



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 November 22, 2016

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

**ALSO PRESENT:** Jeremy Rosenberger, Zoning Administrator

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

#### **OLD BUSINESS:**

- 1) **Petition Number: 16-11**  
**Petitioner: Bart Steele (c/o Viewpoint Sign & Awning)**  
**RE: 220 Forbes Road**

The petitioner has 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.

#### **NEW BUSINESS:**

- 1) **Petition Number: 16-39**  
**Petitioner: Stephanie B. Snow**  
**RE: 39 Howie Road**

Stephanie B. Snow, 39 Howie Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to demolish existing attached 25.8' x 13', one story, one-car garage and construct 36.8' x 13', one car garage with living space above. 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 Howie Road, Braintree, MA 02184

and is within a Residential B District Zone, as shown on Assessors Map 2061, Plot 08, and contains a land area of +/- 7,817 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 November 22, 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**

Stephanie Snow, the petitioner, explained she is seeking to demolish an existing one story, attached 25.8 ft. x 13 ft. one car garage, and construct a 36.8 ft. x 13 ft., one car garage with living space above. Ms. Snow discussed the proposed project would increase the overall length of the garage by 11 ft. Ms. Snow described the proposed addition/new garage on the first floor will consist of parking for one vehicle and a storage room. On the second floor, an office with walk-in closet, accessed via the master bedroom, would be added. The Zoning Administrator discussed with the Board that the existing property is at 69% lot coverage based on the submitted plans. The maximum allowed lot coverage in the Residence B Zoning District is 70%. As such, staff and the Planning Board have recommended the petitioner seek to reduce the existing lot coverage where possible. Mr. Karl asked the petitioner where the most feasible location on the property would be to reduce the lot coverage, as recommended by the Planning Board and Zoning Administrator. Ms. Snow described the brick walk-way, located along the left side of the house would be the most likely location. Removing the bricks and providing a grass surface would potentially reduce the lot coverage on the property by 320 sq. ft. or .5%. Mr. Karl replied such a small reduction seemed inconsequential.

The petitioner's existing lot is nonconforming, as it contains only 7,817 sq. ft., where 15,000 sq. ft. is required and provides only 70 feet 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 5.5 ft. from the side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 ft. Also, the existing detached accessory shed is nonconforming as to the side and rear yard accessory setbacks; the shed is located +/- 2 ft. from the right side yard lot line +/- 1 ft. from the rear yard lot line, while the Zoning bylaw requires an accessory structure side or rear yard setback of 5 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 "Plot Plan, 39 Howie Road, Braintree, Massachusetts, dated September 27, 2016 and prepared by James E. McGrath, PLS of Weymouth, MA. The applicant also presented floor plans and architectural renderings entitled "Snow Family Addition", numbered 1 thru 4, dated October 18, 2010, and prepared by HOMESTYLEdesigns of Weymouth, MA.

The Planning Board voted 4-0, a recommendation to support the staff recommendation to reduce the amount of lot coverage on the property. 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 right side yard setback. The Board found that the existing accessory shed is pre-existing nonconforming in terms of the side and rear yard accessory structure setbacks. 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: 16-48**  
**Petitioner: Barry Roland and Erika Molignano**  
**RE: 64 Somerville Avenue**

Barry Roland and Erika Molignano, 64 Somerville Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403 and 701 to construct a 13.3' x 20' second floor addition, within the existing building 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 at 64 Somerville Avenue, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3053, Plot 22, and contains a land area of +/- 4,200 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 November 22, 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**

Jack Erickson, representing the petitioners, explained the petitioners are seeking to construct a one-story, rear addition above an existing one story living room. The rear addition, consisting of a master bedroom, would be approximately 266 sq. ft. A finding is required as the rear of dwelling, where the proposed second story is to be located, is 24.4 ft. from the rear yard lot line, where 30 ft. is required. The Zoning Administrator discussed the existing rear addition received a building permit in 1953. Mr. Erickson added the proposal be within the existing footprint of the single family dwelling and not create any new zoning nonconformity.

The petitioner's existing lot is nonconforming, as it contains only 4,200 sq. ft., where 15,000 sq. ft. is required, provides only 60 feet of lot width, where 100 feet is required and provides only 70 feet of lot depth, where 100 feet is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the dwelling is located 8.3 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 rear yard setback; the dwelling is located 24.4 ft. from the rear yard lot line, while the Zoning bylaw requires a rear yard setback of 30 ft. The proposed addition will be within the existing building 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 building footprint and 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 "Plot Plan, 64 Somerville Avenue, Braintree, Massachusetts, dated October 31, 2016 and prepared by James E. McGrath, PLS of Weymouth, MA. The applicant also presented floor plans and architectural renderings entitled "Addition", labeled 1 of 1, dated August 16, 2016, and prepared by Howard L. Millard of Westwood, 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, 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 and rear yard setback. The Board also found that the proposed addition within the existing footprint 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.

