



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 27, 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: 16-46
Petitioner: First Baptist Church of Braintree
RE: 11 Sherbrook Avenue**

This is a petition filed by First Baptist Church of Braintree, 594 Washington Street, Braintree, MA 02184, to remove/supersede condition of Zoning Board of Appeals decision case number 1757, dated October 22, 1991 and for relief from Bylaw requirements under Chapter 135, Sections 403, 407 and 701 to allocate 3,289 sq. ft. of land from subject property and combine with 594 Washington Street; allocation of land from subject property would create a lot of 7,354 sq. ft. that does not meet the minimum lot area. 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 11 Sherbrooke Avenue, Braintree, MA 02184 and is within a Residential B & C District Zone, as shown on Assessors Map 2021, Plot 15, and contains a land area of +/- 10,644 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. and continued by mutual agreement to December 27, 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

At the initial public hearing on November 22, 2016, Anthony LaPuma, representative for the petitioners, discussed with the Board the First Baptist Church of Braintree is seeking to allocate 4,557 sq. ft. of land from 11 Sherbrooke Avenue to 594 Washington Street. Mr. LaPuma discussed 11 Sherbrooke Avenue contains an existing single family dwelling and approximately ten off-street parking spaces for the existing First Baptist Church at 594 Washington Street. An easement allows 594 Washington Street access to the ten off-street parking spaces at 11 Sherbrooke Avenue. The church would like to sell 11 Sherbrooke Avenue. By removing the encumbrance of the ten off-street parking spaces on the property, 11 Sherbrooke Avenue would be more valuable. As far as the change in lot size, 11 Sherbrooke Avenue is currently 10,643 sq. ft. The resultant decreased lot area would be 6,086 sq. ft. (allocation of 4,557 sq. ft. to 594 Washington Street).

Mr. LaPuma explained to the Board the reduction in lot size would require a variance for minimum lot area and minimum lot depth. The petitioner also discussed the Zoning Administrator has asked that 11 Sherbrooke Avenue also seek to reaffirm the finding of ZBA Decision #1757. The ZBA decision gave relief for "...sufficient open space on the two lots owned by the Church" and to "...grant the relief requested in the application, subject to the plan and the conditions set out in our findings above". The additional relief requested in the application included "setbacks". Both 11 Sherbrooke Avenue and 594 Washington Street were the subject properties of ZBA Decision #1757. The Zoning Administrator requested the petitioner reaffirm the granted relief and conditions, as ZBA Decision #1757 lacks clarity.

After discussion, Chairman Karll requested the petitioner seek to explore increasing the proposed new lot area. Mr. Calder highlighted increasing the rear yard setback should also be considered. Mr. LaPuma agreed to update the proposed plans before the next hearing date.

At the continued public hearing on December 27, 2016, Mr. LaPuma provided updated plans depicting a new allocation of 3,289 sq. ft. of property from 11 Sherbrooke Avenue to 594 Washington Street. The resultant property size for 11 Sherbrooke Avenue would be approximately 7,354 sq. ft. 594 Washington Street would become approximately 22,829 sq. ft. In addition, the proposed new lot would meet the minimum lot depth requirement.

The petitioner's existing lot at 11 Sherbrooke Avenue is nonconforming, as it contains only 10,643 sq. ft., where 15,000 sq. ft. is required and provides only 70 ft. of lot width, where 70 ft. is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the structure is located approximately 13.2 ft. from the front yard lot line while the Zoning Bylaw requires a front yard setback of 20 feet. The existing dwelling is also nonconforming as to the left side yard setback; the structure is located approximately 9.9 ft. from the side yard lot line while the Zoning Bylaw requires a side yard setback of 10 feet. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

A variance is required for relief from the minimum lot area requirements. The existing lot area is 10,643 sq. ft. The proposed new lot area would be 7,354 sq. ft. The Zoning Bylaw requires a minimum lot area of 15,000 sq. ft.

