



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 April 24, 2017

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

ALSO PRESENT: Jeremy Rosenberger, Zoning Administrator

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

OLD BUSINESS:

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

Robert M. Boudreau, 4 Pantano Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 to demolish existing one story, single family dwelling (+/- 1,310 sq. ft. building footprint) and construct new 2.5 story, single family dwelling (+/- 1,508 sq. ft. building footprint); proposed 42' x 6' front farmer's porch will encroach into the front yard setback. 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 4 Pantano Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3064, Plot 19, and contains a land area of +/- 7,937 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 March 27, 2017 at 7 p.m. and continued by mutual agreement to April 24, 2017 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 Stephen Sciascia, Alternate.

Evidence

Robert Boudreau, the petitioner, discussed he is seeking to demolish the existing one-story single family (leaving the existing 1st floor flooring/floor joists and foundation) and construct a new 2.5 story dwelling. Mr. Boudreau explained the new dwelling would expand the existing building footprint by 5 ft. to the rear and 6 ft. to the right (as view from Pantano Street) from the existing building footprint. In addition, the petitioner described a front farmer's porch is proposed, which would require a variance due to encroachment into the front yard setback on Pantano Street. Lastly, Mr. Boudreau mentioned the building height would be less than 35 ft. The proposed new dwelling would expand the building footprint from +/- 1,310 sq. ft. to +/-1,508 sq. ft.

Chairman Karll inquired about the proposed conditions outlined in the Zoning Administrator's staff report. Mr. Boudreau responded that he is proposing a finished, walk-up attic. He discussed the building height will be less than 35 ft. In addition, Mr. Boudreau discussed that he and his wife are unsure of whether they will construct a deck or a stone patio to the rear of the new proposed dwelling. The petitioner thought the stone patio would most likely be the route they choose. Lastly, Mr. Boudreau does not anticipate changing the building footprint and, based on his contractor, is confident the foundation, coupled with the proposed new expanded foundation, can carry the new dwelling.

The petitioner's lot is nonconforming, as it contains only 7,937 sq. ft., where 15,000 sq. ft. is required and provides only +/- 66.35 ft. of lot width, where 100 feet is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback on Erickson Street; the dwelling is located 13.3 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 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 24.6 ft. from the front yard lot line on Pantano Street. The proposed front farmer's porch addition will encroach into the front yard lot line, with a resultant front yard setback of 15.6 ft. The Zoning Bylaw requires a front yard setback of 20 ft.

As grounds for the variance, the proposed front farmer's porch addition will encroach into the front yard setback, with a resultant front yard setback of 15.6 ft. The petitioner has highlighted the lot has a sloping topography, which significantly limits the location of any additions. Mr. Boudreau also discussed a number of the immediate area dwellings are within the front yard setbacks or closer to the street. As such, the petitioner states the proposed porch would not be out of context and will provide more curb appeal to the immediate neighborhood.

The applicant presented the plan entitled "Proposed Additions, 4 Pantano Street, Braintree, Massachusetts", dated January 16, 2017, revised February 2, 2017 and prepared by CCR Associates Inc. of Quincy, MA. The applicant also presented floor plans and architectural renderings titled "General Notes & Standard Details", "Exterior Elevations & Details", "Foundation, First, Second Plans & Details" and "Framing Plans, Sections & Beam Cals", sheets A1 thru A4, dated January 23, 2017 and prepared by RJD Architectural Designs of Norfolk, MA.

The Planning Board submitted a recommendation supporting the Zoning Administrator's staff report and 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 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 Erickson Street. The Board found the petitioner had presented a unique hardship with respect to the irregular shape and significant sloping topography to the rear of the lot. As a result, the Board found placement of the dwelling and the shape of the lot has limited the petitioner with regard to the proposed additions. 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.

