



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 March 27, 2017

**IN ATTENDANCE:**

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

**ALSO PRESENT:**

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

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

**OLD BUSINESS:**

- 1) Petition Number: 16-53  
Petitioner: Daddy's Dairy  
RE: 120 Union Street**

Daddy's Dairy (John J. Minihan), 120 Union Street, Braintree, MA 02184 (Owner, Messina Commercial Properties) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.2, 905 and 908 to install seven (7) neon window signs and accompanying window signage; updated to install up to seven (7) white, backlit LED window 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 at 120 Union Street, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2019, Plot 1D and contains a land area of +/- 18,120 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 January 23, 2017 at 7 p.m. and continued by mutual agreement to March 27, 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Richard McDonough and Michael Ford; and Michael Calder, Alternate.

### **Evidence**

At the initial public hearing on January 23, 2017, the petitioner John Minihane, owner of Daddy's Dairy, discussed he is seeking to provide seven (7) neon window signs for Daddy's Dairy, an ice cream store/parlor opened in 2016. Mr. Minihane explained the neon signs were installed in fall 2016. The Zoning Administrator also noted the petitioner has excessive window signage pursuant to Zoning Bylaw Section 135-904.2(A)(7)(a) and would accordingly need zoning relief.

After discussion, and due to concerns by the Board members with regard to the proposed neon signs and excessive signage in the current windows, Chairman Karll offered the petitioner the opportunity to withdraw the petition or extend the public hearing to revise the proposed signage plans. The petitioner agreed to a continuation of the public hearing and would seek to update the proposed signage plans.

At the continued public hearing on March 27, 2017, the petitioner provided an example of a proposed white, backlight LED sign to replace the existing seven (7) existing neon signs.

As grounds for the variance, the petitioner highlighted enhanced visibility is necessary for the general public to safely and effectively direct patrons to the difficult location. Furthermore, the petitioner highlighted the site is only accessible from Union Street westbound, which is a significant hardship with regard to running a business at the location. Lastly, the petitioner has highlighted the proposed signage will not be more detrimental as the signage is not directed toward any residential neighborhoods.

The petitioner presented untitled and undated signage plans depicting the existing neon signs.

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 seven (7) neon window signs were not allowed pursuant to Section 135-905 of the Zoning Bylaws. The Board found that an allowance of the original proposal for the seven (7) neon signs would set an unwarranted precedent. The Board found that the updated proposed windows signs, which would be backlit by white LED lighting, and not neon, would not be detrimental. In addition, the Board found the existing windows of the business contained an excessive amount of signage due to the neon signs, murals and other accompanying signage. The Board found the existing window signage likely exceeded the 20% window signage display allowance pursuant to Section 135-904.2(A)(7)(a) of the Zoning Bylaw. The Board found the petitioner was in agreement with a proposed condition to limit the total amount of window signage to comply with Zoning Bylaw Section 135-904.2(A)(7)(a). 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 variance from the Bylaw Section 135-905 to provide up to seven (7) white, LED backlight window signs, pursuant to Bylaw Section 135-407 and 908, with the condition that all window related signage shall comply with Zoning Bylaw Section 135-904.2(A)(7)(a).

- 2) Petition Number: 16-63**  
**Petitioner: Patricia Nash-Power**  
**RE: 17 Hollis Avenue**

Patricia Nash-Power, 72 Brunswick Street, Quincy, MA 02170 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 601 and 701 to demolish portion of existing building and construct a 2.5 story addition (+/- 894.6 sq. ft. building footprint); addition would expand the pre-existing nonconforming two-family use. 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 17 Hollis Avenue, Braintree, MA 02184 and is within a Residential B District Zone and General Business District Zone, as shown on Assessors Map 2028, Plot 12 and contains a land area of +/- 5,864 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 February 27, 2017 at 7 p.m. and continued by mutual agreement to March 27, 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford; and Richard McDonough, Alternate

## Evidence

At the initial public hearing on February 27, 2017, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), the petitioner agreed to continue the public hearing to March 27, 2017.

At the continued public hearing on March 27, 2017, the petitioner Ms. Nash-Power, discussed she is seeking to demolish a portion of an existing two-family dwelling and construct a 2.5 story addition with an approximately 894.6 sq. ft. building footprint. Both existing units are used by current family members. The addition would reconstruct the existing rear unit relative to Hollis Avenue. In addition, the petitioner discussed she is seeking to construct a gabled roof addition to the second floor of the existing unit fronting Hollis Avenue. The addition would relocate an existing bathroom and expand an existing bedroom. Ms. Nash-Power discussed she updated plans to expand the existing parking area off of Hollis Avenue to accommodate an additional off-street parking space, increasing the total number of off-street parking spaces from two to three. Lastly, a 10'x11' and approximately 10'x12' deck would be constructed.

