



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 Notes January 26, 2016

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

**ALSO PRESENT:** Meghan Bayer, Kopelman & Paige (representing Interim Town Solicitor)  
Jeremy Rosenberger, Zoning Administrator

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

#### **OLD BUSINESS:**

- 1) Petition Number: 14-33  
Petitioner: Bonnie Tan  
RE: 639 Washington Street**

Bonnie Tan has requested an extension of the petition, case number 14-33.

On a motion made and seconded, the Board unanimously voted to continue the petition at the February 23, 2016 Zoning Board of Appeal meeting.

- 2) Petition Number: 15-10  
Petitioner: Thayer Academy & Jay Hanflig  
RE: 60-80 Campanelli Drive**

Thayer Academy has requested an extension of the petition, case number 15-10.

On a motion made and seconded, the Board unanimously voted to continue the petition at a Special Zoning Board of Appeal meeting on February 10, 2016.

**3) Petition No. 15-52**  
**Petitioner: Braintree Electric Lighting Department (BELD)**  
**RE: 120 Plain Street, Braintree, MA**

Present: Sean Murphy, Petitioner's representative

This is a petition filed by Braintree Electric Light Department, 150 Potter Road, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct a 60 ft. x 6 ft. side addition to existing electrical equipment/control building. The applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located at 120 Plain Street, Braintree, MA 02184, and is within a Residential B District Zone and General Business District Zone, as shown on Assessors Map 1031, Plot 5B, and contains a land area of +/- 32,432 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, mailed to all parties in interest, a hearing by the Zoning Board of Appeals was scheduled for December 22, 2015, and continued by mutual agreement to January 26, 2016 at Town Hall, One JFK Memorial Drive, Braintree, MA. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Richard McDonough, Members.

### **Evidence**

Sean Murphy, representing the petitioner, explained Braintree Electric Light Department (BELD) is seeking to replace the existing switchgear and associated equipment and cabling at the property. The equipment is responsible for the distribution of power covering almost half of Braintree. The switchgear to be replaced, was installed in 1968, and is at the end of its useful life. As a result, the current equipment building needs to expand 6' out and 60' along the right side of the existing structure to meet the necessary safety clearances to protect employees and provide an adequate footprint for the new equipment to operate properly. The subject property resides within two zoning districts: General Business and Residence B. Pursuant to Section 135-306, which governs lots in more than one district, zoning requirements applying to the least restricted portion of the lot shall apply to the entire lot if the more restrictive portion is entirely within 150 feet of the district dividing boundary line. As such, this property assumes the least restrictive regulations of the General Business Zoning District, as the portion within Residence B (portion fronting Plain Street) is entirely within 150 feet. As a result, the petitioner's existing use is nonconforming, as the existing structure is a legal non-conforming public utility use. The use is not allowed in either a General Business or Residence B Zoning District. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted without replacement, the current equipment would result in unreliable power delivery to customers and present serious safety challenges to employees. Furthermore, the petitioner noted the proposal will not create any zoning deficiencies.

The applicant presented the plan titled "Station 4 Substation", dated June 19, 2015, prepared by the Braintree Electric Light Department. The applicant also presented the plans prepared by R.W. Beck and Associates of Denver, CO, entitled "Plain Street Substation Switchgear and Control Building, Elevations", dated June 1, 1967, "Plain Street Substation Switchgear and

Control Building, Foundation and Basement Floor Plans and Details”, dated August 21, 1967, and “Plain Street Substation Switchgear and Control Building, Equipment Floor Plan, Sections and Details”, dated August 21, 1967. The applicant also presented the plan titled “2015 CNT. HS. EXP Foundation Details”, dated June 15, 2015, prepared by Braintree Electric Light Department.

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 proposed addition will not create any new zoning non-conformity. In addition, the Board found the proposed alteration will provide important safety measures for employees and ensure reliable power delivery to the Town of Braintree. The Board further found that the proposed alteration and continuance of the pre-existing nonconforming use would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

### **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, in accordance with the plans submitted.

### **NEW BUSINESS:**

- 1) **Petition No. 15-53**  
**Petitioner: Robert Gabriel**  
**RE: 33 Wildwood Avenue, Braintree, MA**

Present: Robert and Sean Gabriel, Petitioners

This is a petition filed by Robert Gabriel, 20 Christina Drive, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403, 407, 609, 701 to extend foundation six inches into side yard setback. The applicant seeks a permit, variance and/or finding that proposed alteration is not more detrimental to the neighborhood. The property is located at 33 Wildwood Avenue, Braintree, MA 02184 and is within a Residential B Watershed District Zone, as shown on Assessors Map 1079, Plot 14, and contains a land area of +/- 17,000 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, 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 January 26, 2016 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Richard McDonough, Members; Michael Ford, Alternate.

