



Joseph. C. Sullivan  
Mayor

## Department of Planning & Community Development Zoning Board of Appeals

1 JFK Memorial Drive  
Braintree, MA  
www.braintreema.gov

**APPROVED**

### Zoning Board of Appeals (ZBA) Meeting Minutes June 24, 2019

**IN ATTENDANCE:** Stephen Karll, Chair  
Michael Ford, Member  
Richard McDonough, Member  
Stephen Sciascia, Associate  
Gary Walker, Associate

**ALSO PRESENT:** Christine Stickney  
Director-Planning & Community Development

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 May 20, 2019 at 7 p.m.

Chairman Karll calls the meeting to order at 7:00 PM and explains the process for hearing petitions before the Zoning Board of Appeals.

#### **CONTINUED PETITIONS:**

##### **Petition #19-14 126 Jefferson Street**

Yiu Hung Chan, 7 Mosesso Drive, Holbrook, MA 02343 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 to modify ZBA Decision No. 17-13 to reduce the size of proposed new two-story, single family dwelling from +/- 2,120 sq. ft. to +/- 1,268 sq. ft. building footprint; proposed project would intensify pre-existing nonconforming lot area and width. 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.

Chairman Karll explains that this is Petition was continued from our May 20, 2019 ZBA Meeting.

Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman, Michael Ford and Richard McDonough with Gary Walker, Alternate.

Director Stickney advises that the Applicant was asked to come back before ZBA to provide a Landscaping Plan. The Applicant is not in attendance nor have they provided our office with a plan. The Planning Department is aware that the material on the site has been leveled. However, we have not heard anything from the Applicant. The Building Department has advised that they may be selling the property. Director Stickney suggests rescinding the approval. There is discussion by the members, and the members decide to advertise for consideration of recession of the decision. This will require re-advertising and notification to abutters. Chairman Karll suggests getting an interpreter, as it was very difficult to understand the Applicant. Director Stickney suggests having the Building Inspector here to provide an update on progress made.

Member Ford **MOTION** to go forward with advertising for potential recession for the next meeting and notify abutters; seconded by Member McDonough; voted 3:0:0 (Karll, Ford, McDonough).

## **Petition #19-15 20 Marisa Drive**

William H. Rogers, 20 Marisa Drive, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 609 and 701 to construct second story addition (additional +/- 353 sq. ft. building footprint); proposed project would intensify pre-existing nonconforming side yard setback and is pre-existing nonconforming with regard to lot area and width. The applicant seeks a permit, variance and/or finding that the proposed project will not be more detrimental to the neighborhood. The property is located at 20 Marisa Drive, Braintree, MA 02184 and is within a Watershed Residence B Zoning District and Open Space Conservancy District, as shown on Assessors Map 1074, Plot 22 and contains a total land area of +/- 16,144 sq. ft.

Chairman Karll explains that this is Petition was continued from our May 20, 2019 ZBA Meeting.

Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman, Michael Ford and Stephen Sciascia; and Richard McDonough, Alternate.

Director Stickney reminds the Board that this was for a second story addition; she advises that a revised plan was requested to eliminate the circular drive in front, as we try to encourage no parking in the front yard. Mr. Rogers states they got rid of the circular drive and there was an error on the survey that reduced a measurement from 149' to 139'. Director Stickney states the other comment was related to elevations, which were standard architectural and not actual spot grade elevations. For determining an average building height, it is necessary to determine what elevation you are working from. Mr. Rogers explained they reduced the garage to a three car garage, but the architect did not change the elevation. Director Stickney advises that any parking structure for over 3 cars requires a Special Permit. The smaller plan shows a spot elevation. Director Stickney suggests getting a plan with a spot elevation the medium elevation (including a top elevation and a bottom elevation). This can be done with a revised plan.

Chairman Karll confirms we need a finding and not a variance, as it is non-conforming.

Member Sciascia has concerns, and confirms that this addition is 6.5 feet from sideline and towers over the rest of the house and the other houses in the neighborhood. A second floor addition that is 6.5 feet away from a neighbor is overwhelming.

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Member Ford states the height is not in question and the setback doesn't change whether it is 30 feet in the air. The setback is 6.5 feet, but Member Ford understands what Member Sciascia is saying about elevation, but that is not the question. Director Stickney explains what you have to keep in mind is that the impact would be addressed in the finding and the 6.5 feet in the variance.

Chairman Karll acknowledges that there is no one from the public in favor and asks if there is anyone here in opposition.