2) Petition Number: 17-09

Petitioner: Quirk Jeep Chrysler Dodge Ram and K Spillane LLC

RE: 0, 429, 431, 441 and 445 Quincy Avenue, 0 and 45 Columbia Terrace and 0 Patten Avenue

Quirk Jeep Chrysler Dodge Ram and K Spillane LLC, c/o Daniel J. Quirk, 444 Quincy Avenue, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-407, 904.2 and 908 to install three (3) internally illuminated automotive wall signs (17' x 3'3.25", 12'1" x 4'10" and 12'1.75" x 3'), two (2) internally illuminated automotive service related wall signs (20'11.75" x 2'11.25" and 9'2.25" x 2'3.625"). The applicant seeks a variance that the proposed alteration is not more detrimental to the neighborhood. The property is located at 0, 429, 431, 441 and 445 Quincy Avenue, 0 and 45 Columbia Terrace and 0 Patten Avenue, Braintree, MA 02184 and is within a Highway Business District Zone, as shown on Assessors Map 3046, Plot 4, 4A, 5, 5A, 13, 14 and Assessors Map 3047 Plot 72, 69, 85 and contains a total land area of +/- 13 acres.

Notice

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Evidence

Attorney Frank Marinelli, representing the petitioner, explained the petitioner is seeking to provide signage for the recently constructed Quirk Jeep Chrysler Dodge Ram. The petitioner is proposing five (5) internally illuminated wall signs for the building, totaling 208.79 sq. ft. The proposed signs include three (3) internally illuminated automotive wall signs (17' x 3'3.25", 12'1" x 4'10" and 12'1.75" x 3') and two (2) internally illuminated automotive service related wall signs (20'11.75" x 2'11.25" and 9'2.25" x 2'3.625"). Mr. Marinelli also discussed the petitioner would be installing a ground sign that conforms to the signage regulations on Quincy Avenue. Furthermore, Attorney Marinelli highlighted the new dealership building provides approximately 339 linear ft. of frontage facing Quincy Avenue.

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 Jeep wall sign is 4'10" in height.
- 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 five (5) wall signs, with an aggregate signage total of 208.79 sq. ft. However, one (1) of the proposed signs would be allowed by right. The petitioner has received a sign permit for just the "Quirk" wall sign. As such, the petitioner is seeking relief for four (4) wall signs totaling 155.9 sq. ft. Lastly, the linear frontage of the car dealership facing Quincy Avenue is 339 ft.

As grounds for the variances, Attorney Marinelli highlighted the shape of the land is highly irregular. In addition, the property is large and the building is set back a significant distance due to steep topography and ledge close to Quincy Avenue. Due to these factors, and therefore the necessary positioning of the building in relation Quincy Avenue, the signage is an important component to safely and effectively direct customers to the building. Furthermore, the petitioner has highlighted the proposed total sq. ft. of signage is much less than the linear frontage of the building. Lastly, , Mr. Marinelli discussed the new dealership is a substantial upgrade to the property.

The petitioner presented signage plans entitled, "17 Series Chrysler Wall Badge", "17 Series Jeep Wall Badge", "36" Dealer Name Letters", "35" PSP Configuration Wall Mounted", "28" Parts Panel Wall Mounted", "Inventory/Site Plan", "Site Brandbook", "Recommendation Detail N-01", "Recommendation Detail N-02", "Recommendation Detail N-03" and "Elevations".

The Planning Board submitted a recommendation supporting the Zoning Administrator's staff report and recommendation of approval. No one else spoke in favor of or opposition to the petition.

Findings

The Board found that the proposed wall sign, when analyzed in relationship to the existing building and immediate area, is appropriate in design, size and scale. In addition, the Board

found that the “Jeep” wall sign only slight exceeds the allowed height by 10 inches. The Board further found the location of the building is uniquely situated on the property as the dealership building is setback a significant distance on a hill from Quincy Avenue and has a number of access points. As such, the Board found that the petitioner had demonstrated the need for relief from the Zoning By-law as the proposed number of wall signs are necessary to identify the location and identity of the business and for the traveling public and customers to be safely directed to and from the business. As a result, the Board found relief can be granted without resulting in a substantial detriment to the public good and will not nullify the intent of the Zoning By-law.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested variances from 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.) No sign illumination from 1am-6am, pursuant to Section 135-905.

