements, pursuant to Bylaw Section 135-407, in accordance with the plans submitted, and subject to the condition that the petitioner put forth a bond to the appropriate licensing/permit granting authority regarding the proposed need to utilize Town of Braintree property to access and construct the rear addition.

- 7) Petition Number: 16-45
Petitioner: Peter I. Thompson
RE: 116 Common Street**

Peter I. Thompson, 1599 Washington Street, Braintree, MA for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct 52 sq. ft., second-story addition within the existing footprint. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 116 Common Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2037, Plot 3C, and contains a land area of +/- 11,060 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, Section 11, 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 25, 2016 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

Bob Fedus, on the behalf of the petitioner, explained the owner is seeking to construct a small 21 ft. x 2.5 ft. second story addition, within the 10 ft. side yard setback, to a recently permitted second story addition. Mr. Fedus discussed the existing one story dwelling is 7.6 ft. from the side yard lot line. A building permit was issued with the condition that the second story be constructed no further than the 10 ft. side yard setback. As a result, a finding from the ZBA is required to build above the existing nonconforming section of the dwelling. Mr. Fedus highlighted, due to a miscommunication, the proposed 2.5 ft. addition, had been constructed. The Building Department issued a stop work order with regard the addition subject to the ZBA petition.

The petitioner's existing lot is nonconforming, as it contains only 11,060 sq. ft., where 15,000 sq. ft. is required, and provides only 74 ft. of lot width, where 100 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the left side yard setback; the dwelling is located 7.6 ft. from the left side yard lot line, while the Zoning Bylaw requires a side yard

setback of 10 ft. The proposed addition will be built within the existing footprint and not create any new zoning nonconformity. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the addition will be within the existing footprint and not generate any new zoning nonconformity. Secondly, the petitioner noted the addition will be similar to the existing neighborhood characteristics and not be more detrimental to the neighborhood.

The applicant presented the plan entitled "Plot Plan of Land, 116 Common Street, Braintree, Massachusetts, dated August 31, 2016 and September 12, 2016, and prepared by James E. McGrath of Massachusetts. The applicant also presented floor plans and architectural renderings entitled "Alterations, 116 Common Street", labeled "1st Floor Plan", "2nd Floor Plan", "Front/Right Elevation", "Attic Plan", and untitled structure elevation, undated and prepared Wally McKinnon of Weymouth, MA.

The Planning Board submitted a favorable recommendation with the condition that a full zoning table/analysis be provided. 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 and width, as noted above. In addition, the Board found that the existing dwelling is pre-existing nonconforming in terms of the left side yard setback. The Board also found that the proposed second floor addition will not create any new zoning non-conformity. The Board further found that the proposed addition will be designed appropriately and be comparable in size relative to the existing housing stock. Lastly, the Board found the proposed addition will not be substantially more detrimental to the neighborhood than the existing nonconforming 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.

APPROVAL OF MINUTES:

On a motion made and seconded, the Board voted 3-0 to accept the August 23, 2016 meeting minutes.

EXECUTIVE SESSION:

On a motion duly made and seconded, the Board unanimously (3-0) voted to enter into executive session.

On a motion duly made and seconded, the Board unanimously (3-0) voted to close the executive session.

The Board adjourned the meeting at 9:00 pm.