Paul Hamilton appears on behalf of his father-in-law at 12 Marisa Drive. He was in attendance last month. Paul Hamilton is not the abutter; his son owns the property and his father-in-law lives in the property. He wasn't opposed, but had concerns with a couple of things. One is the existing variance where the garage is 6.5 feet from the property line; now we are going up to a second level. He is wondering why adding to living space in an already non-conforming structure is acceptable. Chairman Karll explains that if it is within the same footprint of the existing structure, unless it is outrageous, it is usually something that is approved by the Zoning Board, with a Finding that what is being proposed is not more detrimental to the neighborhood. Mr. Hamilton states it seems like there is more room on the other side of the house or out the back. The Applicant, Mr. Rogers, stated they contemplated going back but they ran into a wetlands issue. There is discussion about the shape of the lot. Mr. Karll confirms that they are adding a second story over the garage and leave the rest of the house the same. Chairman Karll asks if it is possible to add a second story on the other side of the house. Mr. Rogers states there isn't that much room. Director Stickney explains that it is about 18 feet to the property line, and there is a 10 foot setback required. Mr. Hamilton feels that would spread the house out a little more evenly. Chairman Karll asks if the property owner (Mr. Hamilton's son) is here because usually we don't take here-say testimony. Mr. Hamilton expressed that wasn't an issues last month. Member Ford states last month the concern voiced by Mr. Hamilton was the round-about driveway and parking on the street; that has been taken out and addressed with the new drawing. Now, it seems like there is an issue with the height over the garage. Member Ford felt that we should have had both issues presented last month as concerns, where we could have had solutions that addressed each issue.

Chairman Karll asks for other participants from the community.

Chris Harrison, Harrison Construction, has been working with the Applicant and states that every change costs the Applicant money. They initially tried to add to the back, but, as a result of discussions with Conservation, they determined it would not work. Mr. Harrison states every time the Applicant has to have the Architect or Surveyor make changes, it costs the Applicant money. He is hoping we can come to a conclusion that works for both sides so they can get started on the project.

Chairman Karll closes public hearing and opens it up to discussion by the ZBA Members.

Chairman Karll feels the petitioner amended his plans removing the circular driveway, as Mr. Harrison requested. Chairman Karll agrees with Member Ford in that the height falls within the zoning laws, and he feels the Applicant did what he was asked. Chairman Karll states next we look to see whether what the Applicant is proposing is more detrimental to the neighborhood. From what Chairman Karll heard, he doesn't feel that it is more detrimental.

Member Sciascia still thinks it is out of scale with the rest of the neighborhood. He feels going up this high on one side is less than what is there.

Member Ford states adding an entire second floor would be cost restrictive and an enormous addition. Member Ford feels that generational living is where society is going; Member Ford does not think it is more detrimental to the neighborhood. Member Ford feels that the petitioner did what was asked of him, and he feels it would be unfair to not take a vote tonight.

Member Ford **MOTION** to approve the Petition subject to the plans, conditional with elevation to be verified on the architectural plans; seconded by Member Karll; voted 2:1:0 (In favor: Karll, Ford; opposed: Sciascia).

## **NEW BUSINESS:**

- 1) Petition Number: 19-19  
Petitioner: McDonald's Real Estate Co.  
RE: 16-18 Pearl Street**

Director Stickney explains that this is McDonalds on Pearl Street, and we have been working with the Applicant through the Planning Board for a Special Permit application. McDonald's will be re-vamping all their stores nation-wide and giving them a new look. There are some architectural design features that are going to be done, as well as work on the parking configuration and queuing. Tonight's request is for signage. They are exceeding some of the requirements for General Business in the Village Overlay District; Director Stickney provided a Staff Report that outlines where the deficiencies are.

The Chairman reads into record the legal advertisement: McDonald's Real Estate Co. (property owner), c/o James Cranston, Bohler Engineering, 352 Turnpike Road (3<sup>rd</sup> floor), Southborough, MA 01772 for relief from Zoning Bylaw requirements under Chapter 135, Sections 135-403, 407, 613, 904.1, 904.6 and 905 to remove and replace the existing 34 sq. ft. McDonald's front wall sign, install two (2) new 14 sq. ft M-logo wall signs, portions of which will exceed the allowable height, area and quantity. Also install two (2) new directional signs to replace the existing two (2) driveway directional signs that exceed the allowable quantity of directional signage on site. The applicant seeks a variance and/or findings that the proposed project will not be more detrimental to the neighborhood. The property is located at 16-18 Pearl Street, Braintree, MA 02184 and is within a General Business District and within the Village Zoning Overlay District, as shown on Assessors Map 1006, Plot 31 and contains a total land area of +/- 25,600.