- 3) Petition Number: 16-49  
Petitioner: Daniel G. West  
RE: 14 Sherman Road**

Daniel G. West, 14 Sherman Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 to extend existing 11.7' x 15.3' rear deck by 10' with side stairs; addition will further encroach into the rear and side yard setbacks. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 14 Sherman Road, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 1041, Plot 51, and contains a land area of 5,925 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 November 22, 2016 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Richard McDonough and Michael Calder, Members; and Michael Ford, Alternate.

## Evidence

The petitioner, Daniel G. West, explained he is seeking to extend an existing 11.7 ft. x 15.3 ft. rear deck by 10 ft. with new side stairs. Mr. West discussed the proposed deck addition would require side and rear yard variances. He added the project is supported by the rear abutter and would not be more detrimental to the neighborhood.

The petitioner's lot is nonconforming, as it contains only 5,925 sq. ft., where 15,000 sq. ft. is required, provides only 70 ft. of lot width, where 100 ft. is required and provides only 85 ft. of lot depth, 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 8 ft. from the left 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.

As far as the side yard variance request, the deck addition would include new stairs 5 ft. from the side yard setback, where 10 ft. is required. The proposed stairs (+/- 56.25 sq. ft.) would exceed the 30 sq. ft. projection into setbacks allowed pursuant to Section 135-701(7). Mr. West discussed the proposed stair size is needed so as to not disrupt the recent landscaping along the left side yard lot line. The petitioner noted a single stair from the ground to the deck would be an inconvenience with regard to accessing the rear yard. Also, the petitioner noted, due to the height of the deck, a single stair would still require a side yard variance to meet the building code requirement for stairs.

As far as the need for the rear yard variance, the proposal seeks to extend the depth of an existing 11.7 ft. x 15.3 ft. rear deck by an additional 10 ft. (resulting in a 21.7 ft. x 15.3 ft. rear deck). The existing deck is 30 ft. from the rear yard lot line and the proposed addition will 20 ft. from the rear yard lot line, where a minimum setback of 30 ft. is required. Mr. West noted that the proposed deck addition is constrained to the proposed location due to an existing rear bulkhead, the location of a proposed hot tub on the deck addition, and the placement of the dwelling on the lot close to the left side yard lot line. In addition the petitioner has highlighted the property slopes slightly from west to east.

The applicant presented the plan entitled "Plot Plan of Land, 14 Sherman Road, Braintree, MA", dated October 26, 2016 and prepared by Hoyt Land Surveying of Weymouth, MA. The applicant also presented reference pictures of the existing deck.

The Planning Board submitted an unfavorable recommendation due to lack of unique hardship related to soil, shape or topography. Walt Wunder, of 11 Butler Road, a direct abutter to the property, submitted a letter of support on November 17, 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, width and depth, as noted above. The Board found that the existing single family dwelling is pre-existing nonconforming in terms of the left side yard setback. The Board found the petitioner had presented a hardship with respect to the limited depth and sloping topography of the lot. The Board further found the location of the existing bulkhead in the rear of the lot and landscaping along the left side of the property limit the placement of the addition to the proposed rear yard location. 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.

## Decision

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

- 4) Petition Number: 16-50**  
**Petitioner: ABC, Inc.**  
**RE: 111 Parkside Avenue**

ABC, Inc., 82 Union Street, Quincy, MA 02169 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to square-off the existing second floor (1,026 gross sq. ft.) rear dormer increase the height of the existing second floor and expand existing one car garage footprint by 150 sq. ft. The applicant seeks a permit, variance and/or finding that the proposed alteration is not more detrimental to the neighborhood. The property is located 111 Parkside Avenue, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2038, Plot 14, and contains a land area of 9,596 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 November 22, 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

Mohammed Amer, owner of ABC, Inc., explained he seeks to square-off the existing second floor (1,026 gross sq. ft.) rear dormer, increase the height of the existing second floor and expand existing one car garage footprint by 150 sq. ft. The proposed new height would be 25 ft. and include a "pull-down" unfinished attic. The additional height is necessary as the existing ceiling height on the second floor is roughly 6.5 ft. Mr. Amer explained the existing cape-style 1.5-story, single family dwelling is 14.4 ft. from the front yard lot line on Walnut Street, where 20 ft. is required. As a result, Mr. Amer discussed the proposed alteration to the dwelling will require a finding by the Board. Furthermore, Mr. Amer explained he would like to square-off the existing attached one-car garage. The addition to the garage will meet all setback requirements. Lastly,

he explained the proposal will be within the existing footprint of the single family dwelling and not create any new zoning nonconformity.

The petitioner's existing lot is nonconforming, as it contains only 9,573 sq. ft., where 15,000 sq. ft. is required, provides only 85.02 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 14.4 ft. from the front yard lot line on Walnut Street, while the Zoning Bylaw requires a front yard setback of 20 ft. The proposed alteration will be within the existing building 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 building footprint and not generate any new zoning nonconformity. Secondly, the petitioner noted the addition will be similar to the existing neighborhood architectural characteristics and well designed. Therefore, the proposed project will not be more detrimental to the neighborhood.