The petitioner's existing lot is nonconforming, as it contains only 5,864 sq. ft., where 15,000 sq. ft. is required, provides only 76.05 ft. of lot width, where 100 ft. is required and only provides 74.19 ft. of lot depth, where 100 ft. is provided. The petitioner's existing two-family dwelling is pre-existing nonconforming as to the front yard setback; the dwelling is located 6.29 ft. from the

front yard lot line on Hollis Avenue and 7.4 ft. from the front yard lot line on Dearing Avenue, while the Zoning Bylaw requires a front yard setback of 20 ft. In addition, the petitioner's existing two-family dwelling is pre-existing nonconforming as to the rear yard setback; the dwelling is located 6.2 ft. from the rear yard lot line, while the Zoning Bylaw requires a rear yard setback of 30 ft. Furthermore, the existing two-family dwelling is a pre-existing nonconforming use; a two-family dwelling is not allowed in a Residence B Zoning District. Lastly, the proposed addition will not create any new zoning nonconformity, but will intensify the existing rear yard non-conforming setback. Therefore, a finding pursuant to G.L. Chapter 40A, Section 6 is required.

As grounds for the finding, the petitioner noted the addition will not create any new zoning non-conformity. In addition, the petitioner noted the addition will be similar to the existing neighborhood characteristics, will be well designed and not be more detrimental to the neighborhood. Furthermore, the improvements will include two new secondary means of egress that meet current building code requirements. Lastly, the petitioner highlighted the proposed project would increase the amount of off-street parking accommodations by an additional parking space.

The petitioner presented the plan entitled "Site Plan Showing Proposed Addition, Driveway & Curb Cut at 17 Hollis Avenue, Braintree, Massachusetts", dated February 14, 2017 and prepared by Neponset Valley Survey Assoc. Inc., P.L.S. of Quincy, Massachusetts. The petitioner also presented floor plans and architectural renderings entitled "Additions and Alterations to 17 Hollis Avenue, Braintree, MA 02184", labeled "A-2 thru A-6", dated March 2, 2017 and prepared by Peter J. Karb of Ashland, MA.

The Planning Board did not submit a recommendation. Gail Saucony of 20 Hollis Avenue, discussed her concern about potential parking issues due to the proposed project. Andrea Moriarty of 7 Dearing Avenue, discussed her concern about potential parking issues and a question about the proposed size of the addition. After discussions with the petitioner, Ms. Saucony and Ms. Moriarty did not have any issues with the petition. 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, width and depth, as noted above. In addition, the Board found that the existing two-family is pre-existing nonconforming in terms of the front and rear yard setbacks. The Board found the existing two-family is pre-existing nonconforming in terms of the two-family use, which is not allowed in a Residence B Zoning District. The Board also found that the proposed addition to the existing two-family dwelling will not create any new zoning non-conformity. The Board also found the proposed project would provide an additional off-street parking space. Furthermore, the Board found there was no opposition to the proposed relief requested. Lastly, the Board found the updated proposed addition would be designed appropriately and be comparable in size relative to the surrounding housing stock.

### **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: 17-01  
Petitioner: Peter Maitland  
RE: 80 Town Street**

Peter Maitland, 80 Town Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 609 and 701 to construct second floor addition (+/- 980 gross sq. ft.) and unfinished attic within the footprint of existing one-story, single family dwelling. 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 80 Town Street, Braintree, MA 02184 and is within a Watershed Residential B District Zone, as shown on Assessors Map 1039, Plot 65, and contains a land area of +/- 9,004 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 February 27, 2017 at 7 p.m. and continued by mutual agreement to March 27, 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Richard McDonough; and Michael Ford, Alternate.

**Evidence**

At the initial public hearing on February 27, 2017, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), the petitioner agreed to continue the public hearing to March 27, 2017.

At the continued public hearing on March 27, 2017, Peter Maitland, the petitioner, explained he is seeking to construct a second floor addition above an existing one story bungalow-style single family dwelling with a building footprint of +/- 950 sq. ft. The proposed addition would provide +/- 1,000 gross living sq. ft. to the existing dwelling. The proposed project would completely rework the existing layout of the first floor. The existing first floor provides two bedrooms, a kitchen, dining/living room and bathroom. The proposed changes will remove the two bedrooms on the first floor and create three bedrooms with two baths and a laundry room on the second floor. Lastly, an unfinished walk-up attic would be added.