### **Evidence**

Robert Gabriel, the property owner, and his son Sean Gabriel, presented the petition. Mr. Gabriel explained that he had previously sought and obtained a finding from the Board on September 28, 2015 to demolish an existing single family dwelling and construct a new single family dwelling. In the process of pouring the foundation, an error was made as to the location of the concrete foundation under the planned garage, and therefore encroaches into the side yard setback area. Decision No. 15-26 permitted a side yard setback of 10 feet. However, the as-built location of the garage foundation is 9.6 ft. from the side yard. The petitioner's lot is nonconforming, as it contains only 17,000 sq. ft., where 43,560 sq. ft. is required, and offers only 85 feet of lot width, where 100 feet is required. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the property is similar in size to existing properties in the neighborhood.

As grounds for the variance, the petitioner noted the side yard encroachment is only .4 feet into the side yard. The petitioner also reiterated the financial hardship with regard to removing the encroaching foundation and the irregular, sloping topography of the property.

The applicant presented the plan entitled "Certified Plot Plan, #33 Wildwood Avenue, Braintree, Massachusetts," dated December 12, 2015 and prepared by Liberty Builders & Developers of Braintree, 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 and lot width, as noted above. The Board further found that the proposed alteration would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure. The Board found removing or altering the encroachment of the foundation would constitute a financial hardship. In addition, the Board found that the foundation, in its larger size, does not impact the abutters, as the encroachment will not be built upon. Furthermore, the Board found the property to be of an irregular rhomboidal shape, with a sloping topography. Lastly, the Board found that the relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw.

### **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 a variance from the minimum side yard setback, pursuant to Bylaw Section 135-407, in accordance with the plans submitted.

- 2) Petition No. 15-54**  
**Petitioner: Derric Small**  
**RE: 340 Wood Road, Braintree, MA**

Mr. Karl advised the Board that the petitioner has submitted a written request to withdraw the petition without prejudice.

On a motion made and seconded, the Board voted 3-0 to grant the petitioners request to withdraw the petition without prejudice.

- 3) Petition No. 15-55**  
**Petitioner: Todd and Mary Ann Jackle**  
**RE: 27 Woodedge Lane, Braintree, MA**

Present: Todd and Mary Ann Jackle, Petitioners

Todd and Mary Ann Jackle requested an extension of the petition, case number 15-55.

On a motion made and seconded, the Board unanimously voted to continue the petition at the February 23, 2016 Zoning Board of Appeal meeting.

- 4) Petition No. 15-56**  
**Petitioner: Cuc T. Tran**  
**RE: 533 Commercial Street, Braintree, MA**

Present: Trish Nguyen, Petitioner's representative

This is a petition filed by Cuc T. Tran, 533 Commercial Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct a 336 sq. ft., 1 story addition, within the existing building footprint. 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 533 Commercial Street, Braintree, MA 02184 and is within a Residential B District Zone, as shown on Assessors Map 3057, Plot 7 and contains a land area of +/- 7,971.48 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, mailed to all parties in interest, a hearing by the Zoning Board of Appeals was scheduled for January 26, 2016 at Town Hall, One JFK Memorial Drive, Braintree, MA. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford, Members; and Richard McDonough, Alternate

### **Evidence**

Trish Nguyen, daughter of the petitioner, was present representing the petitioner/owner. Ms. Nguyen explained the petitioner is seeking to construct a 336 sq. ft., one story addition to an existing two-family dwelling. The addition would be within the existing footprint on the second story. The addition would consist of a new bedroom and relocated bathroom. The petitioner's lot is nonconforming, as it contains only 7,971.48 sq. ft., where 15,000 sq. ft. is required and provides only 79.94 feet of lot width, where 100 feet is required. The petitioner's existing house is nonconforming as to the rear yard setback; the attached exterior deck is 28.5 feet from the rear yard lot, while the Zoning Bylaw requires a rear yard setback of 30 feet. Furthermore, the existing detached garage is nonconforming as to the side and rear yard setbacks; the garage is located approximately 2 feet from the side yard lot line and one foot from the rear yard lot line, while the Zoning Bylaw requires a detached garage to be 5 feet from any lot line. Lastly, the

existing house is also nonconforming, as the existing dwelling is a pre-existing non-conforming, two family dwelling. Accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the second floor addition would be within the existing footprint and not create any new zoning nonconformity.