Sitting on this petition for the Zoning Board of Appeals were: Chairman Karll, Michael Ford and Richard McDonough; and Gary Walker as alternate. The Planning Board is relying on staff recommendation; as indicated staff recommendation is approval with one condition that all illuminated signage be turned off one hour after the close of business, according to Section 135-905. Chairman Karll is satisfied that the abutters and abutters to the abutters within 300 feet have been duly notified.

Eric Duhule with Bohler Engineering explains that McDonalds is proposing a fairly substantial renovation, not only to the building and interior of the building, but they are looking to ADA compliance. They have proposed some improvements for landscaping and the building itself will be fully renovated, including site signage and wall signage.

They are seeking relief for replacement of two directional signs, and on the building, the wall sign package, which includes four total signs, will be replaced. They are requesting relief from the total overall signs; two of the signs are 42 inches high and not 24 inches. They are looking to replace the existing directional signs at each of the driveways. The McDonald's wordmark is on the front

of the building, and is “by right”, so we are not requesting relief for this sign. For the McDonald’s arch logo, there will be two of these signs, and one goes on each face (on front of the building where they have a public entrance, and on the non-drive through side where there is a public entrance); these signs are 14 square feet. Relief is needed based on the bylaws. On the front door, we have an 8 inch high “Welcome” sign that goes directly above the door. Relief is requested for directional signs (on the curb-cut by Pearl Street) and the overall Wall Signs (in number and size).

Member Ford confirms that the large arch is staying out front with no change.

Member Walker asks if all new signs are replacing existing sign or will there be additional signs. Mr. Duhule explains that the directional signs are replacing existing; the wall signs will be new. They are replacing the “McDonald’s” word with an arch.

Chairman Karll asks if there is anyone else in favor or opposed.

Chairman Karll asks if there are any other conditions other than the illumination. Director Stickney states that is all staff recommends.

Member Sciascia mentions that the new signs above the doors are facing residential property; maybe those signs should go dark when McDonald’s closes. Director Stickney explains that there is a hairdressing business between the McDonald’s and the residential property, and she points out that we have requested illumination be off one hour after closing.

Member Ford’s point of view is that McDonald’s was there before the residents moved in. Individuals that move into a business area should keep in mind what is in their neighborhood. Chairman Karll confirms that we haven’t heard from any abutters.

Close public hearing and open for discussion.

Mr. Duhule wants to make one point for clarification; the 63.4 square feet of total area should be corrected to 64.0 square feet.

Member Ford **MOTION** to approve the petition based on staff recommendation, with the condition related to illumination, subject to revised plans; seconded by Member McDonough; voted 3:0:0. (Karll, Ford, McDonough).

- 2)     **Petition Number: 19-20**  
          **Petitioner: Marie Lenane**  
          **RE: 44 Newton Avenue**

The Chairman reads into record the legal advertisement: Marie A. Lenane, 44 Newton Avenue, Braintree, MA 02184 for relief from Zoning Bylaw requirements under Chapter 135, Sections 135-403, 407 and 701 to address a recently constructed deck that violates the required side yard setback. The constructed deck is located 6.8 LF from the side property line, as an extension of the existing deck which is also 6.8 LF where 10 LF is required. The applicant seeks a permit, variance and/or finding that the proposed project is not more substantially detrimental to the neighborhood. The property is located at 44 Newton Avenue, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3053, Plot 102 and contains a land area of +/- 5,001 sq. ft.

Sitting on this Petition for the Zoning Board of Appeals are: Chairman Karll, Michael Ford, Gary Walker and Stephen Sciascia, Alternate. The Planning Board will rely on staff recommendation. Staff recommendation is to grant a Finding conditional on the following: (1) The applicant shall file for a building permit so that the deck can be inspected as to the building code; (2) the deck shall not be converted to any three-season room or have any future conversion to year round habitable living space and shall remain only a deck with no enlargement in the dimensions of 8'X18' (total 137 square feet).

Chairman Karll is satisfied that the abutters and abutters to the abutters within 300 feet have been duly notified.

