



Department of Municipal Licenses and Inspections

Zoning Board of Appeals

90 Pond Street – Braintree, Massachusetts 02184

Joseph C. Sullivan
Mayor

Meeting Minutes

April 22, 2014

IN ATTENDANCE: Stephen Karll, Chairman
Michael Ford, Member
Richard McDonough, Member
Michael Calder, member

ALSO PRESENT: Michael McGourty, Local Building Inspector
Peter Morin, Town Solicitor

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

OLD BUSINESS:

- 1) **Petition Number: 13-54**
Petitioner: Gary Gabriel representing Life Resources, Inc.
RE: 100 River Street

Mr. Karll advised the Board that the petitioner has requested a 30 day extension of the petition.

On a motion made by Mr. Calder and seconded by Mr. Ford, the Board unanimously voted 4-0 to grant a 30 day extension to be heard at the May 27, 2014 Zoning Board of Appeals meeting.

NEW BUSINESS:

- 2) **Petition Number: 14-9**
Petitioner: Dennis Prifti, Sign Design
RE: 30 Rockdale Street

Present: Frank Marinelli, Attorney representing petitioner

This is a petition filed by Dennis Prifti of Sign Design, 170 Liberty Street, Brockton, MA, representing owner Braintree Hill Office Park LLC c/o The Flatley Company of 35 Braintree Hill Office Park, Braintree, MA 02184 in which the applicant is seeking relief from By-laws under Chapter 135, Sections 135-403, 407, 904.2A(5)(b)(c)(f) to install a wall sign for a business occupying other than the first floor greater in height, as allowed in Section 5(B). The applicant seeks a permit, variance and/or finding that the proposed alteration will not be detrimental to the neighborhood. The property is located at 30 Rockdale Street, Braintree, MA 02184

and is within the Highway Business District Zone, as shown on Assessors Map 2057, Plot 64, and contains a land area of +/- 305,660.52 square feet.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was held on April 22, 2014 before the Zoning Board of Appeals at 7:00 pm at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Steve Karll, and members Michael Calder and Michael Ford, with alternate Richard McDonough.

Evidence

The Petitioner is seeking permission to install a wall sign on the office building's southwest façade. The petitioner presented an architectural plan/elevation at the meeting for the Zoning Board to review and determine the visual impact on the neighborhood and to understand the size and placement of the sign in relation to the building. The proposed wall sign will be 4 feet 10.82 inches at the maximum height and have a total square footage of 72.4 square feet and will be placed above the building's first floor. The Applicant seeks relief from 135-904.2 (A)(5)(b) of the Braintree Zoning Bylaws, which states "No wall sign shall exceed four feet in overall height." The proposed wall sign is 4 feet and 10.82 Inches in overall height. The Applicant seeks relief from 135-904.2 (A)(5)(e) of the Braintree Zoning By-laws, which states "Sign area is further limited to one square foot of signage per linear foot of frontage. Said frontage shall be the linear feet of the building which faces the access roadway." The building is accessed from Rockdale Street, however the building wall in which the sign will be located does not face Rockdale Street. No information has been provided in the application related to the building's linear feet of frontage. The Applicant shall provide the linear measurements of all walls, as the wall sign proposed technically faces Granite Street. The Applicant seeks relief from 135-904.2 (A)(5)(f) of the Braintree Zoning By-laws, which states "Wall signs for businesses occupying other than the first floor may be permitted by the Zoning Board of Appeals. Said permit shall require the written permission of the owner of the property. Secondly, wall signs shall not exceed 48 square feet in area. No more than two such secondary signs shall be allowed for any building." The Applicant occupies most of the building and is proposing signage above the first level of the building. The Applicant is proposing one wall sign that will be 72.4 Square Feet. No secondary sign is proposed.

By a vote of 4-0-0, the Planning Board voted to recommend favorable action on the requested relief.

Findings

The Board found that the proposed sign is modest in size and in an appropriate location. Due to the location of the highway configuration, as well as the building orientation, given the topography of the site, there will be limited views of the sign from on the site and from Rockdale Street. The Planning Board is of the opinion that if the relief is granted, it will not cause harm to the public welfare or derogate from the intent and purpose of the Zoning By-law.

Decision

On a motion made by Mr. Calder and seconded by Mr. Ford, it was unanimously voted to provide the requested relief.