The petitioner's existing lot is nonconforming, as it contains only 9,004 sq. ft., where 43,560 sq. ft. is required, and provides only 70.8 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 14.9 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 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 "Second Floor Addition Plot Plan in Braintree Massachusetts, 80 Town Street, Braintree, Massachusetts", dated/revised March 6, 2017 and prepared by Borderland Engineering, Inc. of Randolph, Massachusetts. The applicant also presented existing and proposed floor plans and architectural renderings labeled EX1, A1 and A2, and prepared by Brian R. Saluti, AIA of Weymouth, MA.

The Planning Board did not submit a 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. 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. Therefore, 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, and with a condition that the petitioner certify at the framing stage with the Building Department, the height of the constructed addition.

- 4) Petition Number: 17-02**  
**Petitioner: Walker Realty, LLC**  
**RE: 170-180 Forbes Road**

Walker Realty, LLC, 4 Lan Drive, Westford, MA 01886 (Owner, KW Braintree, LLC) for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.2 and 908 to install three (3) illuminated "110 Grill" wall signs (2' x 16'9", 5' x 5' and 8' x 8'). The property is located at 170-180 Forbes Road, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2053B, Plot 2A and contains a total land area of +/- 191,064 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 February 27, 2017 at 7 p.m. and continued by mutual agreement to March 27, 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford; and Richard McDonough, Alternate.

### **Evidence**

At the initial public hearing on February 27, 2017, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), the petitioner agreed to continue the public hearing to March 27, 2017.

At the continued public hearing on March 27, 2017, Attorney Kevin Erickson, was on hand to represent the petitioner, Walker Realty, LLC. Attorney Erickson explained the petition is to provide signage for a currently under construction 110 Grill restaurant. The restaurant will be a separate free-standing building on the same lot as the under construction Residence Inn Marriott. As far as the proposed signage, the petitioner is seeking three wall signs (2' x 16'9", 5' x 5' and 8' x 8") totaling 122.5 sq. ft. that will require variances from the Board. The total signage square footage is more than the business linear frontage of 89 ft.

The petitioner is seeking the following variances/relief:

- 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 west elevation wall sign is 8' in height and the proposed north elevation wall sign is 5' in height.
- Variance from Section 135-904.2(A)(5)(c) of the Zoning By-laws which states, "No wall sign shall be visible to the major highway, if a ground sign has been permitted." The petitioner is proposing a panel on a Residence Inn Marriot ground sign that complies with the zoning bylaws. Therefore, the wall signs require relief pursuant to this section.
- Variance from Section 135-904.2(A)(5)(g) 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 (3) wall signs, with an aggregate signage total of 122.5 sq. ft.

As grounds for the variances, the petitioner highlighted the triangular shape of the property, the steep slope in the rear of the property and the siting of the hotel as necessitating the location of the new restaurant. Due to these factors, and therefore the necessary positioning of the building in relation to the surrounding parking and adjacent buildings, wall signage limited to the front of the restaurant building would not be visible to potential patrons traveling south on 1-93 (north on Rt. 128). The petitioner also stated that the signage is an important component for restaurants and appropriate signage will safely and effectively direct patrons to the location. Furthermore, the proposed square footage of signage is less than the linear frontage of the restaurant. Lastly, the petitioner has highlighted the proposed signage will not be more detrimental as the signage is not directed toward any residential neighborhoods.

Chairman Karll acknowledged the petitioners unique "arrowhead" shaped lot, in addition to the lack of visibility from Granite Street and motorists traveling south on I-93.

The petitioner presented signage plans entitled, "110 Grill Braintree", dated August 30, 2016, Sheets 1.0, 1.1, 2.0, 3.0, 3.1 and C-2, and prepared by Barlo Signs of Hudson, NH.

The Planning Board did not submit a recommendation. No one else spoke in favor of or opposition to the petition.

## Findings

The Board found that the proposed wall signs, when analyzed in relationship to the proposed building and immediate area, are appropriate in design, size and scale. The Board further found the location of the building is uniquely situated on the property as the building is on a corner lot and only noticeable from the highway. As such, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed three (3) wall signs are necessary to identify the location of the restaurant and for the traveling public and customers to be safely directed to and from the restaurant. 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 135-904.2 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.