As grounds for the variance and finding, Mr. LaPuma highlighted the subject property is unique in shape and size, as the property significantly narrows toward the rear and is larger in size than the immediate residential properties. In addition, Mr. LaPuma discussed the conflict of uses on the property, namely a single family dwelling with an easement at the rear of the property for ten off-street parking spaces is a unique hardship. Allocating the off-street parking to 594 Washington Street would alleviate this unique confluence of uses and also create a new lot that is similar in size to the surrounding residential properties.

The petitioner presented the plan entitled "Proposed Division of Land", dated November 26, 2016 and prepared by DeCelle Burke & Associates, Inc. of Quincy, MA.

The Planning Board submitted a recommendation of No Vote. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the existing lot at 11 Sherbrooke Avenue is pre-existing nonconforming in terms of lot area and width. In addition, the Board found that the existing single family dwelling is pre-existing nonconforming in terms of the front and side yard setbacks. In addition, the Board found the petitioner had presented a unique hardship with respect to the irregular shape of the lot and multiple uses contained on the lot. As a result, the Board found the proposed new lot would separate the conflicting uses. The Board further found the petitioner had demonstrated the proposed addition would not be more detrimental to the neighborhood as the proposed new lot would be similar in size compared to surrounding residential lots. Lastly, the Board found there was no opposition to the proposed relief requested. 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.

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 minimum lot area requirements, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

- 2) Petition Number: 16-47**
Petitioner: First Baptist Church of Braintree
RE: 594 Washington Street

This is a petition filed by First Baptist Church of Braintree, 594 Washington Street, Braintree, MA 02184, to remove/supersede condition of Zoning Board of Appeals decision case number 1757, dated October 22, 1991 and for relief from Bylaw requirements under Chapter 135, Sections 403, 407 and 701 to allocate 3,289 sq. ft. of land from 11 Sherbrooke Avenue and combine with subject property. 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 594 Washington Street, Braintree, MA 02184 and is within a Residential B & C District Zone, as shown on Assessors Map 2021, Plot 17, and contains a land area of +/- 19,558 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. and continued by mutual agreement to December 27, 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

At the initial public hearing on November 22, 2016, Anthony LaPuma, representative for the petitioners, discussed with the Board the First Baptist Church of Braintree is seeking to allocate 4,557 sq. ft. of land from 11 Sherbrooke Avenue to 594 Washington Street. Mr. LaPuma discussed 11 Sherbrooke Avenue contains an existing single family dwelling and approximately ten off-street parking spaces for the existing First Baptist Church at 594 Washington Street. An easement allows 594 Washington Street access to the ten off-street parking spaces at 11 Sherbrooke Avenue. The church would like to sell 11 Sherbrooke Avenue. By reducing the size of the lot and removing the encumbrance of the ten off-street parking spaces on the property, 11 Sherbrooke would be more valuable. As far as the change in lot size, 11 Sherbrooke is currently 10,643 sq. ft. The proposed new 11 Sherbrooke Avenue lot would be 6,086 sq. ft. (allocation of 4,557 sq. ft. to 594 Washington Street). 594 Washington Street is currently 19,540 sq. ft. As a result of the proposed allocation, the 594 Washington would increase to 24,097 sq. ft.

Mr. LaPuma explained to the Board the alteration to the lot at 594 Washington Street (increasing the lot size) is subject to a finding that the proposed continuance of the pre-existing, nonconforming lot will not be more detrimental than the previous structure. Mr. LaPuma stated the additional lot area will make the lot less nonconforming than existing lot. In addition, the additional property area will provide ten more off-street parking spaces for the church. Mr. LaPuma further discussed the Zoning Administrator has asked that the petitioner seek to reaffirm the findings of ZBA Decision #1757. The ZBA decision gave relief for "sufficient open space on the two lots owned by the Church" and "grant the relief requested in the application, subject to the plan and the conditions set out in our findings above". As such, the petitioner will be improving the lot coverage percentage, but any change from a previously granted relief requires a variance.

After discussion, Chairman Karll requested the petitioner seek to explore increasing the proposed new lot area. Mr. Calder highlighted increasing the rear yard setback should also be considered. Mr. LaPuma agreed to update the proposed plans before the next hearing date.

