



**Mayor
Charles C. Kokoros**

Department of Planning and Community Development

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ZONING BOARD of APPEALS

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

February 27, 2023
Zoning Board of Appeals Minutes
Johnson Chambers – Town Hall
1 JFK Memorial Drive

Approved: March 27th, 2023

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

Meeting Commenced at 7:00 P.M.

Chairman Karll called the meeting to order. Chairman Karll stated to the public in attendance that items would be brought up in the order they appear on the agenda unless there was a conflict. Chairman Karll introduced Zoning Planner Giordano to the members of the Zoning Board of Appeals and the public. Chairman Karll introduced all members of the Zoning Board of Appeals and the Assistant Director. Chairman Karll called on the Applicant for Petition #23-04, 9 Tompson Road.

NEW BUSINESS

**Petition #23-04
9 Tompson Road**

Chairman Karll read the Legal Notice into Record:

“Matt McCarthy, Applicant, for relief from Bylaw Requirements under Chapters 135-403 and 135-701 to construct a front porch and a second story addition to the Non-Conforming Single Family Dwelling. The Applicant seeks Findings to construct the second story addition within the Non-Conforming Front Yard Setback of 19 Feet and to alter the Non-Conforming Front Yard Setback from 19 Feet to 12 Feet to construct a front porch (20 Feet is required). The property is located at 9

Tompson Road, Braintree, is zoned Residence B as shown on Assessors Map 3007 Plot 10 with a Land Area of 7,251 Square Feet.”

Chairman Karll stated that Chairman Karll, Member Ford, and Member McDonough would be voting, with Member Walker as the Alternate. Chairman Karll stated he was satisfied abutters and the abutters to the abutters within 300 feet had been duly notified. Chairman Karll stated the Staff Recommendation for the Record was Approval with the five (5) conditions.

Matt McCarthy, Applicant, was present before the Zoning Board of Appeals. Chairman Karll asked the Applicant if he had looked at the conditions in the Staff Report, and to state any concerns. The Applicant stated he had no concerns. Chairman Karll stated the Board would hear from the Applicant and/or his representative.

The Applicant stated he is requesting relief of one (1) foot, and that the setback is twenty (20) feet to construct the second story addition. The Applicant states for the farmers porch the construction would be eight (8) feet within the front yard setback. The Applicant highlights that Tompson Road is predominantly a straight dead-end street, with no cul-de-sac, despite the Town showing a cul-de-sac on plot plans.

Chairman Karll stated the plans he was viewing showed the porch at eighteen (18) feet from the street line, and 12.2 feet from the porch corner to the corner of the lot. Chairman Karll inquired the dimensions for the second story addition and the front porch. The Applicant reiterated, for the Chairman and the Record, the dimensions and that his property currently lies in the setback. The Chairman inquired to the Applicant the number of bedrooms and bathrooms in the second story addition. The Applicant addressed Chairman Karll's question stating he had proposed 3 bedrooms, a master bathroom, and a full bathroom. The first floor would become open with a living space, kitchen, office space, full bathroom, and dining room. Chairman Karll inquired to the Applicant if 9 Tompson Road was his home, to which the Applicant confirmed. Chairman Karll asked the Applicant for any further comment or questions, to which the Applicant declined.

Chairman Karll asks for anyone in attendance seeking to record themselves in favor. He stated he saw none. Chairman Karll asks for anyone in attendance seeking to record themselves opposed. He stated he saw none.

Chairman Karll closed the Public Comment portion of the Hearing. Chairman Karll opened the Public Hearing for Board Comment. Member Ford stated that a second story addition of this design typically wouldn't encroach the setback much. Chairman Karll asks for any further comment.

Chairman Karll stated they shall close the Public Hearing, with a Motion made by Member Ford and Seconded by Member McDonough. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

Chairman Karll stated they shall entertain a motion on this Application. Member Ford Motioned to Approve the requested Findings pursuant to Applicant testimony, based on conditions as proposed by staff and subject to the plans presented. Motion Seconded by Member McDonough. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

Chairman Karll called on the Applicant for Petition #23-05, 15 Bayberry Lane.

**Petition #23-05
15 Bayberry Lane**

Chairman Karll read the Legal Notice into Record:

“Paul and Beth Brennan, Applicant, for relief from Bylaw Requirements under Chapters 135-407, 135-609 and 135-701 to construct a two story addition to the Single Family Dwelling. The Applicant seeks a variance as the proposed Side Yard Setback is 6.6 Feet where 10 Feet is required and 10.5 Feet is existing. The property is located at 15 Bayberry Lane, Braintree, and is zoned Residence B and within the Watershed Protection Overlay District as shown on Assessors Map 1056 Plot 63B with a Land Area of 19,502 Square Feet.”