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

Thanh Pham, 127 High Street, Clinton, MA 01510 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to convert existing 1.5 story dwelling to a 2.5 story dwelling; all construction/additions to be within the existing building footprint (+/- 880 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 120 Stetson Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3024, Plot 21 and contains a land area of +/- 5,580 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 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 Calder, Members; and Stephen Sciascia, Alternate.

Evidence

Thanh Pham, the petitioner, explained he is seeking to demolish an existing second floor half story and construct a full second story addition with a finished walk-up attic. The existing 1.5 story bungalow-style single family dwelling has a building footprint of +/- 880 sq. ft. Mr. Pham described the addition would be within the existing building footprint. The petitioner highlighted the proposed maximum height at the front of the dwelling would be 32'6” and rear of the dwelling would be approximately 30'6” in height. Lastly, the petitioner discussed the existing driveway and retaining wall is partially located on the abutting property. As such, Mr. Pham acknowledged he will work with the abutter to remove the encroachment.

The petitioner's existing lot is nonconforming, as it contains only 5,503 sq. ft., where 15,000 sq. ft. is required, and provides only 46.5 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 5.6 ft. from the left side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 ft. The proposed addition will be built within the existing footprint and not create any new zoning nonconformity. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

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

The applicant presented the plan entitled "Site Plan of Land, 120 Stetson Street, Braintree, Massachusetts", dated January 28, 2017 and prepared by Branch Survey, Inc. of Pembroke, Massachusetts. The applicant also presented existing and proposed floor plans and architectural renderings, titled "Single-Family Residence Addition, 120 Stetson Street, Braintree, MA", labeled EX-1 thru EX-4, A-1 thru A-5, dated November 29, 2016 and prepared by JCrchitect, AIA of Boston, MA.

The Planning Board submitted a recommendation supporting the Zoning Administrator's staff report and recommendation of approval. No one else spoke in favor of or in 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, and subject to the following conditions:

- 1.) Prior to the start of any construction, the petitioner shall address the existing encroachment either by removal or providing the Planning and Community Development Department with a copy of an easement if removal will not occur.

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

Attorney Chris Harrington, on behalf of the petitioner, submitted a letter to the ZBA, requesting 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: 17-12
Petitioner: Eric Kubicki
RE: 322 Commercial Street**

Eric Kubicki, 322 Commercial Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to remove existing rear deck and construct a 22'8" x 12' two-story addition. The applicant seeks a permit, variance and/or finding that the proposed project is not more detrimental to the neighborhood. The property is located at 322 Commercial Street, Braintree, MA 02184 and is within a Residential C District Zone, as shown on Assessors Map 3016, Plot 13, and contains a land area of +/- 4,371 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 April 24, 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Richard McDonough and Stephen Sciascia, Members; and Michael Calder, Alternate

Evidence

Eric Kubicki, the petitioner, explained the proposed project would involve demolishing an existing rear deck (constructed in 2009 with building permit) and constructing a two-story, 22.8 ft. x 12.5 ft. rear addition. The rear addition would be within the existing rear deck footprint. The area under the proposed rear addition would remain unenclosed. The addition would consist of an expanded kitchen/dining room on the first floor and expanded bedroom on the second floor. The Zoning Administrator highlighted the floor plans depict the rear addition as 12.5 ft. deep, whereas the plot plan reflects the existing deck/proposed addition as 12 ft. deep. The petitioner has stated the proposed addition would be 12.5 ft. to accommodate new support posts.