Marie Lenane, states she added to her deck without realizing it would be an issue or that it would require a building permit. She has approached all her immediate abutters that can see the deck and none have an issue with her deck. Her house is tiny with 528 square feet with two teenage children. Therefore, the outside space would provide additional living space. Ms. Lenane states a friend of the family, from out of state, built the deck. The Building Inspector, John Coyle, stated that it was really well done. Director Stickney states that a Building Permit is needed, and there may be a fine. Ms. Lenane has a letter from Marie and Jim Kilrain, 39 Newton Avenue, in favor of allowing the deck. Ms. Lenane states a friend of the family, from out of state, built the deck.

Brenda Joyce, a neighbor at 89 Bickford Road, recommends approval. Ms. Joyce states Ms. Lenane is a wonderful neighbor, and everyone in the neighborhood gathers at her home. She is a wonderful asset to the neighborhood. Ms. Joyce states the new deck is not that much larger than the old deck.

Paul Segota, 48 Newton Avenue, states the deck is appropriate for the neighborhood and for the size of the lot; he has no objections, whatsoever.

Rob Pellegrini, 111 Newton Avenue, didn't even notice the deck was being built. It is very small, and he doesn't think it would be anything that would bother the neighborhood. His only hope is that it was built with footings for their safety. He has no objection.

There is no opposition from the community; Chairman Karll closes the hearing and opens for discussion by members.

Chairman Karll doesn't have objection to deck with the condition that it be inspected by Building Inspector. Director Stickney refers to the conditions, and there is discussion with Chairman Karll about preventing future conversion of the deck. Chairman Karll does not want to prevent conversion but wants to add wording that says if it is to be converted the applicant will need to come back before the Zoning Board.

Member Ford would hope that the Building Department does not levy a fine. Chairman Karll agrees with Mr. Ford on the Building Department not levying a fine. Director Stickney states she will let the Building Department know.

Member Ford **MOTION** that this Petition be approved with the staff recommendation with conditions stated at this meeting; seconded by Member Walker; unanimously voted 3:0:0 (Karll, Ford, Walker).

- 3) **Petition Number: 19-21**  
**Petitioner: Carine & Kevin Berner**

**RE: 16 Mann Street**

The Chairman reads into record the legal advertisement: Carine & Kevin Berner, 16 Mann Street, Braintree, MA 02184 for relief from Zoning Bylaw requirements under Chapter 135, Sections 403, 407, 609 and 701 to address a recently construct deck that violates the required rear setback. The partially constructed deck is located 16.4 LF from the rear property line, as an extension to the existing dwelling which is 28.4 LF, where 30 LF is required. The applicant seeks a permit, variance and/or finding that the proposed project will not be more substantially detrimental to the neighborhood. The property is located at 16 Mann Street, Braintree, MA 02184 and is within a Watershed Residence B Zoning District, as shown on Assessors Map 1093, Plot 17 and contains a total land area of +/- 10,275 sq. ft.

Sitting on this Petition for the Zoning Board of Appeals are: Chairman Karll, Richard McDonough, Steve Sciascia with Gary Walker, Alternate. The Planning Board will rely on staff recommendation. Chairman Karll is satisfied that the abutters and abutters to the abutters within 300 feet have been duly notified

The Planning Board will rely on staff recommendation. Staff recommendation is to grant conditional approval.

There is a letter received by the department on June 19, 2019 provided by Patricia McCarthy, the rear abutter located at 29 Olofson Street, that Chairman Karll reads and is incorporated into the file and minutes by reference. This letter addresses some concerns that Ms. McCarthy has and makes some suggestions on conditions for approval.

Applicant Carine Berner states that when they constructed the deck they thought it was covered as part of their original permit. It is not any higher or larger or closer to the property line than the original non-conforming deck. There was a pre-existing wrap-around deck there prior to the Applicants buying the house. When they did their permitted construction project, there were some foundation issues that required them to take down the deck and correct the foundation. Their contractor said they would help the Berners put the deck back in the same footings as the original deck, without the wrap-around. The footings are actually two feet closer to their house than the original non-conforming deck.

Chairman Karll asks when permitting work was done. The permitting work began around Labor Day 2018 and went to the beginning of February. The permits are still open, and the Applicants are pending final inspection. Director Stickney states the permits they are referring to are for a garage on the side of the house. Kevin Berner states that their plot is irregularly shaped. There is a short distance from the rear of the home to the abutting neighbors. Chairman Karll states, in looking at the plan, this is the only place to put the deck. Mr. Berner states the main reason they wanted the deck is because it is an uneven terrain; there is slope on the yard with no flat area. A deck is more stable. Chairman Karll confirms with the Applicants that the deck is partially built; just the framing is built, as the Applicants stopped construction. Chairman Karll asks what type of deck floor is being installed. Applicant states Trex Composite Decking.