Chairman Karll stated that Chairman Karll, Member Ford, and Member Walker would be voting, with Member Burke as the Alternate. Chairman Karll stated he was satisfied abutters and the abutters to the abutters within 300 feet had been duly notified. Chairman Karll stated the Staff Recommendation for the Record was Approval with the six (6) conditions.

John Navarro, Architect, was present before the Zoning Board of Appeals. Chairman Karll asked the Architect if he had looked at the conditions in the Staff Report, and to state any concerns. The Architect stated the Applicant had no concerns. Chairman Karll stated the Board would hear from the Applicant and/or his representative.

The Architect stated he is requesting relief on the side setback, due to the fact the lot is trapezoidal, and the existing house is close to the setback, as it stands. The tenants are looking to expand the family size and add a bedroom on the second floor, with more family room space on the first floor. This changes the shape of the house, encroaching on the property line.

Chairman Karll asked a clarifying question about the 6.6 foot dimension on the plot plan. The Architect responded to highlight the trapezoidal shape and the need for relief. Chairman Karll asked the Architect if he would like to add anything further. The Architect declined. Chairman Karll asked the Applicants if they would like to add anything further. The Applicants declined.

Chairman Karll asked if there are any questions. Member Ford inquired in the denoted ‘Room #8’ has a closet, despite being marked an ‘Office’, if that should be denoted as a ‘Bedroom.’ Assistant Director Murphy states the designation of a ‘Bedroom’ would be at the discretion of the Building Inspector. Member Ford asked if the property taxes will be affected by this. Assistant Director Murphy further stated when the Applicants file with the Department of Public Works, they will have to state an Addition of Bedroom and Bathroom and pay the

tipping fee into the sewer. Member Ford concurs with Assistant Director Murphy that the formula for property taxes will be affected, and that this should be noted to the Building Inspector. Chairman Karll asked the Architect is the closet in the office is needed. The Architect responded that the Applicants preferred it for storage space.

Chairman Karll asked if there were any other questions. Chairman Karll asks for anyone in attendance seeking to record themselves in favor. He stated he saw none. Chairman Karll asks for anyone in attendance seeking to record themselves opposed. He stated he saw none.

Chairman Karll stated they shall close the Public Hearing, with a Motion made by Member Michael Ford and Seconded by Member Walker. All in Favor: S. Karll – Aye, M. Ford – Aye, G. Walker – Aye.

Chairman Karll stated they shall entertain a motion on this Application. Member Ford Motioned to Approve the requested variance pursuant to Architect testimony, based on conditions as proposed by staff and irregularity of the lot subject to the plans presented. Motion Seconded by Member Walker. All in Favor: S. Karll – Aye, M. Ford – Aye, G. Walker – Aye.

Chairman Karll called on the Applicant for Petition #23-06, 865 Washington Street.

**Petition #23-06
865 Washington Street**

Chairman Karll inquired if Petition #23-06 was withdrawn. The Applicant stated they are seeking to withdraw the Petition without Prejudice. Assistant Director Murphy stated due to the request for withdrawal being submitted after the Petition was advertised, the Board would need to read the legal notice into Record and then enter into a Motion to allow the Applicant to Withdraw the Petition without Prejudice.

Chairman Karll read the Legal Notice into Record:

“Petition #23-06. 865 Washington Street. Heather Hopkins Dudko, Philadelphia Sign Co., Applicant, for Relief from Bylaw Requirements under Chapters 135-407, 135-904.1, 135-904.6 and 135-905 to construct a 19 Square Foot wall sign. The Applicant seeks a Variance as no more than one wall sign is allowed in a General Business District. The property is located at 865 Washington Street, Braintree and is zoned General Business and within the Village Zoning Overlay District as shown on Assessors Map 1011 Plots 28, 29, 30, 30A and 31 with a Land Area of 51,126 Square Feet.”

Chairman Karll stated he had a letter asking the matter to be withdrawn.

Member Ford Motioned to allow the Applicant to Withdraw the Petition without Prejudice. Motion Seconded by Member McDonough. Chairman Karll stated the necessary unanimous consent of the whole Board. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye, G. Walker – Aye, T. Burke – Aye.

Chairman Karll stated the Motion has allowed the Applicant to Withdraw without Prejudice. Chairman Karll called on the Applicant for Petition #23-07, 20-60 Forbes Road. Heather Hopkins Dudko remained at the podium, as the Applicant for both Petition #23-06 and Petition #23-07.