- 5) Petition Number: 17-03**  
**Petitioner: KW Braintree, LLC**  
**RE: 170-180 Forbes Road**

KW Braintree, LLC, 304 Boston Post Road, Wayland, MA 01778 for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.2 and 908 to install to install three (3) illuminated "Residence Inn Marriott" wall signs (1'8" x 25'9.75", 2'6" x 38'9" and 4'1.75" x 18'9.25"). The property is located at 170-180 Forbes Road, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 2053B, Plot 2A and contains a total land area of +/- 191,064 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 February 27, 2017 at 7 p.m. and continued by mutual agreement to March 27, 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford; and Richard McDonough, Alternate

## Evidence

At the initial public hearing on February 27, 2017, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), the petitioner agreed to continue the public hearing to March 27, 2017.

At the continued public hearing on March 27, 2017, Ara Aftandilian, the petitioner and property owner, joined by Robert Karol, explained the proposed petition is to provide signage for the under construction "Residence Inn Marriott". The hotel is proposing three wall signs (1'8" x 25'9.75", 2'6" x 38'9" and 4'1.75" x 18'9.25) for the building, totaling 217.5 sq. ft. In addition, the hotel is also proposing an 8'9" x 15' ground sign that complies with the zoning bylaws. The ground sign will provide signage for the Residence Inn Marriott and 110 Grill.



The petitioner is seeking the following variances/relief:

- 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 north elevation wall sign is 4’1.75” in height.
- Variance from Section 135-904.2(A)(5)(c) of the Zoning By-laws which states, “No wall sign shall be visible to the major highway, if a ground sign has been permitted.” The Petitioner is proposing a ground sign that complies with the zoning bylaws. Therefore, as the proposed wall signs face I93/Rt. 128, the wall signs will require relief pursuant to this section.
- Variance from Section 135-904.2(A)(5)(g) 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 three (3) wall signs, with an aggregate signage total of 217.5 sq. ft.

As grounds for the variances, the petitioner has highlighted the triangular shape of the property and the steep slope in the rear of the property necessitated the location of the new hotel. Due to these factors, and therefore the necessary positioning of the building in relation to the surrounding parking, adjacent building and roadway, wall signage limited to the front of the hotel building would not be visible to hotel guests traveling south on I-93 (north on Rt. 128). The petitioner has also stated the signage is an important component for hotels as the majority of hotel guests are traveling to the hotel from outside the local area. Furthermore, the petitioner discussed the proposed aggregate signage total of 217.5 sq. ft. is less than the linear frontage of the hotel (223 ft.) Lastly, the petitioner has highlighted the proposed signage will not be more detrimental as the signage is not directed toward any residential neighborhoods.

Chairman Karll and Mr. Ford both acknowledged the petitioners unique “arrowhead” shaped lot, in addition to the lack of visibility from Granite Street and motorists traveling south on I-93. Chairman Karll asked the petitioner if reducing the proposed north elevation wall sign height from 4’1.175” to 4’, which would remove the need for a variance pursuant to Section 135-904.2(A)(5)(b), would be feasible. The petitioner agreed to reduce the north elevation sign to 4’ in height.

The petitioner presented signage plans entitled, “Residence Inn”, labeled 1 thru 8, dated July 22, 2016, and prepared by Coast Sign Incorporate of Anaheim, CA. The petitioner also presented site plans entitled, “Monument Sign Plan and Landscape Plan”, labeled MS-1 and C-5A, dated June 16, 2015, and prepared by Allen & Major Associates, Inc. of Woburn, MA. Also, the petitioner presented signage plans entitled, “Exterior Elevations”, labeled A2.00, undated and prepared by Group Partners, Incorporated of Boston, MA. Lastly, the petitioner presented signage plans entitled “Front Elevation from Rt. 93 Southbound”, dated April 2, 2015 and prepared by Group Partners, Incorporated of Boston, MA.

The Planning Board did not submit a recommendation. No one else spoke in favor of or opposition to the petition.

## Findings

The Board found that the proposed wall signs, when analyzed in relationship to the proposed building and immediate area, are appropriate in design, size and scale. The Board further found the location of the building is uniquely situated on the property as the building is on a corner lot and only noticeable from the highway. As such, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed three (3) wall signs are necessary to identify the location of the hotel and for the traveling public and customers to be safely directed to and from the location. 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 135-904.2 requirements, pursuant to Bylaw Section 135-407 and 908, in accordance with the plans submitted, and subject to the conditions:

- 1.) No sign illumination from 1am-6am, pursuant to Section 135-905; and
- 2.) North Elevation wall sign to not exceed 4 ft. in height.