Chairman Karll states the footings have been poured out of concrete. Director Stickney states this is a finding and not a variance.

Member Walker mentions that twice tonight we have heard that people have done decks without pulling permits. Member Walker feels the contractor should know that this permit is required.

Lynnea Taylor, an abutter within 300 feet at 44 Maplewood Terrace, has been in the house prior to the remodel and after the remodel and on the deck. It is not an unusual house for the area. Every other house has a deck. There is a severe slope in their backyard. If they were to use that area of the backyard other than with a deck, it would involve fill, re-grading, possible impervious surfaces. With regard to the abutter to the rear of the house, Ms. Taylor has never noticed that house in the rear in the many times she has been at 16 Mann St. There is a high fence, and no one in the yard can notice the abutting house. Chairman Karll confirms with Ms. Taylor that the previous deck was on the house when the current owner of the abutting house bought their house. Chairman Karll asks if the new deck is any higher than the old deck. Ms. Berner confirms it is not.

Director Stickney states they don't normally recommend screening or landscaping, but this property did have some existing vegetation that was taken down. It may have provided some screening before. Ms. Berner states the trees taken down were on the side of their property.

Patricia McCarthy, the abutter directly behind, as she wrote in her letter, they get along as neighbors. There is a severe slope to the property. Ms. McCarthy states it feels like they can look directly into her house. She keeps her blinds closed because of that. When she purchased the home from her dad, the deck was there, but not when they bought the original home back in 1965. She is not here to create a problem; she was hoping they could find a solution with a privacy screen. She states the arborvitae, which is quick growing, are about \$30/each. She bought at few at six feet tall. She would be okay if they planted them next year. She planted hers a few years back, and they are at about 11 feet now. She is not opposed to the deck, but she wanted some privacy.

The Applicant has some objection because there isn't a lot of space in their yard because it would be the flattest part of their yard, and it would be located in an area used by their children and where their vegetable garden is located. They also don't want to have to maintain the arborvitae. Chairman Karll states the Applicants would not have to go along the whole length of the fence, and he wants to be fair to the neighbor.

There are no further comments from the public.

Chairman Karll closes the hearing and opens discussion up to ZBA members. Member Sciascia states the deck is fine and screening is a reasonable request. Member McDonough feels the arborvitae would be an olive branch. Member Walker feels the Applicants could work with the neighbor to come up with a plan. Member Ford just priced them at Home Depot; they grow to 12 feet and are about \$79 right now. Member Walker doesn't think it is the cost, but it may be that the Applicants do not want something like this in their garden. Chairman Karll wants to add a condition that provides for some screening. Director Stickney explains that the Zoning Board needs to provide some direction, as it may become an issue of misunderstanding. Chairman Karll calls Ms. McCarthy to the podium. There is discussion about using lattice on the fence, but that does not seem like an appropriate solution. Chairman Karll suggests the Applicants and the Ms. McCarthy discuss this offline (in the hall) and come back in with their solution.

Member Walker suggests that the Applicants buy arborvitae and have them planted in the abutter's (Ms. McCarthy's) backyard. He goes out into the hall to suggest this to the Berners and Ms. McCarthy.

Chairman Karll calls the meeting back to order and mentions that Member Walker made a good suggestion that the Applicants purchase the arborvitae and have them planted on the abutter's



(Ms. McCarthy's) side of the fence. Member Walker suggested 3-4 in quantity. This will be addressed in the fall.

**MOTION** has been made and seconded to approve the Petition with the conditions as provided by staff, as well as an additional condition that the Applicant will purchase 3 or 4 arborvitae to be planted on Ms. McCarthy's property in locations to help block the view to the Berner's deck before the end of the fall 2019; Ms. McCarthy or future owners of her property will be responsible for care of the arborvitae; voted 3:0:0 (Karll, McDonough, Sciascia).

**4) Petition Number: 19-22**  
**Petitioner: Timothy Bothwell**  
**RE: 136 Pond Street**

The Chairman reads into record the legal advertisement: Timothy Bothwell, 136 Pond Street, Braintree, MA 02184 for relief from Zoning Bylaw requirements under Chapter 135, Sections 403, 407, 609 and 701 to address a partially constructed addition, landing and stairs that collectively violate the side yard setback. The one story addition, partially constructed landing and stairs are located 3.3 LF from the side yard, where 10 LF is required. The applicant seeks a permit, variance and/or finding that the proposed project is not substantially more substantially detrimental to the neighborhood. The property is located at 136 Pond Street, Braintree, MA 02184 and is within a Watershed Residence B Zoning District, as shown on Assessors Map 1041, Plot 24, and contains a total land area of +/- 5,952 sq. ft.