At the continued public hearing on December 27, 2016, Mr. LaPuma provided updated plans depicting a new allocation of 3,289 sq. ft. of property from 11 Sherbrooke Avenue to 594 Washington Street. The resultant property size for 11 Sherbrooke Avenue would be 7,354 sq. ft. 594 Washington Street would become approximately 22,829 sq. ft.

The petitioner's existing lot at 594 Washington Street is pre-existing nonconforming, as it contains only 19,540 sq. ft., where 43,560 sq. ft. is required, provides only 112.6 ft. of lot width where 200 ft. is required, and provides only 175.5 ft. of lot depth, where 200 ft. is required. The petitioner's existing building is conforming via ZBA Decision #0255 as to the front yard setbacks; the building is located approximately 7.7 ft. from the front yard lot line on Washington Street and

2.5 ft. from the front yard lot line on Sampson Avenue, while the Zoning Bylaw requires a front yard setback of 20 feet. The existing building/lot is also pre-existing nonconforming as to the lot coverage; the existing lot coverage is 77% while the Zoning Bylaw requires a maximum lot coverage of 65%. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

Variances area required as the changes to building coverage and lot coverage due to the alteration of the lot from previously granted relief (ZBA Decision #1757). The existing building coverage is 33%. With the proposed lot area increase, the building coverage would be 29.4%. The Zoning Bylaw allows a maximum building coverage of 40%. In addition, the existing lot coverage is 77%. With the proposed lot area increase, the lot coverage would be 73.8%. The Zoning Bylaw allows a maximum lot coverage of 65%.

As grounds for the finding and variances, Mr. LaPuma highlighted the subject property is unique in shape and size, as the property is a corner lot that is larger in size than the immediate area properties. In addition, Mr. LaPuma discussed the proposed reduction in lot size of 11 Sherbrooke will remove the conflict of uses on the property, namely a single family dwelling with an easement at the rear of the property for ten off-street parking spaces. Allocating the off-street parking to 594 Washington Street would alleviate this unique confluence of uses and also create a new lot that is similar in size to the surrounding residential properties. Lastly, Mr. LaPuma articulated the changes to the lot lines will be beneficial to the immediate neighborhood by increasing the desirability of the single family dwelling at 11 Sherbrooke Avenue, and in total, will not be more detrimental to the neighborhood.

The petitioner presented the plan entitled "Proposed Division of Land", dated November 26, 2016 and prepared by DeCelle Burke & Associates, Inc. of Quincy, MA.

The Planning Board submitted a recommendation of No Vote. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the existing lot at 594 Washington Street is pre-existing nonconforming in terms of lot area, width and depth. In addition, the Board found that the existing building is conforming in terms of the front setbacks due to ZBA Decision #0255. Also, the Board found that the existing lot coverage/open space is pre-existing nonconforming. In addition, the Board found the petitioner had presented a unique hardship with respect to the irregular shape of the corner lot. As a result, the proposed increase of the lot area will lessen the existing nonconforming lot coverage/open space. In addition, the Board found the proposed increase in lot size would separate the conflicting uses, allocating the ten (10) off-street parking spaces from 11 Sherbrooke Avenue to 594 Washington Street. Lastly, the Board found there was no opposition to the proposed relief requested. 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.

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 maximum lot coverage/open space requirement, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

NEW BUSINESS:

- 1) Petition Number: 16-52
Petitioner: Mark Jeske
RE: 935-937 Granite Street**

The petitioner requested a continuance.

On a motion made and seconded, the Board voted 3-0 to grant continue the public hearing to February 27, 2017.