Petition #23-07
20-60 Forbes Road

Chairman Karll read the Legal Notice into Record:

“Heather Hopkins Dudko, National Sign Corp., Applicant, for relief from Bylaw Requirements under Chapters 135-407, 135-904.2 and 135-905 to construct a 19 Square Foot wall sign. The Applicant seeks a Variance as the proposed sign exceeds the requirements for wall signage on site within a Highway Business Zone. The property is located at 20-60 Forbes Road, Braintree, and is zoned Highway Business Zone as shown on Assessors Map 2043 Plot 1 & 1A with a land area of 10.1 Acres.”

Chairman Karll stated that Chairman Karll, Member Ford, and Member Burke would be voting, with Member McDonough as the Alternate. Chairman Karll stated he was satisfied abutters and the abutters to the abutters within 300 feet had been duly notified. Chairman Karll stated the Staff Recommendation for the Record was Approval with the three (3) conditions.

Heather Hopkins Dudko, the Applicant, was present before the Zoning Board of Appeals from National Signage. Chairman Karll asked the Applicant if she had looked at the conditions in the Staff Report, and to state any concerns. The Architect stated the Applicant had no concerns. Chairman Karll stated the Board would hear from the Applicant and/or his representative.

The Applicant stated the sign was for Banfield Pet Hospital, a new tenant in the plaza between Qdoba and the Vitamin Shoppe. The Applicant stated there was a previous decision for the entire plaza limiting the signage to one-per-tenant. After the property owner, Bierbrier Development, reconfigured the tenant space to make one tenant into two. The Applicant went on to say adding the 19 square foot wall sign for the new tenant would be a minimal sign that fits the tenant space quite nicely, and that it is in keeping with all the other signage onsite. The Applicant stated that the hardship would be operating within the space without proper signage.

Chairman Karll asked for clarification between Petco and Banfield Pet Hospital. Member Burke stated there is a Banfield in PetSmart. Member McDonough and Member Burke further discussed with Chairman Karll the specific use and location of Banfield Pet Hospitals. The Applicant clarified the distinction between Petco and Banfield Pet Hospital's relationship with PetSmart.

Chairman Karll asked if there were any other questions. Chairman Karll asks for anyone in attendance seeking to record themselves in favor. He stated he saw none. Chairman Karll asks for anyone in attendance seeking to record themselves opposed. He stated he saw none.

Chairman Karll closed the Public Comment portion of the Hearing, with a Motion made by Member Burke and Seconded by Member Ford. Chairman Karll opened the Public Hearing for Board Comment. All in Favor: S. Karll – Aye, M. Ford – Aye, T. Burke – Aye.

Member Burke addressed a question to the Applicant on the temporary banner. The Applicant stated that was permitted. Assistant Director Murphy stated that it is proposed with the Building Permit for the temporary banner, but typically 6 months. Moreso at the discretion of the Building Inspector. Member Burke asked if the banner would be placed where the sign would be located. The Applicant confirmed this, saying the banner would not be utilized if the process with the sign moved along quickly. Chairman Karll asked the Applicant if the sign was backlit, which the Applicant confirmed it would be. Chairman Karll asked if the lights would go out when the remainder of the tenant lights went out. The Applicant confirmed this and stated they had not moved in yet.

Chairman Karll stated they shall entertain a motion on this Application. Member Ford Motioned to Approve the requested variance pursuant to Applicant testimony, based on conditions as proposed by staff and subject to the plans presented. Motion Seconded by Member Burke. All in Favor: S. Karll – Aye, M. Ford – Aye, T. Burke – Aye.

Chairman Karll called on the Applicant for Petition #23-08, 45 Pleasant View Avenue.

Petition #23-08
45 Pleasant View Avenue

Chairman Karll read the Legal Notice into Record:

“Wei Hua Xiong, Applicant, for relief from Bylaw Requirements under Chapters 135-403 and 135-701 to construct a second story addition to the Non-Conforming Single Family Dwelling. The Applicant seeks a Finding as the proposed addition is within the Non-Conforming Side Yard Setback of 6.2 Feet where 10 Feet is required. The property is located at 45 Pleasant View Avenue, Braintree, and is zoned Residence B as shown on Assessors Map 3043 Plot 14 with a land area of 4,856 Square Feet.”

Chairman Karll stated he was satisfied abutters and the abutters to the abutters within 300 feet had been duly notified. Chairman Karll stated before he appointed Board Members to sit-in on the Hearing, Chairman Karll inquired if there was a Petition of 1993 Previous Owners. Zoning Planner Giordano confirmed there was.