The Chairman and Mr. Ford agreed with the staff recommendation to remove the existing paved parking area in the front yard. Mr. Ford asked inquired as to why so much parking area was needed. Ms. Nguyen responded that due to the two-family use, the parking in the front yard was necessary. However, Chairman Karll and Mr. Ford felt allowing the paved parking in the front yard area would be detrimental to the neighborhood. Furthermore, they felt it was not a common use of the front yard area in residential areas. Chairman Karll asked Ms. Nguyen if they would agree to the condition of removing the paved parking area in the front yard. Ms. Nguyen responded the petitioner would agree to the condition.

The applicant presented the plans titled "Plot Plan, 533 Commercial Street, Braintree, Massachusetts, dated September 1, 2015 and prepared by Don Rosa, PLS., of Randolph, MA. The applicant also presented undated plans and architectural renderings entitled "Proposed Second Floor Renovation and Addition at 533 Commercial Street, Braintree, Massachusetts", entitled "A-1 thru A-4" and "S-1 thru S-2", prepared by T. Design of Randolph, MA.

The Planning Board submitted no recommendation based on plans be changed to depict removal of parking in the front yard area.

No one else spoke in favor of or opposition to the petition.

### **Findings**

The Board found that the existing two-family use is non-conforming. Secondly, the Board found that the existing lot is pre-existing nonconforming in terms of lot size and lot width, as noted above. In addition, the Board found that the existing structure is pre-existing nonconforming in terms of the rear yard setback. The Board also found that the existing detached garage is pre-existing nonconforming in terms of the setback from the rear yard lot line. Also, the Board found that the proposed addition will be within the existing foot print and not create any new zoning non-conformity. The Board further found that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

### **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, in accordance with the plans submitted and the condition the petitioner remove the existing paved parking area in the front yard area and replace with a grass surface.

- 5) Petition No. 15-57**  
**Petitioner: Jeffrey Keyes Carpenters**  
**RE: 84 Inglewood Street, Braintree, MA**

Present: Jeffrey Keyes, Petitioner

This is a petition filed by Jeffrey Keyes Carpenters, 25 Raleigh Road, Weymouth, MA 02189 (owner of property, JT's Redo, LLC) for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to demolish an existing 816 sq. ft. single family dwelling and construct a two-story, approximately 36 ft. x 24 ft., +/- 1,536 sq. ft. single family dwelling. The applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located at 84 Inglewood Street, Braintree, MA 02184, and is within a Residential B District Zone, as shown on Assessors Map 3039, Plot 74, and contains a land area of +/- 3,600 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, 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 January 26, 2016 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 Michael Calder, Alternate

### **Evidence**

Jeffrey Keyes, the petitioner, explained he seeks to demolish an existing 816 sq. ft. single family dwelling and construct a two-story, approximately 36 ft. x 24 ft., +/- 1,536 sq. ft. single family dwelling. Mr. Keyes explained the proposed new dwelling would be similar to the existing dwelling's footprint. In addition, the new dwelling would be setback 15 feet further from the front yard lot line than existing dwelling. The petitioner's lot is nonconforming, as it contains only 3,600sq. ft., where 15,000 sq. ft. is required, provides only 40 feet of lot width, where 100 feet is required, provides only 40 feet of lot frontage, where 50 feet is required, and provides only 90 feet of lot depth, where 100 feet is required. The petitioner's existing house is nonconforming as to the front yard setback; the house is located approximately 4.5 feet from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 feet. In addition, the petitioner's existing house is nonconforming as to the side yard setback; the house is located approximately 5.2 feet from the side yard lot line, while the Zoning Bylaw requires a side yard setback of 10 feet. Lastly, petitioner's existing rear detached screen porch is nonconforming as to the accessory structures as to the rear yard setback; the detached screen porch is located approximately 3.5 feet from the rear yard lot line, while the Zoning Bylaw requires a setback of 5 feet from a rear yard lot line. The proposed alteration will not create any new nonconformity; accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the proposed new single family dwelling will reduce the front yard setback deficiency and slightly reduce the side yard setback deficiency. Furthermore, the petitioner noted the new dwelling will be similar to the existing neighborhood characteristics and be an improvement to the neighborhood.

The applicant presented the plan entitled "Plan of Land, 84 Inglewood Street, Braintree, Massachusetts", dated December 8, 2015 and prepared by Hoyt Land Surveying of Weymouth, MA. The applicant also presented plans and architectural renderings entitled "Floorplan, Foundation Plan, Notes", Sheet A1.1, "Elevations, Details & Notes", Sheet A2.1, dated November 9, 2015 and prepared by TightLines Design of Raleigh, NC.

