



Board of Appeals
Jesse Geller, Chair

Town of Brookline

Massachusetts

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Board of Appeals Virtual Public Hearing Minutes

Thursday, July 1, 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 Mark Zuroff, Jesse Geller, and Randolph Meiklejohn

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

Chair Mark Zuroff opened the meeting.

2021-0030 12 Manchester Road – Conversion from single-family to two-family house, proposed interior remodel, and new deck in the rear

The Petitioner, Ruth Lim, waived the reading of the public hearing notice and provided an overview of the project.

Ms. Lim stated that the proposal is to convert the existing single-family home to a two-family home, and the footprint would remain unchanged, there is a proposed second floor deck at the rear of the house with a spiral staircase, which would serve the upper unit of the two-family conversion. There are no proposed additions to the front façade.

Ms. Lim noted that abutters did not object to the proposal, and one abutter requested privacy screening to be placed on the second floor deck to increase privacy.

Ms. Lim noted that she received a Certificate of Appropriateness from the Preservation Commission.

Ms. Lim opined that the relief being requested is minimal.

Board Member Geller inquired how the proposed parking situation would function, and whether it was in compliance with Section 6.04 of the Zoning By-Law.

Ms. Lim noted that two cars would park in the rear garage, and two cars would be parked in tandem on the driveway.

Board Member Meiklejohn inquired whether there was an opportunity to do more regarding the modest provisions for windows at the lower level.

Ms. Lim stated that the Planning Board recommended enlarging a window well at the rear of the house to allow for more natural light, which was done and provided to the Preservation Commission for review, and received approval.

Board Member Meiklejohn noted that the driveway is right against the bay on the right side of the house, and inquired whether there are any places where adding more window wells, beyond those that are required by code, could realistically be done.

Co-owner of the property, George, noted that there are several existing windows, and opined that there was no lighting issue.

Board Member Meiklejohn inquired whether the proposed spiral staircase is a Building code-compliant second means of egress for the new upper unit being created.

George noted that there are several examples in the Town, and that the Preservation Commission was okay with the staircase serving as an egress.

Chair Zuroff inquired whether the proposed staircase encroaches into the setback and cause a problem.

Mr. Campbell confirmed that the staircase does not encroach into the rear yard setback.

Chair Zuroff called for public comments in support of the application. No comments were submitted.

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

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

Board Member Geller asked whether the proposed parking was in compliance with Section 6.04.3 of the Zoning By-Law.

Mr. Campbell noted that the maneuverability of the cars, as proposed, would be difficult and the Board could set a condition addressing this issue.

Board Member Geller noted that the proposed parking is at risk of not meeting the requirements under Section 9.05 of the Zoning By-Law.

Chair Zuroff noted that the existing parking is a pre-existing condition.

Board Member Meiklejohn noted that many residences in this part of the Town of Brookline were similarly developed where there was a long driveway that led to a garage.

Chair Zuroff asked the Petitioner had any objection to a condition being added that required screening on the second floor deck, and Ms. Lim accepted the condition.

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 Geller noted that the Board applies flexibility to allow residents to use their homes in functional ways, especially in densely populated areas. He further added that he would be in support of the relief if a condition is added that would require all units to use a common box for access to keys and vehicles, and require each unit to have one garage space and one exterior space.

Board Member Meiklejohn agreed, and is in support of the relief.

Chair Zuroff noted that the parking layout is a pre-existing condition, and is in support of the relief.

The Board unanimously granted the request for special permit.

2021-0027 50 Cutler Lane – Construct pool house connected by a trellis

The Petitioner's attorney, Jennifer Dopazo Gilbert, waived the reading of the public hearing notice and provided an overview of the project. Landscape architect, Michael White, provided an overview of the landscape design.

Ms. Dopazo Gilbert stated that the request is for a modest 150 square feet to construct a pool house, consisting of two small rooms of about 75 square feet connected by a trellis, and opined that relief is available pursuant to M.G.L. Ch. 40A, Section 6 to allow for the extension of a pre-existing nonconforming FAR.

Ms. Dopazo Gilbert stated that the new pool house is allowed under Use #62, and that the proposed addition amounts to about a 2.5% increase in FAR.

Ms. Dopazo Gilbert stated that the proposal would meet all of the requirements for a special permit under Section 9.05.

Upon inquiry from Board Member Meiklejohn, Mr. White stated that the rectangles labeled "shed" on the plans were the proposed changing rooms and bathrooms.

Chair Zuroff called for public comments in support of the application. No comments were submitted.

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

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

Board Member Meiklejohn inquired whether the project was in compliance with Section 5.22.c of the Zoning By-Law, and the Petitioner Deborah Schwartz confirmed that the basement was completed 10 years after the original construction was granted.

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 Geller confirmed with Attorney Dopazo Gilbert that the FAR is pre-existing non-conforming, and explained that he believes it meets the requirements under Deadrick and that it is worth relief under Section 9.05.

