



Mayor
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Department of Planning and Community Development

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ZONING BOARD of APPEALS

Steven Karll, Chair
Michael Ford, Member
Richard McDonough, Member
Gary Walker, Alternate
Tim Burke, Alternate

May 22, 2023
Zoning Board of Appeals Minutes
Johnson Chambers – Town Hall
1 JFK Memorial Drive

Present: Stephen Karll, Chairman
Michael Ford, Member
Richard McDonough, Member
Gary Walker, Alternate
Timothy Burke, Alternate
Connor R Murphy, Assistant Director

Meeting Commences at 7:00 P.M.

Chairman Karll calls the meeting to order. Chairman Karll states to the public in attendance that items would be brought up in the order they appear on the agenda unless there was a conflict. Chairman Karll introduces Assistant Director Murphy to the members of the Zoning Board of Appeals and the public. Chairman Karll introduces all members of the Zoning Board of Appeals.

OLD BUSINESS

Petition #23-09
126 Jefferson Street

Chairman Karll calls on the Applicant. The Assistant Director states the Applicant has not arrived yet and advises the 'Board to move to the next agenda item.

Chairman Karll states they shall take up Petition #23-14, 80 Canavan Drive.

NEW BUSINESS

Petition #23-14
80 Canavan Drive

Chairman Karll reads the Legal Notice into record:

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“David P. Osis Jr. and Deborah A. Osis, Applicants, pursuant to MGL Chapter 40A, Sections 8 & 15, and Braintree Zoning Ordinance Chapters 135-102, 135-202 and 135-603 filed an Appeal of the Building Inspector’s March 9, 2023 response to a February 6, 2023 request for Enforcement of Zoning and Building Permit Violations. The property is located at 80 Canavan Drive and is zoned Residence A Watershed, shown on Assessors’ Map 1102 Lot 11 with a total lot area of 26,519 Sq. Ft.”

Chairman Karll stated he was satisfied that abutters had been properly notified. Chairman Karll assigned Members Michael Ford and Richard McDonough to sit on this petition alongside himself, with Member Gary Walker being the Alternate Member.

Chairman Karll invited the Applicant to present.

Attorney Johnson presented before the Zoning Board of Appeals the appeal of the Building Inspectors March 9, 2023 Response to a February 6, 2023 request for Enforcement of Zoning and Building Permit Violations. Attorney Johnson stated the Appeal is pursuant to M.G.L. Chapter 40A Sections 8 and 15. Attorney Johnson further stated that the Applicant was seeking Zoning Enforcement for a 20-Foot-Long steel container located at the rear of the property, which abuts the Applicant. Attorney Johnson cited section 135-603(A) which states “There shall be permitted as accessory uses a garage for not more than three cars, a shed and a swimming pool. Other buildings or structures may be authorized by the special permit granting authority (SPGA)”.

Attorney Johnson stated part of the Appeal was for a Building Permit to be sought for a shed that was installed and confirmed that a Permit was issued on May 10, 2023. The basis of this appeal is for the storage trailer that is on the property. Attorney Johnson summarized the multiple requests for enforcement that date back to 2020. Attorney Johnson further noted that the bylaw does not speak to temporary trailers and not within the power of the Building Inspector to allow this while there are other things in our bylaw that detail the nature of what you can place in a residential area.

Russell Forsberg, Building Inspector for the Town of Braintree, stated this is an unusual situation as the storage trailer is being used in connection with improvements made to the dwelling on 80 Canavan Drive. Mr. Forsberg stated that in his March 9 response, that the improvements would be completed by the end of the summer and the Department would anticipate the trailer being removed by September of 2023.

Mr. Joseph DiStasio of 80 Canavan Drive spoke to the Zoning Board of Appeals over the concerns for the trailer in the rear. Mr. DiStasio stated he is anticipating finish the work on the dwelling this summer, and trailer will be removed once the work is complete. Mr. DiStasio stated he was doing the work himself hence the longer process.

Chairman Karll asked the Board if there are any questions regarding this matter. Member Gary Walker stated this is fairly common in construction practices and questioned the Building Inspector as to whether a permit was required. The Building Inspector in responding to

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Member Walker stated it does not as it is temporary and transient in nature. Chairman Karll spoke with Mr. DiStasio as the work is done by himself and the scheduling surrounding that.

Attorney Barry Crimmins appeared on behalf of Mr. DiStasio stating there's a line of reasonableness here as it will be eventually removed. Attorney Crimmins spoke to the Building Inspectors role as the Zoning Enforcement Officer, stating that the trailer being removed by September is reasonable. Attorney Crimmins further stated that the container is used in association with storing household furniture while the flooring work is being completed.