**6) Petition Number: 17-04**  
**Petitioner: Steve Richmond**  
**RE: 899 Washington Street**

Steve Richmond, 93 Laurie Lane, Hanover, MA, 02339 for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.1, 904.6 and 908 to install one (1) 4'9.5" x 14'5" illuminated "Richmond True Value" wall sign, two (2) 3' x 6' illuminated "Benjamin Moore" accessory signs and one (1) 3' x 8' rear accessory sign. The applicant seeks a permit, variance and/or finding that the proposed change will not be more detrimental to the neighborhood. The property is located at 899 Washington Street, Braintree, MA 02184 and is within a General Business District Zone and Village Overlay District, as shown on Assessors Map 1011, Plot 039 and contains a total land area of +/- 17,728.92 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 February 27, 2017 at 7 p.m. and continued by mutual agreement to March 27, 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Richard McDonough; and Michael Ford, Alternate.

## Evidence

At the initial public hearing on February 27, 2017, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), the petitioner agreed to continue the public hearing to March 27, 2017.

At the continued public hearing on March 27, 2017, Steve Richmond of Richmond Hardware explained the proposed petition is to provide new signage as part of façade improvements to the Richmond True Value hardware store. Mr. Richmond discussed the proposed signage would include one (1) 4'9.5" x 14'5" illuminated "Richmond True Value" wall sign, one (1) 3' x 6' illuminated "Benjamin Moore" accessory sign on the front elevation, one (1) 3' x 6' non-illuminated "Benjamin Moore" accessory sign on the rear elevation, and one (1) 3' x 8' non-illuminated rear directory/accessory sign. The Petitioner highlighted Richmond Hardware provides approximately 85 linear ft. of frontage and has a rear entrance that is accessible from the Braintree Municipal parking lot. Lastly, Mr. Richmond discussed the hardware store is undertaking a significant façade improvement and the proposed signage would be an improvement as compared to the existing signage.

The petitioner is seeking the following variances/relief:

- Variance from Section 135-904.1 (A)(5)(a) of the Braintree Zoning Bylaw which states, "No wall sign shall be more than four feet overall in height and a wall sign shall not exceed the lesser of 150 square feet or one square foot in area for each linear foot of frontage for each business." The proposed "Richmond True Value" wall sign is 4'9.5" inches in height (two rows of channel letters). The linear frontage of the business is approximately 85 ft. and the proposed front elevation wall sign is 69.2 sq. ft. in area.
- Variance from Section 135-904.1 (A)(5)(b) of the Braintree Zoning Bylaw which states "Not more than one exterior wall sign for each store or business shall be permitted, except if a store or business has a direct entrance into the store or business on a wall other than the store front, there may be a secondary wall sign affixed to such wall; however, no store or business shall have more than two such secondary wall signs in any event, provided that the total aggregate area of all such secondary wall signs shall not exceed 50% of the maximum permissible area allowed above." A total of three (3) secondary wall signs are proposed. Richmond Hardware has a direct entrance into the retail portion of the store at the rear of the building. Therefore one of the three accessory signs is allowed. The total square footage of all secondary wall signs is approximately 60.3 sq. ft. or 71% of the permissible wall sign area (85 sq. ft.). Therefore, as the proposed accessory signs in aggregate exceed 50% of the allowable wall sign area, relief will be required for two (2) of the three (3) accessory signs.
- Variance from Section 135-904.6(c) of the Braintree Zoning Bylaw which states "Signs defined as wall signs shall not exceed two feet in height." The proposed "Richmond True Value" wall sign is 4'9.5" inches in height (two rows of channel letters). The proposed front and rear elevation "Benjamin Moore" wall signs are 3' in height. The proposed rear elevation directory/wall sign is 3' in height.
- Variance from Section 135-904.6 (d) of the Braintree Zoning Bylaw which states "Sign material should be consistent with the original construction materials and architectural style of the existing or proposed building on which each sign is to be displayed." The proposed signage materials consist of aluminum cabinets/moldings and acrylic/vinyl panels. The proposed signage is similar to or an improvement with regard to existing signage in the immediate area. The existing building is primarily of masonry construction. The architectural style is unknown and a basic one story

commercial building. As this provision in the bylaw is undefined and interpretive, the applicability/determination is subject to the ZBA's discretion.

