



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 Minutes June 26, 2017

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

ALSO PRESENT: Jeremy Rosenberger, Zoning Administrator

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

NEW BUSINESS:

- 1) Petition Number: 17-22
Petitioner: Christopher Mazzini
RE: 111 Livoli Avenue**

The Board, after discussions with the petitioner, requested the petitioner revise the proposed project to reduce/minimize the side yard setback relief needed and therefore continue the public hearing to July 24, 2017. The petitioner agreed to the public hearing extension.

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

- 2) Petition Number: 17-23
Petitioner: Kevin & Jessica Cook
RE: 40 Watson Street**

Kevin & Jessica Cook, 40 Watson Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 for zoning relief to construct a one story, 16 ft. x 22 ft. rear addition; addition will encroach into rear yard setback. 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 40 Watson Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 2011, Plot 70 and contains a land area of +/- 5,000 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 June 26, 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Richard McDonough, Members; and no alternate.

Evidence

Kevin and Jessica Cook, the petitioners, discussed they are seeking to construct a one story, 16 ft. x 22 ft. rear addition to an existing 1.5 story cape-style single family dwelling. The proposed addition would provide an additional bedroom with full bathroom and closet space. The proposed project would result in a total of three bedrooms for the dwelling. The petitioners stated they would like to stay in the neighborhood and the existing small dwelling with two undersized bedrooms is not suitable for a growing family. Chairman Karll asked the petitioners as to why the addition cannot be built without encroaching into the rear yard setback. Mr. Cook highlighted an existing rear bulkhead and deck necessitates the encroachment into the rear yard setback. Furthermore, the petitioner explained a second story addition would be financially infeasible for them.

The petitioner's lot is nonconforming, as it contains only 5,000 sq. ft., where 15,000 sq. ft. is required and provides only 50 ft. of lot width, where 100 feet is required. The petitioner's existing single family dwelling is nonconforming as to the left and right side yard setbacks; the dwelling is located 9.3 ft. from the left side yard lot line and 8 ft. from the right side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 ft. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

A variance is required for relief from the rear yard setback requirements. The existing dwelling with rear attached deck is 32 ft. from the rear yard lot line. The proposed addition will encroach into the rear yard lot line, with a resultant rear yard setback of 22.5 ft. The Zoning Bylaw requires a rear yard setback of 30 feet.

As grounds for the variance, Mr. Cook described the rear yard area is limited with regard to the location of the addition due to an existing bulkhead and deck. In addition, the petitioner highlighted the property sizes in the immediate area are all similarly sized and the zoning regulations restrict expansion of the nominal dwellings. Furthermore, the petitioner highlighted a similarly sized rear addition variance had been granted in 1997 to 30 Watson Street. Lastly, Mrs. Cook highlighted the addition will be similar in size compared to dwellings in the immediate area, be appropriately designed, and is supported by the direct abutters and neighborhood.

The applicant presented the plan entitled "Proposed Addition, 40 Watson Street, Braintree, MA", dated May 11, 2017 and prepared by CCR Associates Inc. of Quincy, MA. The applicant also presented the plan entitled "Proposed 22'x16' Bedroom Addition, 40 Watson St., Braintree, MA for Kevin & Jessica Cook, Owners", labeled "1st Floor Location Plan, 2nd Floor, Bedroom Floor Plan, Side Elevation, Rear Elevation, Foundation Plan, and Framing Section/Floor Framing

Plan”, numbered 1-7, date and prepared by C.S. Kelley Land Surveyors of Pembroke, MA. The applicant also presented floor plans and architectural renderings titled “Ferrini Family Addition”, numbered 1-4, dated May 7, 2017 and prepared by Julian Construction Co. of Weymouth, MA.

The Planning Board submitted a recommendation of denial. The petitioner submitted a letter of support from nine (9) abutters/surrounding residents. Kevin McCue, of 30 Watson Street, expressed his support for the proposed addition and added that he had received similar relief from the Board for a rear addition. Kevin Harriman, of 26 Watson Street, stated his support for the proposed addition. Patrick Joseph Owen, of 27 Miller Street, submitted a letter of support on June 25th, 2017. 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 size and width, as noted above. The Board found that the single family dwelling is pre-existing nonconforming in terms of the right and left side yard setbacks. In addition, the Board found the petitioner had presented a hardship with respect to the locations of the dwelling and existing bulkhead in the rear of the lot, limiting the placement of the addition to the proposed rear yard location. The Board also found that the requested relief was consistent with prior granted zoning relief. The Board further found the petitioner had demonstrated the proposed addition would not be more detrimental to the neighborhood by providing evidence of abutter support. Therefore, the Board found that the requested relief could be granted without nullifying or derogating from the purpose and intent of the zoning by-laws, and will be appropriately designed.