Chairman Karll stated they shall close the Public Hearing, with a motion made by Member Michael Ford, Seconded by Member Richard McDonough.

Chairman Karll confirms that the 'Board is reviewing whether to over turn the Building Inspectors determination as it relates to enforcing Section 135-603(A) which would require the owner of 80 Canavan Drive to appear before the Special Permit Granting Authority for the an additional structure. Member Michael Ford stated he supports the Building Inspectors determination and goes by his recommendation. Member Ford iterates that we do not have the authority to impose safeguards.

Attorney Johnson and Attorney Crimmins request that this matter be tabled while they discuss.

Chairman Karll called on the Applicant for Petition #23-16, 703 Granite Street.

**Petition #23-16
703 Granite Street**

Chairman Karll reads the Legal Notice into Record:

"New CC Sign Inc. - Ricky Zeng, Applicant, for relief from Braintree Zoning Ordinance Bylaw Requirements pursuant to Chapters 135-407 and 135-904.2 to erect a second wall sign for a Restaurant. A variance is required for the erection of more than one wall sign and wall sign area in the Highway Business Zone. The property is located at 695-787 Granite Street in Granite Plaza (Tenant Space 703) is zoned Highway Business Watershed, shown on Assessors' Map 2048 Lot 32 and Map 1032 Lots 1, 1G, 1H, 1I, 1L and 2H with a total lot area of 18 +/- Acres."

The Applicant, Ricky Zheng of New CC Sign Inc., was present before the Zoning Board of Appeals. Chairman Karll added that the Staff Recommendation on this matter was Approval with conditions. Chairman Karll invited the Applicant to present.

Mr. Zheng stated he was appearing before the Zoning Board of Appeals for relief to construct an additional wall sign for a new tenant at 703 Granite Street. Mr. Zheng stated the proposed signs were in excess of the Zoning Requirements, as there is an additional wall sign and the total area of both wall signs combined exceeds the allowable Square Footage. Mr. Zheng further stated that the proposed second wall sign would be smaller than the wall sign already installed, and

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the signs would be in the location of the prior signs. Assistant Director of The Department of Planning and Community Development stated that the prior signage erected was done without the benefit of a Building Permit or ZBA Relief, hence the Applicants request before the Zoning Board of Appeals.

Chairman Karll acknowledged the hardships presented by the Applicant in support of the requested variance. Chairman Karll called on members of the public to offer testimony in support or opposition of the relief requested by the Applicant. No one from the public provided testimony.

Chairman Karll stated they shall close the Public Hearing, with a Motion made by Member Michael Ford and Seconded by Gary Walker.

Chairman Karll stated they shall entertain a motion on this Application. Member Michael Ford Motioned to Approve the requested Variance pursuant to the hardships of the lots, based on conditions as proposed by staff and subject to the plans presented. Motion Seconded by Member Gary Walker. All in Favor: S. Karll – Aye; M. Ford – Aye; g. Walker – Aye.

Chairman Karll Called on Attorney Johnson and Attorney Crimmins for an update.

**Petition #23-14
80 Canavan Drive**

Attorney Crimmins stated Mr. Distasio would have the trailer removed by August 15, as to when the work would be completed.

Chairman Karll confirms that the 'Board is reviewing whether to over turn the Building Inspectors determination as it relates to enforcing Section 135-603(A) which would require the owner of 80 Canavan Drive to appear before the Special Permit Granting Authority for the an additional structure. Member Michael Ford stated he supports the Building Inspectors determination and goes by his recommendation. Member Ford iterates that we do not have the authority to impose safeguards.

After discussion between Attorney Crimmins and Attorney Johnson, they have agreed the trailer would be removed by August 15.

On a motion duly made by Member Ford and seconded by Member McDonough, the Board unanimously (3-0) voted to uphold the determination of the Building Inspector, pursuant to the Zoning Bylaw Sections 135-102, 135-202, and 135-603. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

Chairman Karll called on the Applicant for Petition #23-17, 9/11 Union Place.