As grounds for the variances, the petitioner stated the two (2) 3' x 6' accessory "Benjamin Moore" wall signs on the front and rear elevations will let customers and the general public know they are a retailer for the specific paint company. If they could not provide the signs, they would not be able to carry the paints, which would result in a significant financial burden for the hardware store. In addition, the petitioner noted, although both signs exceed the zoning bylaw maximum height requirement of 2 ft., the actually lettering is less than 2 ft. in height. Mr. Richmond described the third secondary wall sign would be on the rear facing elevation and provide as a means of describing the additional services the hardware store provides. The sign would not be illuminated. The petitioner highlighted the additional wall signs are necessary to ensure the general public recognizes the business and is properly notified of the location when traveling in/through South Braintree Square and or accessing the business from the municipal parking lot.

With regard to the requested variance for the "Richmond True Value" wall sign, the wall sign on the front elevation is larger than the allowable height for the Village Overlay District (2 ft. height maximum.) The petitioner highlighted there are currently six "box-style" signs on the front elevation. The proposed plan would provide only two signs on the front elevation and therefore would be positive reduction in signage. Lastly, the petitioner stated the size of the sign is not overbearing and is consistent with some of the signage in the South Braintree Square area. Furthermore, the signage will help identify the business, which has been an anchor of the business district for over half a century. Both Chairman Karll and Mr. Ford acknowledged the importance of the hardware store as an anchor business for the business district, and supported the current façade improvements being undertaken.

The petitioner presented signage plans entitled, "Richmond Hardware & Paint-True Value", dated October 31, 2016 and revised December 27, 2016, labeled "Proposed Elevation View", "SF Illuminated Wall Cabinet", "Illuminated Channel Letters", "SF Illuminated Wall Cabinet-Replacement Face" and "SF Non-Illuminated Changeable Copy Wall Cabinet", and prepared by Everbrite, LLC of Greenfield, WI.

The Planning Board did not submit a recommendation. No one else spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the proposed wall signs, when analyzed in relationship to the building and signage in South Braintree Square, are appropriate in design, size and scale. The Board found the location of the building is uniquely situated on the property as the building encompasses almost the entire lot. 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 business. Also, the Board found that the petitioner would be reducing the total number of wall signs for the business. Furthermore, the Board found the proposed wall signs would be of a better design than the existing building 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 135-904.6 requirements, pursuant to Bylaw Section 135-407 and 908, in accordance with the plans submitted, and subject to the following conditions:

- 1.) Rear accessory signs to provide no illumination; and
- 2.) No sign illumination from 1am-6am, pursuant to Section 135-905;

**7) Petition Number: 17-05**  
**Petitioner: Widowmaker Brewing**  
**RE: 220 Wood Road**

Ryan Lavery, President of Widowmaker Brewery, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 701 & 806 to locate and operate a Brewery in a warehouse space of approx. 7,964 SF within the existing building located at 220 Wood Road. The Applicant seeks a variance for relief of parking requirements to occupy a pre-existing non-conforming building without the required 18 parking spaces. The property is located at 220 Wood Road, Braintree, MA 02184 and within a Highway Business Zone, as shown on Assessors Map 2053B, Plot 1F, and contains a total land area of +/-87,873 sq. ft.

## Notice

Pursuant to notice duly published in a newspaper in general circulation and posted at Town Hall, and by written notice in compliance with M.G.L. Chapter 40A, Section 11, mailed to all parties in interest, a public hearing was to be held on February 27, 2017 by the Zoning Board of Appeals at Town Hall, One JFK Memorial Drive, Braintree, MA, however it was mutually continued to March 27, 2017 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

The petitioners, Ryan Lavery and Colin Foley of Widowmaker Brewery presented their petition and described the operation of the brewery. A letter dated 1/11/17 from Sarah Collins of WASA, LLC was included with the application providing authorization from the property owner to seek relief pursuant to the application. Christine Stickney, Director of Planning and Community Development explained that a prior approval from the ZBA was given to the existing tenant - Pure Hockey in 2006 – Case Decision #06-58 for parking relief. The 2006 ZBA decision approved the number of parking spaces at 88 spaces rather than 108 as required by the zoning bylaw at that time. Christine Stickney noted Pure Hockey occupied the warehouse space but never constructed the parking spaces and the landscaped islands as directed by the ZBA. The current petitioners have now had a new site plan prepared and measured based on the 2006 plan and stamped by a professional engineer as part of the applicant's petition. The site plan entitled, "*Site Plan for Proposed Parking and Landscaping areas 220 Wood Road*" stamped by Michael Perrault (RPE) prepared by P.M.P Associates, LLC – 1 sheet. The site plan included a "Zoning Compliance Table" with the required parking of an additional 18 spaces for the brewery use (calculated as  $5422/1000 = 5$  spaces for production and  $2542/200$  for tasting/retail = 18 total spaces) plus the 88 spaces under the 2006 decision. Using a poster board of current pictures of the existing parking lot, the petitioners portrayed to the ZBA the parking lot is underutilized today