- 2) Petition Number: 16-54
Petitioner: Lui Shun Lau
RE: 30 Hobart Street**

This is a petition filed by Lui Shun Lau, 51 Waterston Avenue, Quincy, MA 02170 (Property owner, Bing Qing Zhang) for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct a two and half story, single family dwelling (+/- 2,754 gross sq. ft. of living space) with attached two car garage. The applicant seeks a permit, variance and/or finding that the proposed reconstruction is not more detrimental to the neighborhood. The property is located at 30 Hobart Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3011, Plot 42, and contains a land area of +/- 13,009 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 December 27, 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

Lui Shun Lau, the petitioner, explained the property owner seeks to construct a new, 2.5-story, single family dwelling. The single family dwelling would be approximately 2,800 sq. ft. An attached, two-car garage, with an unfinished storage space above, would be included. Mr. Ford asked Mr. Lau if the attic would be finished. Mr. Lau responded the attic would be unfinished. Mr. Lau further added the foundation of the former bungalow style single-family dwelling still exists on the property. Mr. Lau highlighted the new single family dwelling will meet all the current zoning dimensional and density requirements except for minimum lot area. The property is 13,009 sq. ft. where 15,000 sq. ft. is required.

The petitioner's existing lot is nonconforming, as it contains only 13,009 sq. ft., where 15,000 sq. ft. is required. The petitioner's existing building foundation is nonconforming as to the rear yard setback; the dwelling is located 28.5 ft. from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 ft. In addition, the new single family dwelling will be large in both building footprint and cubic content than the former single family dwelling. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the new single family dwelling will meet all the current setback, building height and coverage/open space requirements. In addition, the petitioner noted the addition will be similar to the existing neighborhood characteristics and not be more detrimental to the neighborhood.

The petitioner presented the plan entitled "Site Plan of Land, 30 Hobart Street, Braintree, Massachusetts, dated September 12, 2016, and prepared by Perkins Engineering of Hingham, Massachusetts. The petitioner also presented floor plans and architectural renderings entitled "Proposed New Construction, #30 Hobart Street, Braintree, MA 02184", labeled "A-2, A-3 and A-4", dated September 14, 2016 and prepared by LDC of Lexington, MA.

The Planning Board submitted a favorable recommendation. Wilbur Rhoads of Braintree, MA discussed his concern regarding potential traffic and parking issues due to the proposed project. William Parsley, 36 Hobart Street, also mentioned his concern with regard to traffic and parking impacts to the immediate neighborhood. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the lot is pre-existing nonconforming in terms of lot area, as noted above. In addition, the Board found that the existing foundation is pre-existing nonconforming in terms of the rear yard setback. The Board also found that the proposed new single family dwelling will not create any new zoning non-conformity and in fact, meet the current zoning requirements for setbacks, building height and building/lot coverages. 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 new dwelling will not be substantially more detrimental to the neighborhood than the former dwelling.

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: 16-55
Petitioner: Haochi Lam
RE: 1350 Washington Street**

This is a petition filed by Haochi Lam, 1350 Washington Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 to construct a 26.9 ft. x 8 ft. front farmer's porch that will encroach into the front yard setback. 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 1350 Washington Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 1049, Plot 21, and contains a land area of +/- 6,585 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 December 27, 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

Hoachi Lam, the petitioner, discussed she is seeking to construct a 26.9 ft. x 8 ft. front farmer's porch to a recently permitted two-story addition (927 sq. ft. building footprint). However, Ms. Lam explained the farmer's porch will slightly encroach into the front yard setback.

The petitioner's lot is nonconforming, as it contains only 6,585 sq. ft., where 15,000 sq. ft. is required, provides only +/- 76 ft. of lot width, where 100 feet is required and provides only +/- 82 ft. of lot depth, where 100 feet is required. The petitioner's existing single family dwelling is nonconforming as to the left side yard setback; the dwelling is located 4.5 ft. from the left side yard lot line, while the Zoning Bylaw requires a front yard setback of 10 ft. In addition, the existing dwelling is nonconforming as to the rear yard setback; the dwelling is located 19.2 ft. from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 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 23.1 ft. from the front yard lot line. The proposed front farmer's porch addition will encroach into the front yard lot line, with a resultant front yard setback of 15.9 ft. The Zoning Bylaw requires a front yard setback of 20 ft.