Decision

On a motion duly made and seconded, the Board unanimously (3-0) voted to grant the requested finding, pursuant to Bylaw Section 135-403, and variance from rear yard setback requirements, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

**3) Petition Number: 17-24
Petitioner: Christopher & Kara Sullivan
RE: 24 Oakland Street**

Christopher & Kara Sullivan, 24 Haskell Street, Allston, MA 02134 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 to construct an attached 22.5 ft. x 26 ft. two car garage with living space above; addition will encroach into side 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 24 Oakland Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3055, Plot 32, and contains a land area of +/- 12,906 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 June 26 2017 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Ford and Richard McDonough, Members; and no alternate.

Evidence

Christopher Sullivan, the petitioner, explained he is seeking to construct a new attached single car garage with living space above. The proposed addition would include an attached two-car garage with a master bedroom above. The proposed footprint would be 22.5' x 26'. Mr. Sullivan discussed with the Board a building permit was issued on May 12, 2017 for a by-right addition to the main dwelling, consisting of a full second story to the existing 1.5 story cape-style dwelling.

The petitioner's lot is pre-existing nonconforming, as it contains 12,906 sq. ft., where 15,000 sq. ft. is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

A variance is required for relief from the side yard setback requirements. The existing dwelling is 31 ft. from the left side yard lot line. The proposed addition will encroach into the left side yard lot line, with a resultant side yard setback of 8.9 ft. The Zoning Bylaw requires a side yard setback of 10 feet.

As grounds for the variance, the petitioner stated there are significant topographical changes on the property and the location of the proposed addition is the most feasible. Mr. Sullivan also stated an addition that met the setback requirement would not meet their needs. A one-car garage would dramatically impact the proposed layout and design of the proposed addition. The petitioners also discussed the slightly skewed, irregular placement of the existing dwelling on the lot is unlike the existing neighborhood. Lastly, the petitioner stated the proposed relief is extremely small (approximately 1 ft.) and a result of the skewed placement of the dwelling as compared to the lot lines.

The petitioner presented the plan entitled "Plan of Land in Braintree, Massachusetts, 24 Oakland Street", dated May 8, 2017 and prepared by C.S. Kelley Land Surveyors of Pembroke, MA. The petitioner also presented floor plans and architectural renderings titled "Oakland St Property, 24 Oakland Street, Braintree, MA", entitled "Exterior Elevations, Proposed Floor Plans, and Framing Plans", labeled A2-A4, dated May 3, 2017 and prepared by Rogue Design of Brockton, MA.

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

Findings

The Board found that the existing lot is pre-existing nonconforming in terms of lot size, as noted above. In addition, the Board found the petitioner had presented a unique hardship with respect to the irregular placement of the dwelling on the property and sloping topography. As a result, the Board found the irregular placement of the dwelling and the sloping topography has limited the petitioner with regard to the placement of the addition. Furthermore, the Board found the front of the proposed addition would conform to the side yard setback, but the rear of the addition would only slightly encroach into the side yard setback by slightly more than 1 ft. 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 the requested variance from the side yard setback requirements, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

- 4) Petition Number: 17-25 & 17-26**
Petitioners (341 Franklin Street): Dat Tieu and Feliciano Agapito
Petitioners (343 Franklin Street): Dat Tieu and A&J Realty Investments LLC
RE: 341 & 343 Franklin Street

The Board, after discussions with the petitioners regarding the abutters concerns/objections to the proposal and the Board's need to visit the site again, requested the petitioners continue the public hearings to July 24, 2017. The petitioner agreed to the public hearing extensions.

On a motion made and seconded, the Board voted 3-0 to continue the public hearings to July 24, 2017.

APPROVAL OF MINUTES:

On a motion made and seconded, the Board voted 3-0 to accept the May 22, 2017 meeting minutes.

The Board adjourned the meeting at 9:30 pm.