



Board of Appeals
Jesse Geller, Chair

Town of Brookline

Massachusetts

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Board of Appeals Virtual Public Hearing Minutes

Thursday, June 17, 2021

7:00 p.m.

Via ZOOM

ZBA DECISIONS can be found at: <https://www.brooklinema.gov/Archive.aspx?AMID=76>

Board Members Present: Chair Jesse Geller, Johanna Schneider, and Randolph Meiklejohn

Staff Present: Karen Chavez (*Zoning Coordinator/Planner - Regulatory Planning*) and Paul R. Campbell (*Deputy Building Commissioner*)

Chair Jesse Geller opened the meeting.

2021-0022 101 Sumner Road – Demolish existing two-family home and construct two attached single-family dwellings

Attorney Scott C. Gladstone, on behalf of the applicant, waived the reading of the public hearing notice and provided an overview of the project. Also in attendance was the project architect, Henry Bobek, who provided an overview of the design.

Mr. Gladstone stated that the petitioner proposes to replace the current two-family home with two single-family attached homes on the existing foundation, and replace the existing garage with a larger garage. Mr. Gladstone explained that since the proposed new attached single family homes are being built on the same foundation as the existing structure, it will be violating the side, front and rear yard.

Mr. Gladstone opined that all relief being requested represents either a repetition of the existing non-conforming conditions or a slight increase of such condition, and such relief should be evaluated under G.L. c. 40A, Section 6. Mr. Gladstone added that any new non-conformities for setbacks are eligible for a special permit pursuant to Section 5.43 of the Zoning By-Law with counter-balancing amenities, which would consist of improved proposed landscaping and the creation of qualifying usable open space.

Mr. Gladstone stated that the proposal meets all of the requirements for a special permit under Section 9.05 of the Zoning By-Law.

Board Member Randolph Meiklejohn asked if there had been discussions with the MBTA about the interaction with the right of way shown on the surveyed plans.

Mr. Gladstone stated that there had not been.

Board Member Meiklejohn also noted that the landscape plan contained a note to remove invasive shrubs from the Town-owned land in front of the property, and Mr. Gladstone responded that the note would be removed and that no changes would be made to Town-owned property.

Member Johanna Schneider asked if the Petitioner had considered alternatives to replace the existing structures with structures that were more conforming to the Zoning By-Law.

Mr. Gladstone explained that the issue was discussed with the architect, but that the unusual shape of the lot and the need to provide four parking spaces made it impossible locate the structure anywhere other than where the original structure had been placed.

Chair Geller asked if there was an opportunity to rotate the garage entrance to face another portion of Sumner Road, but it was explained that the drastic change in elevation from the lot to the public right-of-way made it infeasible, and confirmed that vehicles would not encroach onto the public right-of-way.

Board Member Meiklejohn asked for clarification on the revised architectural plans, and inquired whether the garage would be widened.

Mr. Gladstone responded that the entrance to the attached single families had been redesigned to address the Planning Board's comments. Project architect, Henry Bobek, confirmed that the garage would be widened and explained that space was needed to fit full-sized vehicles, and to accommodate storage for bikes and the like.

Chair Geller called for public comments in support of and in opposition to the application. No comments were submitted.

Karen Chavez, Planner & Zoning Coordinator, provided the Planning Board Report. The Planning Board voted to recommend approval of this proposal, although members of the Board felt that some elements of the site design and building design should be improved.

Paul Campbell, Deputy Building Commissioner, stated that the Building Department had no objections to the proposal, and would work with the Petitioner to ensure compliance with the Board's decision and all state building codes.

Board Member Meiklejohn opined that opportunities were not taken to propose a new structure with reduced nonconformities, and in looking at the shape of the site including the ling curving public frontage and the grade, understood the approach to build on the existing footprint. Board Member Meiklejohn noted that the proposal was not substantially more detrimental and voted in favor of granting the relief.

Board Member Schneider expressed her shared view that when structures are demolished, new structures rebuilt in their place should be more compliant to the Zoning By-Law, and opined that the

proposal is not substantially more detrimental, that adequate counterbalancing amenities have been provided, and voted in favor of granting the relief.

Chair Geller agreed with Board Member Schneider and Board Member Meiklejohn, and the made the observation that placing a garage proximate to the front door makes for an incredibly challenged aesthetic and did not find it attractive. Chair Geller concluded that the requirements were met under the standards that the Board applies the grant of relief.

The Board unanimously granted the request for special permit.

2021-0015 45 Devon Road – Demolition of existing two-car garage; Proposed construction of two-car garage and two-story addition at the rear of the house, and renovation of an existing unfinished two-story carriage house

Attorney Robert L. Allen, on behalf of the applicant, waived the reading of the public hearing notice and provided an overview of the project. Also in attendance was the project architect, Tobin Shulman, who provided an overview of the design.

Mr. Allen stated that the Petitioners are seeking to construct a two-story addition on the rear of the main building, demolish and reconstruct the detached garage, cut back some vegetation to bring back an old parking space, and renovate the interior of the carriage house. Mr. Allen stated that the carriage house is largely in the original condition as when the home was purchased in the 1970s.

Mr. Allen explained that the Petitioners reached out to the neighbors, and noted that no opposition has been voiced during the hearing process. Mr. Allen stated that support was provided from abutters on both sides as well as the abutter directly to the rear, and three letters in support of the proposal have been submitted.

Mr. Allen stated that the proposal has been reviewed and approved by the Preservation Commission.

Board Member Randolph Meiklejohn noted that the existing garage blocked access to the carriage house, and inquired whether the garage was constructed at a later time.