by Pure Hockey and there is sufficient parking for the brewery use to co-exist with Pure Hockey. Chairman Karll asked what is the proposed hours of the brewery and the petitioners responded; Thursdays (3PM-7PM), Fridays (3PM-10PM), Saturday (noon to 10PM) and Sundays (noon to 6PM).

The petitioner's lot (87,973 SF) meets the required lot size for the Highway Business Zoning district however does not meet the required lot coverage, building coverage and open space. The existing building (35,000 SF) exceeds the maximum building coverage at 39.7% (required 25%). The existing building is also situated on the lot that it invades the required front, rear and side yard setbacks, however the applicants are seeking only interior tenant fit-up no exterior alteration.

The building and paved impervious surface exceeds the maximum lot coverage at 87.5% (required 75%). The allowable minimum open space of the lot is deficient at 15.5% of the required 25%.

As grounds for the variance, Mr. Lavery explained the subject property is hindered by a steep slope at the rear of the property down to Route 128 deeming approximately 7,020 SF of unusable area for development or expansion of parking. The existing parking lot will be restriped in accordance with the 2006 variance granted to Pure Hockey also for relief in parking along with the addition of landscape islands along the frontage of Wood Road. This change will significantly improve the safety of vehicular traffic accessing the site. Lastly, Mr. Lavery noted the proposal increases the amount of open space on the lot but it will still be non-compliant under highway business but will be a more aesthetically appealing appearance curbside from Wood Road.

The applicant presented the plan entitled "Site Plan for Proposed Parking and Landscaping Areas 220 Wood Road", dated 3/6/2017, stamped by Michael E. Perrault a registered professional engineer and prepared by P.M.P Associates LLC, of East Bridgewater, MA (1-sheet)

The cancellation of Planning Board meeting in the month of February provided no recommendation however pursuant to ZBL Section 407(e) thirty days of notice had been exceeded allowing action by the ZBA

### **Findings**

The Board reviewed the materials submitted with the applicant's petition. The Board found that the existing structure is pre-existing nonconforming in terms of the front, side and rear yard setbacks, building coverage, lot coverage and provided open space. The original placement of the building on the lot has compounded the ability for compliance with above deficiencies given the long narrow shape of the lot. The lot has similar characteristics to the other lots located along this portion of Wood Road. In addition, approx. 7,020 SF at the rear of the lot has a steep slope downward to Route 128 that precludes it to be of any use. The Zoning Board of Appeals found that topography along with the shape of the lot resulted in a hardship and warranted relief. In addition, the Board found that the existing structure is pre-existing nonconforming in terms of the front, side and rear yard setbacks, building coverage, lot coverage and provided open space. Evidence presented to the Zoning Board of Appeals as to the daily use of the parking area showed it to be underutilized and sufficient parking existed. The Zoning Board of Appeals found the existing parking in addition to the limited hours of operation warranted relief of the additional 18 parking spaces needed and allow the two uses to co-exist with 88 spaces,

however acknowledging that the original 2006 site plan and the 2017 site plan shall be built out as to spaces and landscaped islands for obtaining relief.

### **Decision**

On a motion duly made by and seconded, the Board unanimously (3:0) voted to grant the requested variance, pursuant to Zoning Bylaw Section 135- 407, 701 & 806, in accordance with the plans submitted and with the condition the following condition:

The Widowmaker Brewery approval of a parking variance shall cease upon termination of the occupancy at this location and any occupancy by any other uses, with the exception of a brewery occupying the same square footage, shall be required said new use to comply with the Ordinance or seek a new parking variance.

- 8) Petition Number: 17-06  
Petitioner: Town of Braintree  
RE: 71 Cleveland Avenue**

The Board, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), requested the petitioner to continue the public hearing to March 27, 2017.

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

- 9) Petition Number: 17-07  
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, 407 and 701 to modify approved plans pursuant to Zoning Board of Appeals (ZBA) Decision 16-50, dated November 22, 2016; petitioner seeks to reduce approved roof pitch. 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 February 27, 2017 at 7 p.m. and continued by mutual agreement to March 27, 2017 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 February 27, 2017, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), the petitioner agreed to continue the public hearing to March 27, 2017.