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Petition #23-17
9/11 Union Place

Chairman Karll read the legal notice into record:

“Town of Braintree Central Stations c/o Chief James O’Brien, Applicant, for relief from Bylaw Requirements under Chapters 135-403, 135-407, 135-701 and 135-808, to demolish a portion of the existing building and construct a 1,370 Square Foot Two Story Addition. The Applicant seeks Variances for: Front Yard Setback to Union Street as 16.5 Feet is proposed, and Front Yard Setback to Tenney Road as 2.16 Feet is proposed, 100 Feet is required; Building Height of 31.7 Feet is proposed, 20 Feet allowed; Building Coverage as 21.3% is proposed and 10% is allowed; Lot Coverage as 66.61% is proposed and 20% is allowed; Open Space as 33.38% is proposed and 80% is allowed. The Applicant seeks a finding to alter the Non-Conforming Parking Layout. The property is located at 9/11 Union Place, is zoned Open Space Conservancy as shown on Assessors Map 1005 Lots 29 & 7A with a total land area of 37,064 Sq. Ft.”

Chairman Karll stated abutters were properly notified. Chairman Karll stated Members Ford and Member Burke would be sitting on this petition with Member McDonough as the Alternate. Chairman Karll stated the Staff Recommendation was Approval with conditions.

Mr. Christopher Garcia, Civil Engineer of GGD Consulting Engineers, Inc. and Ellen Light of Context Architecture, Members of the project team, were present before the Zoning Board of Appeal. Mr. Garcia presented the existing conditions plan and proposed site plan for the addition to the existing Fire Station. Mr. Garcia stated the single-story garage that is attached to the Fire Station will be demolished and two-story structure will be built with a slightly smaller footprint. Mr. Garcia summarized the relief requested for the proposed project including Variances for the proposed Front Yard Setback to Union Street as 16.5 Feet is proposed, and Front Yard Setback to Tenney Road as 2.16 Feet is proposed, 100 Feet is required; Building Height of 31.7 Feet is proposed, 20 Feet allowed; Building Coverage as 21.3% is proposed and 10% is allowed; Lot Coverage as 66.61% is proposed and 20% is allowed; Open Space as 33.38% is proposed and 80% is allowed. Mr. Garcia further added that a Finding is needed as the parking area along Tenney Road will be reconfigured and vehicles will be backing out onto a public way.

Chairman Stephen Karll questions the project team as to if the amount of bays for fire apparatus will be reduced. The project team detailed the improvements would not reduce the amount of bays for fire apparatus, and all three will remain. Member Timothy Burke questioned the project team as to whether fire apparatus is stored in the existing garage slated to be demolished. Ellen Light of Context Architecture stated only auxiliary vehicles are parked in this garage and will be moved to an existing garage at the rear of the station.

Chairman Karll opened to members of the audience for testimony regarding the relief requested. Evan Cuthbert of 4 Tenney Road questioned if the Fire Trucks would still be

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utilizing access along Union Place. Ellen Light of Context Architecture stated the Fire Trucks would still access the Fire House from Union Place.

Chairman Karll stated they shall close the Public Hearing. Member Michael Ford motioned to close the Public Hearing, seconded by Member Timothy Burke. Chairman Karll stated there does not seem to be any issues with this request.

Member Michael Ford motioned to Approve the requested Variance based on the plans submitted, pursuant to the hardships identified by the Applicant in accordance with Massachusetts General Law Chapter 40A Section 10 and Braintree Zoning Bylaw Section 135-407, with conditions as proposed by staff. Motion seconded by Member Timothy Burke. All in Favor: S. Karll – Aye, M. Ford – Aye, T. Burke – Aye.

Chairman Karll called on the Applicant for Petition #23-09, 126 Jefferson Street.

**Petition #23-09
126 Jefferson Street**

Chairman Karll stated to the Applicant that Staff is recommending a continuance due to numerous revisions to the plans. Mr. Chan confirmed that there are corrections to be made and would like to continue to June 26.

Chairman Karll stated they shall entertain a motion to continue this matter. Member Ford motioned to continue Petition #23-09 to the June 26, 2023 Meeting. Motion seconded by Member McDonough. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

ADMINISTRATIVE ITEMS

Member Ford motioned to approve the meeting minutes of April 24th, 2023. The Motion was Seconded by Member McDonough. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

The Assistant Director for the Department of Planning and Community Development provides updates for the Board regarding the Town's Master Plan. The Assistant Director states that tonight we will be performing a presentation for the 'Board. The Assistant Director states that as part of this presentation, feedback is sought by the 'Board on selected strategies, that was provided to them ahead of the meeting. In discussion with the 'Board, The Assistant Director stated that the 'Board could fill out the exit poll at their own leisure and submit them to the Department, due to the prolonged meeting tonight.

Member Ford made a Motion to close the meeting, Seconded by Member Richard McDonough. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

Meeting Adjourned at 9:10 P.M.

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