3) Petition Number: 14-10
Petitioner: Edward Healy
RE: 23 Bower Road

Present: Edward Healy, petitioner

This is a petition filed by Edward Healy of 23 Bower Road, Braintree, MA 02184 regarding the property he owns at 23 Bower Road, Braintree, MA 02184, in which the applicant is seeking relief from the Town of Braintree By-laws under Chapter 135, Sections 402 and 403 to construct a deck to the rear of the non-conforming dwelling located on a non-conforming lot. The applicant seeks a permit, variance and/or finding that the proposed alteration will not be detrimental to the neighborhood, will be flush with the existing non-conforming dwelling, and will not create any new violations. The property is located within a Residential B District Zone as shown on the Assessors Map 2075, Plot 90 and contains a land area of +/- 10,430 square feet.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was held on April 22, 2014 before the Zoning Board of Appeals at 7:00 pm at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Steve Karll, and members Michael Calder and Michael Ford, with alternate Richard McDonough.

Evidence

The property owner presented an architectural plan/elevation at the meeting for the Zoning Board to review in order to understand the proposed deck in relation to the lot and dwelling. The petitioner is seeking to build a 12 ft. by 18 ft. deck that is flush with the left side of the rear of the existing dwelling. The left side of the house is 9 feet from the property line. The setback requirement is 10 feet. The lot and structure do not meet dimensional and density standards under Section 135-701. Currently, at the closest point the side yard setback is 9 feet from the side lot line. Due to the configuration of the lot width as you move to the rear of the lot the deck setback will be slightly further away from the lot line at 9.2 feet. The proposed deck will not be located closer to the side lot line than the existing dwelling.

By a vote of 4-0-0, the Planning Board voted to recommend favorable action on the requested relief.

Findings

The Board found that the non-conforming side yard setback will not be negatively intensified by the construction of an open deck. The Planning Board is of the opinion that if the deck is constructed it will not result in a non-conforming structure that is substantially more detrimental to the neighborhood than the existing non-conforming dwelling. The Planning Board found the Applicant's proposal to be straightforward. A Section 6 finding will be required to locate the deck within the non-conforming side yard. The Planning Staff suggests a condition be added to the finding that requires the deck to remain as an open structure.

Decision

On a motion made by Mr. Ford and seconded by Mr. Calder, it was unanimously voted to provide the requested relief.

4) Petition Number: 14-11

Petitioner: Attorney Douglas A. Troyer representing 2001 Washington Street, LLC

RE: 2001 Washington Street

Present: Gene Sullivan,

This is a petition filed by Douglas Troyer Esquire on behalf of 2001 Washington Street LLC, Demetrios Dasco Manager. The petitioner seeks relief from the Zoning By-law requirements under Chapter 135, Sections 403, 407 and 701. The applicant seeks a finding pursuant to Chapter 135 Section 403 that the proposed alteration to preexisting nonconforming open space and lot coverage in the Watershed Residence B District is not substantially more detrimental to the neighborhood than the existing nonconformities. Alternatively, the applicant seeks a variance pursuant to Chapter 135, Section 407 based on the topography of the lot and the shape of the lot and that the proposed alteration will not be more detrimental to the neighborhood. The property is located within a Residential B Watershed District, as shown on Assessor's Map 1058, Lot O1F and O1G and contains a land area of approximately 863,707 square feet.

Notice

Pursuant to notice duly published in a newspaper in general circulation in the Town, posted at Town Hall, and by written notice mailed to all parties of interest pursuant to G.L. Chapter 40A, a hearing was scheduled for April 22, 2014 before the Zoning Board of Appeals at 7 p.m. at Braintree Town Hall, One J.F.K. Memorial Drive, Braintree, MA. Sitting on this petition was Chairman, Steve Karll, and members Richard McDonough and Michael Ford, with alternate, Michael Calder.

Evidence

The petition was presented by the attorney for the property owner, Douglas A. Troyer. Eugene Sullivan, Engineer and Jim Tracy assisted with the presentation. He explained that the property, a former hospital had been purchased on November 19, 2013, and the intent of the owners is to convert the property into a residential college preparatory school. The property is presently nonconforming with Chapter 135-701, which provides that the maximum lot coverage would be twenty (20%) percent and eighty (80%) percent open space. The existing property is 22.4% covered and 77.8% open space. The proposed construction would yield 26.5% coverage and 67.6% open space. The owners would utilize the existing hospital structure and construct an addition to house a gymnasium; construct four new dormitories, a soccer field and tennis courts. Fire lanes will be required to ensure accessibility of public safety vehicles. The existing lots would be combined into one large lot. Drainage improvements would be made to compensate for any conditions that may be created by the additional lot coverage. The topography on the lot is very steep with a forty-five (45) foot elevation change on the lot and will require substantial grading. A grading permit will be required from the Planning Board. The applicant also noted the "hammerhead/pork chop" shape of the lot which was unique in the neighboring area. Christine Stickney, Director of Planning and Community Development, provided her analysis. She suggested that since 45,000 cubic yards of fill would be used on the lot, it would be appropriate for the Board to adopt conditions if a variance were to be granted.