The Planning Board submitted a favorable recommendation. Ted and Michelle Koraine, abutters at 98 Inglewood Street, stated their initial opposition to proposed petition. Mr. Koraine opposed the

petition due to the potential detriment to their property of constructing the new single family dwelling further back on the petitioner's property. Mr. Koraine noted their existing dwelling at 98 Inglewood Street is very close to the lot line shared by both properties. He stated, placing the structure further from the front yard lot line would negatively affect their rear deck/porch and reduce the views that are currently enjoyed. After a short recess for the abutters and the petitioner to discuss the matter, as requested by Chairman Karll, the petitioner agreed to reduce the proposed new dwelling's setback from the front yard lot line by 10 feet per the submitted plans. 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, width, frontage and depth, as noted above. In addition, The Board found that the existing structure is pre-existing nonconforming in terms of the front and side yard setbacks. The Board also found that the existing rear detached screen room is pre-existing nonconforming in terms of the setback from the rear yard lot line. The Board also found that the proposed demolition of the existing structure and construction of the new single family dwelling will significantly improve the neighborhood. The Board further found that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

### **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, in accordance with the plans submitted and the condition the petitioner construct the new single family dwelling at a distance of 12.8 ft. (from 22.8 ft. per the submitted plans) to the closet point of the front of the proposed dwelling and 10.3 ft. (from 20.3 ft. per the submitted plans) to the proposed front porch, measured from the front yard lot line.

- 6) Petition No. 15-58**  
**Petitioner: Joseph DeGraan**  
**RE: 7 Patano Street, Braintree, MA**

Present: Joseph DeGraan and Kelly McCloud, Petitioners

This is a petition filed by Joseph DeGraan, 7 Pantano Street, Braintree, MA 02184 for relief from Bylaw requirements under Chapter 135, Sections 135-403 and 701 to construct within the existing footprint, a 1.5 story addition (+/- 890 GSF). The applicant seeks a permit, variance and/or finding that the proposed alteration will not be more detrimental to the neighborhood. The property is located at 7 Pantano Street, Braintree, MA 02184, and is within a Residential B District Zone, as shown on Assessors Map 3064, Plot 31, and contains a land area of +/- 7,710.12 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, 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 January 26, 2016 at 7 p.m. Sitting on this case for the Zoning Board of Appeals were: Stephen Karll, Chairman; Michael Calder and Michael Ford, Members; and Richard McDonough, Alternate

## Evidence

Joseph DeGraan, the petitioner, joined by Kelly McCloud, explained he seeks to construct within the existing footprint, a 1.5 story addition (+/- 890 GSF). The petitioner's lot is nonconforming, as it contains only 7,690.9 sq. ft., where 15,000 sq. ft. is required, and provides only 70 feet of lot width, where 100 feet is required. The petitioner's existing house is nonconforming as to the front yard setback; the house is located 19.7 feet from the front yard lot line, while the Zoning Bylaw requires a front yard setback of 20 feet. The proposed alteration will not create any new nonconformity; accordingly, a finding is required pursuant to G.L. Chapter 40A, Section 6.

As grounds for the finding, the petitioner noted the second floor addition to the single family dwelling will be constructed similar to existing neighborhood characteristics. The petitioner also noted the addition would be within the existing footprint.

The applicant presented the plan entitled "Certified Plot Plan, 7 Pantano Street, Braintree, Massachusetts", dated October 28, 2015 and prepared by D. O'Brien Land Surveying of Franklin, MA. The applicant also presented plans and architectural renderings entitled "Proposed Interior Remodel/Additions", Sheets A1 thru A3, dated December 9, 2015 and prepared by Konosky Associates, Inc. of Franklin, 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, lot width and lot depth, as noted above. In addition, the Board found that the existing structure is pre-existing nonconforming in terms of the front and rear yard setbacks. The Board also found that the proposed addition will be within the existing foot print and not create any new zoning nonconformity. The Board further found that the proposed alterations would not be substantially more detrimental to the neighborhood than the existing nonconforming lot and structure.

## 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, in accordance with the plans submitted.

- 7) Petition No. 15-59**  
**Petitioner: Haemonetics, Inc.**  
**RE: 360 Wood Road, Braintree, MA**

Present: Frank Marinelli, Petitioner's Attorney

Mr. Karll advised the Board that the petitioner has submitted a written request to withdraw the petition without prejudice.

On a motion made and seconded, the Board voted 3-0 to grant the petitioners request to withdraw the petition without prejudice.

- 8) Petition No. 15-60**  
**Petitioner: Dung Nguyen**  
**RE: 64 Davis Road, Braintree, MA**

Dung Nguyen requested an extension of the petition, case number 15-60.

On a motion made and seconded, the Board unanimously voted to continue the petition at the February 23, 2016 Zoning Board of Appeal meeting.

**APPROVAL OF MINUTES:**

On a motion made and seconded, the Board voted 3-0 to accept the meeting minutes of December 22, 2015.

The Board adjourned the meeting at 10:00 pm.