At the continued public hearing on March 27, 2017, Attorney Chris Harrington, on the behalf of the petitioner, Mohammed Amer, owner of ABC, Inc., explained Mr. Amer is seeking ZBA approval to modify approved plans pursuant to ZBA Decision 16-60. ZBA Decision 16-60 granted approval for an approximate 4-5% roof pitch on the front elevation of 111 Parkside Avenue. The proposed modification is to reflect an approximately 2% roof pitch that was constructed. Attorney Harrington provided the Board with pictures and plans representing the changed roof pitch. The petitioner explained to the Board that he thought he discussed with the Board that the former roofline would not be changing. However, the petitioner agreed the constructed roof-pitch was in fact different than the approved plans, but discussed that it is not out of character with the neighborhood.

Mr. Ford highlighted Attorney Harrington mentioned the proposed dwelling would be a two-family dwelling. Mr. Harrington discussed it is currently a single family dwelling that he may have misspoken.

Chairman Karll discussed that he often travels by the dwelling and felt the constructed roof pitch is out of character with the neighborhood.

As grounds for the modification of the decision, the petitioner's attorney noted the constructed roof pitch is similar to the surrounding roof styles/pitches and is not more detrimental to the neighborhood. Furthermore, the petitioner has stated that altering the ridgeline to the approved plans, which would include raising the existing rafters and ridge board/ridge beam, would be a significant financial hardship.

The applicant presented the updated front architectural elevation plan entitled "House Elevations, New House Addition, 111 Parkside Avenue", undated, and prepared by Walter A. McKinnon Associates of Weymouth, MA.

The Planning Board did not submit a recommendation. Ten residents spoke in opposition to the petition, claiming the constructed roof pitch was out of character with the neighborhood and ultimately will be more detrimental to the neighborhood. Furthermore, some of the opponents discussed with the Board concern regarding the petitioner's previous projects in the Town of Braintree. No one else spoke in favor of or opposition to the petition.

## Findings

The Board found that the petitioner had not demonstrated the need for a modification of the approved plans as granted by ZBA Decision 16-60. Specifically, the Board found that the constructed roof pitch was out of character with the immediate surrounding dwellings. Furthermore, the Board found that the immediate neighborhood did not support the proposed modified roof pitch. As a result, the Board concluded that the requested modification would be detrimental to the public good and would nullify or substantially depart from and derogate the intent and purpose of the Zoning Bylaws.



## Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to deny the requested modification of the approved plans pursuant to ZBA Decision 16-60.

### NEW BUSINESS:

- 1) **Petition Number: 17-08**  
**Petitioner: Robert M. Boudreau**  
**RE: 4 Pantano Street**

The Board, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), requested the petitioner to continue the public hearing to April 24, 2017.

On a motion made and seconded, the Board voted 3-0 to grant the petitioners request to continue the public hearing to April 24, 2017.

- 2) **Petition Number: 17-09**  
**Petitioner: Quirk Jeep Chrysler Dodge Ram and K Spillane LLC, c/o Daniel J. Quirk**  
**RE: 0, 429, 431, 441 and 445 Quincy Avenue, 0 and 45 Columbia Terrace and 0 Patten Avenue**

The Board, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), requested the petitioner to continue the public hearing to April 24, 2017.

On a motion made and seconded, the Board voted 3-0 to grant the petitioners request to continue the public hearing to April 24, 2017.

- 3) **Petition Number: 17-10**  
**Petitioner: Tham Pham**  
**RE: 120 Stetson Street**

The Board, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), requested the petitioner to continue the public hearing to April 24, 2017.

On a motion made and seconded, the Board voted 3-0 to grant the petitioners request to continue the public hearing to April 24, 2017.

- 4) **Petition Number: 17-11**  
**Petitioner: ABC, Inc.**  
**RE: 55 Howie Road**

The Board, due to no recommendation by the Planning Board pursuant to Braintree Zoning By-law Section 135-407(e), requested the petitioner to continue the public hearing to April 24, 2017.

On a motion made and seconded, the Board voted 3-0 to grant the petitioners request to continue the public hearing to April 24, 2017.

**APPROVAL OF MINUTES:**

On a motion made and seconded, the Board voted 3-0 to accept the February 27, 2017 meeting minutes.

On a motion made and seconded, the Board voted 3-0 to accept the March 13, 2017 meeting minutes.

The Board adjourned the meeting at 9:30 pm.