

MEETING OF MAY 27, 2008

**Comprehensive Permit #04-109B
St. Francis of Assisi Residences at Braintree, Inc.
RE: Independence Manor, 41-53 Independence Avenue**

Sitting on this petition was Chairman Steven Karll, members Joseph Mulligan and Jay Nuss..

St. Francis of Assisi Residences at Braintree, represented by Attorney Betty Anne Blatman, requests a three-year extension of its permit to March 29, 2010. Attorney Blatman explained that the Comprehensive Permit expired in April 2008 but her client has not begun to exercise the permit due to financing difficulties. Construction of the Chapter 40B Housing is expected to begin this Fall. No one spoke in favor or in opposition.

The Board was advised by the Town Solicitor Carolyn Murray that 760 CMR 56.05(12)(C) permits them to extend the expiration time and that such action does not constitute a substantial modification of the permit.

The Zoning Board found that good cause was shown for the Applicant's failure to exercise the Comprehensive Permit in the time allowed but felt that a one-year extension was sufficient for the Applicant to exercise the permit.

MOTION: Made by Mr. Nuss, seconded by Mr. Karll to grant the requested relief subject to the plan presented.

VOTE: 3-0 unanimous in favor

MEETING OF MAY 27, 2008

**Petition No. 08-24
Thomas and Marion Fallon, 21 Mount Vernon Avenue**

Sitting on this petition was Chairman Steven Karll, members Joseph Mulligan and Jay Nuss..

The petitioner, representing himself, wishes to remove an existing deck and single story addition and replace them with a larger single story addition and L-shaped deck to the rear of the property. The current structure is pre-existing nonconforming, as the existing structure is located 5.6 feet from the side yard setback where the Zoning By-law requires 10 feet. The new addition will not further encroach into that setback as the side yard line widens towards the rear of the property and, at its closest point, would be 4 feet off the side yard line. The lot size and position of the existing dwelling allow ample room for a rear addition. The proposed addition creates no new nonconformities so the petitioner is seeking a finding rather than a variance. The petitioner submitted a plan entitled "Mt. Vernon Avenue, Plan Showing Proposed Addition in Braintree, MA" dated March 26, 2008, prepared by Hoyt Land Surveying of Weymouth, MA.

The Applicant had letters and/or petitions from four neighbors in support of the request. No one else spoke in favor or in opposition.

The Board found that the proposed alteration would not be substantially more detrimental to the neighborhood and further found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-Law.

MOTION: Made by Mr. Nuss, seconded by Mr. Karll to grant the requested relief, subject to the plan presented.

VOTE: 3-0 unanimous in favor

MEETING OF MAY 27, 2008

Petition No. 08-28
MetroPCS, 300 River Street

Sitting on this petition was Chairman Steven Karll, members Joseph Mulligan and Jay Nuss..

The petitioner, represented by Attorney Ricardo Sousa, is seeking permission to add three wireless communications antennae and two equipment cabinets on the existing telecommunications tower located at East Middle School. The use and structure are pre-existing nonconforming. The location of these antennae at this site is needed to service an area within the Route 495 Belt from Worcester, MA to Providence, RI to Manchester, NH. Consultant Don Hayes that the addition is still below the limited set by the FCC regarding radio frequency exposure. The petitioner submitted five sheets entitled "BOS0253A, Crown Rivert St., Braintree" dated February 19, 2008 prepared by Atlantis Group of Newton Cedntre, MA.

James Smith of 100 Hillside Road expressed concern that the fenced-in area may be an invitation for vandalism if left open and questioned if the new cabinets would be located within that area. Attorney Sousa indicated the cabinets with fit within the fenced-in area. No one else spoke in favor of or opposition to the petition. The Planning Board voted 4-0 in favor of the requested relief.

The Board found that the petitioner had satisfied the goals of co-location under the Telecommunications Act and the addition was needed to provide service. The Board also concluded that the alteration would not be substantially more detrimental to the neighborhood than the pre-existing nonconforming structure. Finally, the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

MOTION: Made by Mr. Karll, seconded by Mr. Nuss to grant the requested relief, subject to the plan presented.

VOTE: 3-0 unanimous in favor

MEETING OF MAY 27, 2008

Petition Number 08-29

Braintree Property Associates LP c/o Simon Property Group, 250 Granite Street

Sitting on this petition was Chairman Steven Karll, members Joseph Mulligan and Jay Nuss.

The petitioner, represented by Attorney Carl Johnson, explained that the Applicant is planning to demolish a portion of the current four-story mall structure (formerly Macy's) to accommodate construction of a three-story Nordstrom's allowing for the new structure to match the existing elevations of the current mall which necessitates a height variance for the building and parapet. The proposed construction will exceed the height limit under the Zoning By-Law. As grounds for hardship, Attorney Johnson noted the slope of the lot and that the existing structure has varying elevations and also explained that the parapet acts as a noise buffer and shield for the mechanical fixtures located on the roof. The petitioner submitted a plan entitled "South Shore Plaza, Braintree, MA" dated May 21, 2008, prepared by JP2 Architects, LLC of Baltimore, MD.

No one else spoke in favor or in opposition. The Planning Board voted 5-0 in favor of the requested relief.

The Board found that the Applicant demonstrated a hardship based on the topography of the lot and structure and the need to match the current elevations and also found the height of the structure and parapet was de minimus given the elevations of existing structures. Finally the Board found that the requested relief could be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Zoning By-law.

MOTION: Made by Mr. Nuss, seconded by Mr. Mulligan to grant the requested relief, subject to the plan presented.

VOTE: 3-0 unanimous in favor

MEETING OF MAY 27, 2008

**Petition No. 08-21
WBF Braintree Equity Partners LLC, 214-222 Forbes Road**

This petition was withdrawn without prejudice.

**Petition No. 08-24
Thomas and Marion Fallon, 21 Mount Vernon Street**

This petition was withdrawn without prejudice.

**Petition No. 08-26
Five Star Quality Care, 250 Pond Street**

Public Hearing was opened but continued to the next meeting to allow the petitioners time to provide calculation of the parking required under the Zoning By-Law.

**Petition No. 08-27
MetroPCS Massachusetts LLC**

Petition was continued to the next meeting due to a conflict with Member Jay Nuss hearing this petition.