Sitting on this Petition for the Zoning Board of Appeals are: Chairman Karll, Michael Ford, Richard McDonough, with Gary Walker, Alternate. Chairman Karll is satisfied that the abutters and abutters to the abutters within 300 feet have been duly notified. The Planning Board will rely on staff recommendation. Staff recommendation is that: (1) the Applicant redesign the door /landing/stairs to be from the north side of the mudroom addition allowing for a 6.8 foot setback deficiency rather than a 3.3 foot setback; and (2) the Applicant shall amend the building permit application to reflect what is actually being constructed as shown on the site plan. Evidently, there was no site plan provided with the Building Application.

Timothy Bothwell, Applicant, states they originally had a side porch when they bought the house nine years ago. The structure was rotted. They have four children (2 very young children); it is a ten-foot drop from that platform into the backyard. Initially, they wanted to take the deck out to replace it. They decided to enclose it to provide a safe area for his children to remove coats and come into house. Next to the enclosure they added a landing. This was primarily for a safety reasons. Paul Harvey, who is helping the Applicant, explains that the structure of the building is 8.6 feet back. The landing is the same size as the original landing. They didn't change anything of the footings. They changed the direction of the stairs, which now go towards his driveway rather than towards his neighbor's house. The previous direction of stairs was right into a retaining wall, which presented a safety issue for the children. Chairman Karll confirms the new stairs comes from the driveway into the 3X3 landing area, which is no closer to the neighbor. It is confirmed that Mr. Harvey is doing the actual construction.

Chairman Karll and Mr. Harvey discuss the Building Department's suggestion for location of stairs, but Mr. Harvey states there is a window well in the way. Mr. Harvey provides an overview on proposed location for stairs. Director Stickney clarifies that it was the Planning Department that recommended the stairs going towards the front. She states the other problem is that there are no architectural plans, which makes it difficult to tell distance. Mr. Harvey states it is the same

walkway as where the old stairs landed before. Director Stickney is not disputing what they are stating. Planning was looking for alternatives to save space; otherwise, the setback is 3.3 feet.

Mr. Harvey explained that the options were very limited, and there were limitations from a cost perspective, as well.

Member Ford asks if there are any issues with the neighbor to the left. Mr. Bothwell explains that they don't see that neighbor that often, and that neighbor hasn't raised any concerns to Mr. Bothwell. Mr. Harvey clarifies that the owner of the property does not live there; he rents the property out. Director Stickney asks to see the current pictures that the applicant has, and there is further discussion about location of the stairs, deck and mudroom.

Roni Partosan, 56 Lunar Avenue, is in favor of the addition. Her concern is for the safety of the children. This change would make the children safer. Pond Street is an extremely busy street. She is an emergency room nurse, and feels it is more related to safety of the children.

Will Blandin, 140 Pond Street, lives next door to the right, on the opposite side of stairs. He is in favor of this project, and he expresses that the Applicant is a very good neighbor. Whatever the Applicant does is okay with Mr. Blandin.

Kerry Burke, 2 Sunset Road, is in favor of the project.

Chairman Karll asks if there is any opposition.

Yaser Saleh, owns the home to the left of the Applicant, and he feels that 3.3 feet is too close to his property. There is no privacy; he suggests moving the door. Mr. Saleh states the Applicant is a good neighbor, but he feels this is too close, as it is a safety concern. Mr. Saleh's property just had a fire on June 11. Chairman Karll clarifies that the previous deck was there. Mr. Saleh discusses safety of the children using the back door vs. the front door. In addition, Mr. Saleh mentions that previously the Applicant's driveway was encroaching on their land.

Mr. Blandin, was not sure about Mr. Saleh's concern with fire, as the fire on his property was as a result of someone on Mr. Saleh's property running an extension cord into a make-shift tent.

Mr. Harvey states there is no room to put the door on other side because of the window well. They looked at that option with the Building Inspector. Mr. Harvey explains it is 3.3 feet to the landing, which is not enclosed; it is 8.6 feet from the lot line to the mudroom structure. It is the same width and dimensions as it was before. Director Stickney clarifies that the window well is on the side of the original house. It is clarified that there is one window on the front of the mudroom and one window on the back.