Chairman Karll stated he had read the comments from the Planning Staff, and that there were necessary changes to the plot plan and architectural plan. Assistant Director Murphy allowed Zoning Planner Giordano to speak upon the staff report. Zoning Planner Giordano stated the Applicant had not confirmed on the application prior relief was granted, and that the architectural plan and plot plan required revisions to state dimensions, update the Zoning Table, and consistency between plans.

Chairman Karll stated he was hesitant to move forward with Approval without the necessary changes, as the plans are incomplete. Chairman Karll inquired if the Applicant understood. The Applicant was uncertain of the topic of discussion, but gathered the plans were incomplete. Chairman Karll stated the plans must have all the dimensions on them in order for the Board to move forward with Approval. Member Ford stated within the last few months on Cotton Avenue, where the Zoning Board of Appeals made an Applicant had return before the Zoning Board of Appeals and tear down a built garage. Member Ford stated the Prior Applicant's plans did not reflect the physical property and wanted consistency moving forward.

Chairman Karll inquired if the Applicant understood the discussion, to which the Applicant was hesitant to answer, saying he didn't understand much. Chairman Karll stated an interpreter was not present. Assistant Director Murphy stated he took the application in, and explained the process of hiring Zoning Planner Giordano, and that the changes on the plans are necessary, including where the shed dormers will be on the plan. Assistant Director Murphy stated the plans need to keep consistent with the Architect. Member Ford agreed, based on previous decisions, consistency was critical for the Board. Member Ford stated he preferred Continuance until the plans are corrected. Chairman Karll stated the inconsistency in the plot plan and the architectural plan required the Board to view both together. Assistant Director Murphy asked to describe the missing components. Chairman Karll agreed. Assistant Director Murphy went on to describe the location of the dormers on the plan and described the minor floor plan discrepancies. Zoning Planner Giordano described the conversation with Director SantucciRozzi for a kick-in.

Chairman Karll asked to see the dormer on the plot plan. Chairman Karll asked the Planning Staff to reach out to the Architect for changes on the plans. Chairman Karll again asked if the Applicant understand. The Applicant was uncertain of the topic of discussion, but gathered the Chairman spoke about the Architect needing changes, bringing the Architect to the March 2023 Zoning Board of Appeals Meeting, and to speak with the Planning Staff. Chairman Karll stated he was in favor of a Continuance. Zoning Planner Giordano asked the Chairman if he could inquire to the Applicant. Zoning Planner Giordano inquired if the Applicant had received the email, and offered the Planning Staff copy of the Staff Report. Chairman Karll, again, stated he wanted a Continuance. Assistant Director Murphy inquired to the Chairman if he could speak to the Applicant. The Chairman approved. Assistant Director Murphy stated he would be available on the following day for the Applicant and his Architect to speak with the Planning Staff, and to sign the Letter of Mutual Agreement.

Chairman Karll asked the Applicant for the Record if he agreed to Continue the hearing until March 27th, 2023. The Applicant agreed.

Chairman Karll stated they shall entertain a motion on this Application. Member Ford Motioned to Continue the Hearing until March 27th, 2023, with the Oral Agreement of the Applicant, based on conditions as proposed by staff and subject to the required changes on both plans presented. Motion Seconded by Member Burke. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye, G. Walker – Aye, R. McDonough – Aye.

ADMINISTRATIVE ITEMS

The Assistant Director stated there minutes from January 23, 2023, for Approval.

Chairman Karll stated they shall entertain a motion to Approve the January 2023 Meeting Minutes.

Assistant Director Murphy stated he would like to make an edit that the Meeting Minute should state January 23, 2023.

Member Michael Ford motioned to approve the meeting minutes of November 28, 2022, Seconded by Chairman Karll. All in Favor: S. Karll – Aye, M. Ford – Aye, R. McDonough – Aye.

The Assistant Director for the Department of Planning and Community Development provided updates for the Board regarding the Towns Master Plan. The Assistant Director stated the next meeting for the Master Plan Steering Committee is on March 13, 2023, in Cahill Auditorium, Braintree Town Hall at 7:00 PM. Assistant Director Murphy stated the Master Plan Technical Working Sessions were upcoming and meeting with the various Town of Braintree Boards. Assistant Director Murphy stated the Master Plan Steering Committee will likely make a presentation at the April 24, 2023, Zoning Board of Appeals Meeting. Assistant Director stated Phase IV of the Master Plan would begin in the Summer 2023.

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

Meeting Adjourned at 7:43 PM