Town Councilor Charles Ryan spoke in favor of the petition. No one spoke in opposition to the petition. By a vote of 3-0-0, the Planning Board recommended favorable action on the petition, finding the topography to constitute a hardship.

Findings

The Board found that the applicant's proposed use would not be more detrimental than the existing nonconformities. The Board further found that the hardship posed by the topography on the lot, the lot shape and the historic nature of the structure on the lot provided grounds for the granting of a variance.

The following conditions were placed on the granting of the variance:

1. The Applicant shall install and maintain landscaping in accordance with a plan that shall be submitted to and approved by the Director of Planning and Community Development. Every reasonable effort shall be made to save existing trees on the site by delineating a limit of work prior to land clearing.
2. Planting shall proceed as soon as possible. If there are delays due to weather conditions, the Applicant shall stabilize the islands and landscape beds with temporary covering to prevent erosion.
3. The Applicant shall annually replace during the spring any plantings that did not survive the winter. Reasonable efforts shall be made to maintain the landscaped areas free of debris and weeds during the year.
4. The applicant shall be responsible for maintaining the curbing throughout the site. All curbing shall be inspected annually and if damaged repaired immediately.
5. Delivery vehicles shall utilize the Washington Street driveway access.
6. The Applicant shall design walkways within the applicable universally accepted and approved access within the site. Any sidewalk work along South Street shall also be designed with applicable ADA/universal access with review by the Engineering Division. The Engineering Division shall be given no less than 48 hours' notice prior to the start of work on South Street for inspection purposes.
7. Prior to the issuance of any Certificate of Occupancy, the applicant shall submit an employee parking plan designating parking spaces as such for approval from the Planning and Community Development Department (PCDD). Upon 100% Occupancy of the site and phases of development, a site-wide employee parking plan shall be submitted to the PCDD, shown on As- Built plans.
8. Prior to the start of any Authorized Activity, the Applicant shall furnish written proof from the Town of Braintree's ADA Coordinator or other appropriate professional that it has complied with all ADA standards with regard to access and parking.
9. The applicants submitted a traffic memo dated March 28, 2014 prepared by Ron Muller Associates relative to the daily operation of the Academy as a private school. However, occasionally educational facilities typically have special events (-i.e- graduations, athletic or academic events) that generate additional parking and traffic. Parking on South or Washington Street is prohibited at any time, special events will need to provide on-site parking and if deemed necessary by the Police Chief, a police detail for vehicles entering and exiting the site. This condition shall run with the title of the property.
10. Under the provision of Article XIV (Rules and Regulations for Traffic), the Board of Appeals finds the Traffic Impact and Access Study submitted by Ron Muller Associates (3/28/14) adequately addressed traffic generation of new vehicle trips during the AM, PM and Saturday peak hour of the development. Any significant change from the projected trip generation or any change in the use of the building as described in the traffic memo shall be subject to review by the Planning and Community Development pursuant to Article XIV. Based upon the findings, the Applicant shall be required to meet the provisions of Article XIV.

11. The Applicant shall undertake a traffic counting program twelve (12) months after a Final Certificate of Occupancy has been issued for the last proposed building within each phased development. The counting shall include the following intersections: South Street at Academy entrance; Washington Street at Academy delivery entrance; and the intersection of South and Washington Street.
12. Said monitoring shall consist of collecting the Turning Movement Counts (TMC) for the weekday AM, PM peak periods and Saturday & Sunday peak period. The monitoring shall also consist of a twenty-four hour automatic traffic (ATR) count over seven consecutive days on South Street. At the completion of the traffic monitoring the Applicant shall prepare a traffic memo that compares 2014 Existing, 2015 Build and an Actual (based on the monitoring counts) traffic volumes. If as a result of the traffic generated by this project, the projected AM, PM peak hour trips Saturday or Sunday peak hour trips or distribution patterns at any of the monitoring intersections specified in Condition 11 are significantly different from Muller Associates report of 3/28/14 in accordance with Article XIV of the Braintree Zoning Ordinance, the SPGA reserves the right to require level of service operations analyses for the subject intersections. Should the level of service analyses identify operational issues that can be directly linked to the proposed project, the SPGA may require additional analyses and/or traffic mitigation.

Decision

On motion made by Mr. Ford and seconded by Mr. McDonough, it was unanimously voted 4-0 to grant the requested relief, subject to the plans presented.

APPROVAL OF MINUTES:

On a motion made by Mr. Calder and seconded by Mr. Ford, the Board voted unanimously to accept the meeting minutes of March 25, 2014.

The Board adjourned the meeting at 8:18pm.