Member Walker reads the approval granted under the Building Permit, mentions the "Stop Work" Order, and asks the Applicant why they didn't build what was approved by the Building Permit. They explain that they had built it prior to the Permit.

There is no further opposition.

Chairman Karll is not sure that what they are doing is any more detrimental to the neighborhood. Chairman Karll states that it is the exact same distance than what was there, and he understands why they cannot move the stairs. Chairman Karll states, if the Applicant was going closer than

what was there, he might have an issue with it. Member Ford states that the stairs are walking down in the same direction as before. Member Ford has no issues.

Member McDonough and Member Walker both concur with what has been said.

Member Sciascia also agrees with what has been said by other members. He hasn't heard anybody say that this absolutely cannot be done. Member Sciascia asks staff if she agrees with what has been said that precludes changing the direction. Director Stickney agrees but states the bylaw allows you to have a stoop and stairs at less than 30 square feet, and therefore it wasn't counted towards zoning. It has moved because of the mudroom where a wall was put up. That is why the Building Department referred the Applicant to the Zoning Board for relief.

Member Ford **MOTION** to approve the petition based on the requirement to upload a plot plan according to the staff's recommendation; seconded by Member McDonough; voted 3:0:0 (Karll, Ford, McDonough).

**5) Petition Number: 19-23**  
**Petitioner: Emmanuel Episcopal Church and IDIL Learning Center**  
**RE: 519 Washington Street**

The Chairman read into record the legal advertisement: Emmanuel Episcopal Church (property owner) and IDIL Learning Center, 128 Hyde Street, Newton, MA c/o Daniela Tudose (proposed tenant) at 519 Washington Street for relief from Zoning Bylaw requirements under Chapter 135, Sections 135-403, 407 and 806 (b)(c) for relief from required parking as a new daycare use and approval to utilize existing church parking spaces. The applicant seeks a permit, variance and/or finding that the proposed project will not be more substantially detrimental to the neighborhood. The property is located at 519 Washington Street, Braintree, MA 02184 and is subject to split zoning Residence B & C Districts, as shown on Assessors Map 2029, Plots 18 & 17, with combined land area of +/- 19,227 sq. ft.

Sitting on this Petition for the Zoning Board of Appeals are: Chairman Karll, Michael Ford, Richard McDonough, with Steve Sciascia, Alternate. Chairman Karll is satisfied that the abutters and abutters to the abutters within 300 feet have been duly notified.

Reverend Dr. Thomas Mulvey, Jr., the Rector of Emmanuel Parish and also an Attorney in the Commonwealth of Massachusetts since 1983, states the issue is parking and there is nearly never a time when the parking lot is full. The only time their parking lot was full was when used by Russell Peck Funeral Home. They almost never have multiple uses at the same time. They have been good neighbors to the Town of Braintree. They permit Norfolk Agricultural School to pick up students in their parking lot. They are very conscious of the neighborhood and the rules. The school will be walking students over from the Hollis School in an orderly fashion. There will not be car drop-offs, as students will be walked over from Hollis School. They will have a pickup plan in place. There will be nobody parking. There are about a dozen parishioners here in support of the school. They are committed to children's ministries. This use goes hand-and-glove with the commitments Emmanuel Parish has to children's ministries. Reverend Mulvey stresses that the parking is a non-issue.

Chairman Karll asks Ms. Tudose a few questions: (1) how old the children are? Ages 5 through 13; (2) Are you a profit or a non-profit? Non-Profit (3) Will you be paying anything in lieu of taxes? No (4) How many students are anticipated? 23 to 24 to begin with; (5) how many students will the facility hold? 23 to 24 based on the 870 square feet will hold the 23 to 24.

Director Stickney discussed at a staff level that they may take over more space if they are successful. Director Stickney suggests, if parking variance is granted, perhaps it could be granted up to a certain square footage. They would use the parking ratio of 3 for daycare because of the ages of the children.

Member Ford asks if you are only looking for students from Hollis School. Ms. Tudose states primarily because of location because it is very difficult to provide transportation from the other schools. Member Ford asks if they have approached parents at Hollis School. Ms. Tudose states they cannot advertise anything until they are certain they can open. Ms. Tudose explains this will be a licensed after school program. If we are approved, the licensing process will begin, which will take the whole summer.