Mr. Shulman confirmed it was constructed during the 1970's, and Mr. Allen noted that there was a curb cut that gave access along the right side of the house to the carriage house.

Mr. Allen noted that the Planning Board was unanimously supportive of the proposal.

Mr. Allen stated that the Board may grant relief pursuant to Section 5.22, 5.09.2.J, 5.43, 5.63, and 8.02 of the Zoning By-Law.

Mr. Allen stated the proposal would meet all of the requirements for a special permit under Section 9.05 of the Zoning By-Law.

Chair Geller called for public comments in support of and in opposition to the application. No comments were submitted.

Karen Chavez, Planner & Zoning Coordinator, provided the Planning Board Report. The Planning Board was supportive of the proposal.

Paul Campbell, Deputy Building Commissioner, stated that the Building Department had no objections to the proposal, and would work with the Petitioner to ensure compliance with the Board's decision and all state building codes.

Board Member Randolph Meiklejohn stated that the outcomes are satisfactory and compliant in terms of zoning, and voted in favor of the requested relief.

Board Member Schneider agreed with Board Member Meiklejohn, and voted in favor of granting the relief.

Chair Geller agreed with Board Member Schneider and Board Member Meiklejohn.

The Board unanimously granted the request for special permit.

2021-0024 1693 Beacon Street – Convert first floor unit from commercial to residential unit

Attorney Robert L. Allen, on behalf of the applicant, waived the reading of the public hearing notice and provided an overview of the project.

Mr. Allen stated that 1693 Beacon Street is a mixed-use building constructed in the early twentieth century, located in a G-1.75 (WS) zoning district, stated that it is currently a three-family dwelling with two existing commercial units, and noted that the structure is one of five attached row houses.

Mr. Allen stated that one commercial unit is 831 square feet, and the other commercial unit is 758 square feet which is currently vacant. Mr. Allen explained that the proposed scope of work is to convert the vacant commercial unit to a residential unit, with no exterior changes. Mr. Allen noted that this district consists mostly of commercial buildings with some residential buildings.

Mr. Allen stated that the Planning Board was unanimously supportive and was pleased that there were no exterior changes as Beacon Street is a historic and protected street.

Mr. Allen explained that the applicant is requesting a use variance, and further explained that due to the nature of the use variance, a special permit is required under Section 5.09 of the Zoning By-Law.

Mr. Allen described the uniqueness of the building and explained that if the forty percent (40%) provision required by the Zoning By-Law were enforced, it would cause disruption in the pattern of row house buildings, including relocating the door and stairs which would result in an eighteen-month stay and requiring design review by the Planning Board.

Mr. Allen noted that there would be significant costs associated with having to move the door, and added that a financial hardship would be imposed, and that the proposed project could be granted without substantial detriment to the public good.

Board Member Meiklejohn asked about how the forty percent was measured, and Mr. Allen demonstrated where the dimension was measured from.

Chair Geller called for public comments in support of and in opposition to the application. No comments were submitted.

Karen Chavez, Planner & Zoning Coordinator, provided the Planning Board Report. The Planning Board was supportive of the proposal.

Paul Campbell, Deputy Building Commissioner, stated that the Building Department had no objections to the proposal, and would work with the Petitioner to ensure compliance with the Board's decision and all state building codes.

Chair Geller asked if the applicant considered putting the residential unit on the right side of the building. Mr. Allen stated that the issue would remain the same, and also noted that there is an existing tenant in that unit.

Board Member Schneider was satisfied that the criteria for the grant of the variance relief had been met and stated that she supports both the variance and the special permit relief.

Board Member Meiklejohn agreed with Board Member Schneider and added that there is no benefit to the public, or anyone else, by enforcing the By-Law.

Chair Geller agreed with Board Members Schneider and Meiklejohn, and stated that the proposal meets the requirements for a special permit under Section 9.05 and for a use variance under Section 9.09 of the Zoning By-Law.

The Board unanimously granted the request for special permit.

2021-0023 39 Linden Place – Third floor rear addition to an existing two-story house, and interior renovation

Attorney Jacob Walters, on behalf of the applicant, waived the reading of the public hearing notice and provided an overview of the project.

Mr. Walters described the third floor addition as modest, as the applicants are seeking to add 218 square feet of living space to their single family residence. The petitioners are also proposing to convert the existing basement into living space which would add 1,006 square feet. Mr. Walters stated that the relief needed could be granted by three (3) Special Permits, one under Section 5.22, one under Section 5.43 and the last under Section 8.02 of the Zoning by-Law.

Mr. Walters went on to say that the requested Special Permits conform to the requirements of Section 9.05 of the Zoning By-Law in that the location of the additions were appropriate, no nuisance would be created, and traffic would in no way be affected.

Mr. Walters stated that the modest scope of the additions, lack of any opposition, and the Planning Board's unanimous approval of the design warrant this Board granting the three (3) Special Permits.

Chair Geller called for public comments in support of the application.

Sandra Smith, the owner of 37 Linden Place, stated that the properties in the Linden Place neighborhood are very close together and asked that the applicant's contractor/builder be mindful and respectful of her heating and dryer vents at the side of her dwelling and her driveway.

Chair Geller called for public comments in opposition to the application. No comments were submitted.

Karen Chavez, Planner & Zoning Coordinator, provided the Planning Board Report. The Planning Board was supportive of the proposal.

Paul Campbell, Deputy Building Commissioner, stated that the Building Department had no objections to the proposal, and would work with the Petitioner to ensure compliance with the Board's decision and all state building codes.

The Board unanimously granted the request for special permit.

Minutes

The Board unanimously approved the Minutes for 04/08/21, 04/15/21 and 04/29/21.

The meeting was adjourned.