The applicant presented the plan entitled "Plan of Land at 111 Parkside Avenue, Braintree, Massachusetts, dated November 15, 2016 and prepared by Joseph E. Webby III, PLS of Kingston, MA. The applicant also presented an architectural elevation entitled "House Elevations, New House Addition, 111 Parkside Avenue", dated November 16, 2016, and prepared by Walter A. McKinnon Associates of Weymouth, MA.

The Planning Board submitted a recommendation of no vote due to insufficient plans. 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 on Walnut Street. The Board also found that the proposed alteration to increase the height of the existing second floor within the existing footprint and garage addition would not create any new zoning nonconformity. The Board further found that the proposed project 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.

- 5) Petition Number: 16-51  
Petitioner: Jack Tran  
RE: 304 Granite Street**

Jack Tran, 77 Birch Street, Stoughton, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 403, 407 and 701 to construct an attached garage (14' x 33.8') and addition on the first floor (14' x 19') to existing one-story single family dwelling (958 sq. ft.); construct new full second story (+/- 1,611 sq. ft.) with finished attic (678 sq. ft.). 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 304 Common Street, Braintree, MA 02184 and is

within a Residential B District Zone, as shown on Assessors Map 2060, Plot 21, 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 November 22, 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**

Jack Tran, the petitioner, discussed he is seeking to expand the existing single family footprint from 958 sq. ft. to 1,697.2 sq. ft. The existing dwelling's living space is 958 gross sq. ft. (not including basement) and the proposed addition will result in 3,750 gross sq. ft. (w/o garage and basement). The first floor will be altered to provide an open layout and include an attached one car garage. The second floor will provide four bedrooms and three bathrooms. The finished attic will be an open room. Mr. Tran added the proposed addition will significantly update the existing dwelling. The petitioner discussed he had purchased the property through a foreclosure. The existing dwelling has been significantly damaged due to domestic animals and human waste from the former owners. As such, Mr. Tran provided letters of support from the neighborhood with regard to the proposed improvements. Lastly, Mr. Tran explained the proposed project requires a variance from the front yard setback. He discussed the existing one story, single family home (is deficient with regard to the front yard setback, as it is 16.5 ft. from the front yard lot line and 20 ft. is required. The deficiency is the result of a taking by Norfolk County in 1954 for a front portion of the lot to construct a new roadway. The roadway was never constructed. Mr. Tran highlighted the front of the existing dwelling is over 50 ft. from Common Street roadway.

The petitioner's lot is nonconforming, as it contains only 7,686 sq. ft., where 15,000 sq. ft. is required, provides only +/- 72 ft. of lot width, where 100 feet is required and provides only +/- 98 ft. of lot depth, where 100 feet is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the dwelling is located 16.5 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 ft. In addition, the petitioner's existing dwelling is nonconforming as to the left side yard setback; the dwelling is located 9.7 ft. from the left side yard lot line, while the Zoning Bylaw requires a front 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 front yard setback requirements. The existing dwelling is approximately 16.5 ft. from the front yard lot line. The proposed addition will encroach further into the front yard lot line, with a resultant front yard setback of 14.7 ft. The Zoning Bylaw requires a front yard setback of 20 ft.

As grounds for the variance, Mr. Tran described the property is unique with regard to its shape, due to the previously discussed 1954 land taking. In addition, Mr. Tran highlighted the sloping topography in the right and rear yards and proximity to wetlands, meets the threshold for a hardship and necessitates the need for slight further encroachment into the front yard setback. Also, Mr. Tran expressed a financial hardship is caused by the existing derelict dwelling, necessitating the proposed additions and alterations. Lastly, the petitioner stated the proposed



project has the support of the immediate community, as evidenced in the support letters. As such, Mr. Tran concluded the proposed addition will not be more detrimental to the public good.

The applicant presented the plan entitled "Proposed Addition Location Plan, 304 Common Street, Braintree, Massachusetts", dated July 9 and September 13, 2016 and prepared by Paul Lindholm, P.E. of Dedham, MA. The applicant also presented floor plans and architectural renderings titled "Renovation and Addition Construction, 304 Common Street", numbered A1-A10, dated August 1, 2016 and prepared by T Design LLC of Milton, MA.

The Planning Board submitted a favorable recommendation with the condition that the proposed height of the addition be verified to comply with zoning regulations prior to and after construction. James Foley, Jr. of 290 Common Street, submitted a letter of support, dated August 14, 2016. Anne-Marie Christopher of 315 Common Street, submitted a letter of support, dated August 14, 2016. Sally Nihan of 296 Common Street, submitted a letter of support, dated August 14, 2016. Frank McAuliffe of 346 Common Street, submitted a letter of support, dated August 14, 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, 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 and left side yard setback. In addition, the Board found the petitioner had presented a unique hardship with respect to the irregular shape of the lot due to the demonstrated property taking, sloping topography and proximity to wetlands. As a result, the Board found the petitioner is limited with regard to the placement of the addition. 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. Lastly, the Board found that the requested relief was minor and consistent with prior granted zoning relief. Therefore, 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 and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, and variance from the front yard setback requirements, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

### **APPROVAL OF MINUTES:**

On a motion made and seconded, the Board voted 3-0 to accept the October 25, 2016 meeting minutes.

The Board adjourned the meeting at 8:30 pm.