Member Walker asks if there will be a staggered pick-up time or all at once. Will there be a mandatory pick-up time? Member Walker understands that there will be 23-24 cars for pick-up. Ms. Tudose explains that pick-up will be mandatory by 6PM. Usually, pick-up will be between 5:30 and 6:00. Chairman Karll asks about employees. Ms. Tudose explains the ratio is 1 staff member to 13 students; with 24 students they would have two staff members. She runs an afterschool program in Quincy. Braintree would be their fifth location. Director Stickney explains the rigidity of the existing zoning bylaw requires parking. Chairman Karll asks if there are specific parking spaces designated. Reverend Mulvey states all of their 44 spaces are open in the afternoon. They will not have competing uses in the afternoon.

Member McDonough asks about the extra square footage in the building and how far might they expand. Ms. Tudose mentions if they want to expand, they will have to apply for an Increasing Capacity License. Ms. Tudose explains the expansion process; if you want to accommodate additional students, you have to show that you already have additional staff members hired, finger-printed and ready to work. Then they would need to pass Building and Fire Inspection on that additional space. She is Site Coordinator for Quincy site. Her license for Quincy is for 42 students. They have a different location in Malden where there was a license for 20 students, and they applied for early childhood education and have increased to 30 students. They work with the Department of Early Childhood Education. There is staff already hired and fingerprinted for the Braintree location. Ms. Tudose explains how a sight is setup.

Member Ford states the church is deceptively large and asks if ZBA Members could do a site visit to the church. Reverend Mulvey welcomes the visit but states all of this would happen on the first floor. The children would not be wandering around the same area. All of the rooms on the first floor have child appropriate windows and doors. Chairman Karll confirms that IDIIL will be paying rent to the church. Chairman Karll would like to have a site visit. Director Stickney clarifies if ZBA Members go as a group, it will need to be posted as a meeting. The Reverend is very accommodating.

Member McDonough asks about parking; Director Stickney is applying the standard that would be in the new bylaw. Director Stickney states it is what we think is reasonable. Member McDonough asks the reverend if Norfolk Agricultural drops off at the church and at what time. Reverend Mulvey is uncertain about the drop-off time in the afternoon.

Member Sciascia feels that there won't be a need for parking, but he has a question about the flow of traffic because this church has an entrance on West Street and Monatiquot. He feels picking kids up between 5:15 and 5:45 can be chaos, especially in a residential neighborhood. Chairman Karll states we may have to come up with a traffic plan, with arrows directing.

Chairman Karll would like to see the facility. Member Ford is comfortable with the layout and does not need to see it again. Reverend Mulvey states it is a really good layout for this usage. Chairman Karll will visit Saturday, June 29, at 9:15. The hearing will be continued until July 22 Meeting.

Ms. Tudose really wants to get started in September with the new school year. They need at least one month for set-up. Reverend Mulvey asks about provisional approval, and Chairman Karll states we do not provide that. Chairman Karll asks if anyone is in favor.

The following individuals are in favor of the approval of this Petition:

Don and Ruth Blunt 8 Royal Lake Drive are in favor. Ruth Blunt mentions every year Emmanuel has a fair in November that is very well attended, and there has never been a problem with parking.

Lisa and Richard Inglis, 442 Middle Street, Richard mentions that they are hear for a parking variance, and wonders why the Chairman has to see inside the church.

Amanda and Leo Horne, 247 Commercial Street, in favor.

David and Patricia Barabas, 800 West Street, in favor.

Jamie Santagate, 39 Sterling Street, in favor.

Steven Daiute, 85 Plymouth Avenue, in favor.

Richard Inglis, 19 Foster Road, in favor.

Linda King, resident of Rockland former Braintree resident, in favor.

Robert Bill, resident of Quincy, in favor.

There is no opposition.

Ms. Tudose thinks that the neighborhood will benefit tremendously from the afterschool program. This is an academic after school program; they have their own curriculum. They do school homework, so that when they go home, they are done with their homework. Their students are the best in their class. They work with each student based on their individual levels. There are students from Braintree that come to Quincy.

On a motion duly made and seconded, the Board unanimously (3-0) voted to continue the petition to July 22, 2019 at 7:00 PM (voting: Karll, Ford, McDonough).

## **APPROVAL OF MINUTES:**

On a **MOTION** duly made by Member Ford and seconded by Member McDonough, the Board voted 3-0 to accept the May 20, 2019 meeting minutes.

The Board adjourned the meeting at 9:31 PM.

Respectfully submitted,  
Louise Quinlan