The petitioner's existing lot is nonconforming, as it contains only 4,371 sq. ft., where 43,560 sq. ft. is required, provides only 53.76 ft. of lot width, where 200 ft. is required, provides only 54 ft. of lot frontage, where 100 ft. is required, and provides only 80.94 ft. of lot depth, where 200 feet is required. The petitioner's existing single family dwelling is nonconforming as to the front yard setback; the dwelling is located 12 ft. from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 50 ft. In addition, the existing dwelling is nonconforming as to the side yard setbacks; the dwelling is located 13.5 ft. from the left side yard lot line and 16 ft. from the right side yard lot line, while the Zoning bylaw requires a side yard setback of 30 ft. Also, the existing dwelling is nonconforming as to the rear yard setback; the dwelling is located 31.5 ft. from the rear yard lot line, while the Zoning bylaw requires a rear yard setback of 50 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 "Plan Plan, 322 Commercial Street, Braintree, Massachusetts, dated January 14, 2017 and prepared by AGH Engineering, of Stoughton, MA. The applicant also presented floor plans and architectural renderings entitled "Proposed Addition" and "Elevations", labeled A-1, A-2 and A-3, dated February 2017, and prepared by David Tonis of East Bridgewater, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval. 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, frontage and depth, as noted above. In addition, the Board found that the existing dwelling is pre-existing nonconforming in terms of the front, side and rear yard setbacks. 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, and subject to the following conditions:

1.) Proposed addition to not exceed 12.5 ft. in depth, as depicted on floor plans/elevations.

**2) Petition Number: 17-13
Petitioner: Yiu Hung Chang
RE: 126 Jefferson Street**

Yiu Hung Chan, 7 Mosesso Drive, Holbrook, MA 02343 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to demolish existing one-story dwelling (+/- 1,008 sq. ft. building footprint) and construct a new two-story, single family dwelling with attached one car garage (+/- 2,120 sq. ft. building footprint). The applicant seeks a permit, variance and/or finding that the proposed project is not more detrimental to the neighborhood. The property is located at 126 Jefferson Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 1045, Plot 21 and contains a land area of +/- 9,027 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 April 24, 2017 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 Stephen Sciascia, Alternate.

Evidence

Yiu Hung Chang, the petitioner, explained he is proposing to demolish the existing dwelling and construct a two-story, single family dwelling, with a 2,120 sq. ft. building footprint. The existing foundation would remain, but be expanded to accommodate the larger dwelling. The addition would provide a one-car garage which would be located on the first floor. In addition, three bedrooms on the second floor would be provided. The attic would be accessed by a set of pull-down stairs. Furthermore, a 14'x16' rear deck is proposed. Lastly, the petitioner discussed the existing driveway would be widened by 8 ft. Mr. Chang highlighted the new single family dwelling will meet all the current zoning dimensional and density requirements except for minimum lot area. The property is 9,027 sq. ft. where 15,000 sq. ft. is required.

The petitioner's existing lot is nonconforming, as it contains only 9,027 sq. ft., where 15,000 sq. ft. is required. 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 in size to surrounding homes and not be more detrimental to the neighborhood.

The petitioner presented the plan entitled "Plan of Land, 126 Jefferson Street, Braintree, Massachusetts, dated March 22, 2017, and prepared by C.S. Kelley of Pembroke, Massachusetts. The petitioner also presented floor plans and architectural renderings entitled "Exterior Elevations" and "Floor Plans", labeled A1.1 and A2.1, dated January 5, 2015 and prepared by BT Design of Quincy, MA.

The Planning Board submitted a recommendation to endorse the staff recommendation of approval. Frank Donahue of 114 Jefferson Street discussed his concern regarding potential water and drainage issues due to the proposed project. Mr. Donahue also felt the proposal was out of scale with the neighborhood. Richard Clifford, of 112 Jefferson Street, felt the proposed project is disproportionate in size compared to the lot. 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. 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 new single family dwelling 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 and subject to the following conditions:

- 1.) Proposed front porch and steps, within the front yard setback area, to not exceed 30 sq. ft. in area.

APPROVAL OF MINUTES:

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

The Board adjourned the meeting at 9:00 pm.