As grounds for the variance, Ms. Lam described the property is unique with regard to its shape. Due to the shape, Ms. Lam highlighted the front of the dwelling is not situated parallel to the property, but is in fact at an angle. The petitioner also discussed the dwellings on the other side of Washington Street all are within the front yard setbacks and close to the street. A number of dwellings provide front porches. As such, the petitioner stated the proposed porch would not be out of context, will provide more curb appeal to the immediate neighborhood and ultimately not be more detrimental to the public good.

The applicant presented the plan entitled "Plot Plan of Land, 1350 Washington Street, Braintree, Massachusetts", dated September 28, 2016 and prepared by Hoyt Land Surveying of Weymouth, MA. The applicant also presented floor plans and architectural renderings titled "1350 Washington Street, Braintree, MA 02184, Design Document", numbered A0-A8, X1 and X2, dated July 2016 and prepared by Violet Lam of Braintree, MA.

The Planning Board submitted an unfavorable 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 dwelling is pre-existing nonconforming in terms of the left side yard setback and rear yard setback. In addition, the Board found the petitioner had presented a unique hardship with respect to the irregular shape. As a result, the Board found placement of the dwelling and the shape of the lot has limited the petitioner 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 as the immediate neighborhood contains a number of dwellings that are within

the front yard setback and have front porches. 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.

- 4) Petition Number: 16-56**
Petitioner: Lavan Chekala
RE: 34 Drinkwater Avenue

This is a petition filed by Lavan Chekala, 34 Drinkwater Avenue, Braintree, MA 02184, for relief from Bylaw requirements under Chapter 135, Sections 403 and 701 to construct second floor addition (+/- 1,338 gross sq. ft.) within footprint of existing one-story, single family dwelling; first floor to become in-law accommodation. 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 34 Drinkwater Avenue, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2076, Plot 7J, and contains a land area of +/- 7,500 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 December 27, 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

Lavan Chekala, the petitioner, explained he is seeking to construct a new second floor addition within the existing 1,338 sq. ft. building footprint. The new second floor would become living space for the petitioner and the first floor would become in-law living space. Mr. Chekala described the existing first floor provides two bedrooms, kitchen, living room, one bathroom and attached single car garage. He added the layout would not be changed. The second floor addition would include three bedrooms, kitchen, open living/family/dining room space and two bathrooms. Furthermore, a two-story rear deck would be constructed to provide a second means of egress for Mr. Chekala's second floor living space. The existing building height is 15 ft. The new proposed dwelling height would be 24'3". Lastly, Mr. Chekala highlighted the dwelling does not have a basement.

The petitioner's existing lot is nonconforming, as it contains only 7,500 sq. ft., where 15,000 sq. ft. is required, and provides only 70 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 6.6 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. Mr. Ford inquired if the petitioner would consider only providing one bedroom on the first floor as opposed to the two-bedrooms depicted on the floor plans. The petitioner highlighted the bedrooms are very small, but would consider changing one of the bedrooms to a study. Mr. Karl added he did not have an issue with the proposed two bedrooms on the first floor.

The applicant presented the plan entitled "Certified Plot Plan Showing Proposed Addition, 34 Drinkwater Avenue, Braintree, Massachusetts", dated August 19, 2016 and prepared by A.S. Elliot Associates of Hopedale, Massachusetts. The applicant also presented floor plans and architectural renderings labeled, "Front", "1st Floor Existing Home Floor Plan wFront Entry", "Second Floor Addition", "Cross Section Framing" and "Floor Framing Plan", dated August 5, 2016 and prepared by Mark Roach of MA.

The Planning Board submitted a favorable recommendation with the following conditions: 1.) First floor in-law accommodation can only have one bedroom; 2.) Petitioner provide the required in-law accommodation documentation to the Building Department; and 3.) Register in-law affidavit with the Registry of Deeds. 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.

- 5) Petition Number: 16-58
Petitioner: Joseph Martone
RE: 44 Andersen Road**

The petitioner requested a continuance.

On a motion made and seconded, the Board voted 3-0 to grant continue the public hearing to January 23, 2017.

APPROVAL OF MINUTES:

On a motion made and seconded, the Board voted 3-0 to accept the November 22, 2016 meeting minutes.

The Board adjourned the meeting at 8:30 pm.