Board Member Meiklejohn noted that the proposal is robustly screened from the neighbors, who are not even close, and supported the relief.

Chair Zuroff agreed with Board Members Geller and Meiklejohn.

The Board unanimously granted the request for special permit.

2021-0017 41 University Road – Demolish single-family house and construct three-family dwelling

The Petitioner's attorney, Jennifer Dopazo Gilbert, waived the reading of the public hearing notice and provided an overview of the project. Project architect, Matthew Groves Francke, provided an overview of the design.

Ms. Dopazo Gilbert stated that 41 University Road is existing single-family home, and that the proposal is to construct a three-unit building. Ms. Dopazo Gilbert opined that the relief requested is minor.

Ms. Dopazo Gilbert stated that there were some concerns expressed about construction management, which would be addressed through the required construction management plan.

Ms. Dopazo Gilbert stated that the abutter to the left was concerned about the impact on her garage due to proximity to the underground garage, but their concerns were addressed once the neighbor learned there would be a structural engineer. Ms. Dopazo Gilbert stated that one abutter was concerned about the modern style.

Ms. Dopazo Gilbert further stated that the direct abutter is in support, and that some neighbors said they were excited that the property will be improved, and appreciated the effort that went into making the building largely comply with the Zoning By-Law.

Ms. Dopazo Gilbert explained they are not here for design review, just the setback on the right side. Otherwise, the proposal complies with all other requirements. Ms. Dopazo Gilbert explained that for the side yard setback the existing conditions are 15.8 feet and 11.4 feet, and they are proposing 16.3 feet and 8.3 feet.

Ms. Dopazo Gilbert opined the proposal meets the criteria for the grant of special permit relief under Section 9.05 of the Zoning By-law.

Mr. Francke reviewed the proposal to demolish the existing structure and construct a new three-family dwelling at 41 University Road. Mr. Francke noted that the house is located centrally on the lot and will contain parking on the first floor, that relief can be granted from the provisions of Section 5.60 for the side yard setback under Section 5.43 of the Zoning By-Law, and that the proposed counterbalancing amenities more than offset the impact of the additional setback proposed.

Upon inquiry from Chair Zuroff, Mr. Francke described the dimensions of the parking spaces and confirmed that the parking area meets the code requirements.

Mr. Francke noted that there will be a dwelling unit on each of the floors above, and stated that a rooftop deck is proposed to serve the fourth-floor unit. There will be vehicular access to the enclosed parking area via a ramp that connects directly with University Road. He further explained that pedestrian access to the units is provided through a side entrance along the right side of the building. Mr. Francke explained that the proposed units will have 2,180 square feet of living area while the parking level will be 3,385 square feet. Mr. Francke stated that the total gross floor area is 7,044 square feet.

Mr. Francke stated that the proposal requires zoning relief for the side yard setback; that a landscaping plan will be provided for the counterbalancing amenities; and that the amenities include electric vehicle chargers, electric heat pumps, electric appliances, triple glazed windows, and the building will be vegetated roof ready. He further stated that the proposal includes a roofing system that is designed to mitigate the heat island effect on warm days, and that the roof will also be designed to be solar panel ready roof.

The Board then discussed the construction management plan, and Mr. Francke confirmed that one would be provided.

Chair Zuroff inquired if the existing structure had a ledge and if there would be any blasting. Chadi K. confirmed that there would be testing for the ledge, and that shoring would be provided as needed.

The Board also discussed the removal of an existing tree, and the Petitioner noted that the proposal exceeds the required usable open and landscaped space.

Board Member Meiklejohn noted that the proposed garage extends farther into the backyard than the building floors above it, and inquired about setbacks required for underground structures. Ms. Dopazo Gilbert initially stated that the setback is measured to the above-ground construction. The architect subsequently clarified that Section 5.44 of the Zoning By-Law indicates required setbacks for underground structures, and that the design complies with this section.

Board Member Meiklejohn objected to the lack of windows at the proposed right-side elevation, contrary to a window pattern that is characteristic of the neighborhood, and Mr. Francke responded that the Petitioner is amenable to adding windows along the elevation.

Board Member Meiklejohn objected to the porch-ceiling downlights in the perspective view of the front of the building, which as shown would violate the by-law by delivering unshielded illumination to the other side of the public way. Mr. Francke responded that the intent of the design is to comply with the By-Law in this respect.

Chair Zuroff called for public comments in favor of the proposal. Jerome Kampler, 37 University Road, stated that he is in support, and although the tree in the front of the building looks nice, it puts his entire building in the shade.

Chair Zuroff called for public comments in opposition to the proposal. Kevin O’Keefe, 35 University Road, stated that he appreciates Mr. Kampler’s over-shading perspective, but for the units on the other side, the tree supplies a colorful view and some wind barrier. He further stated that this tree is another measure of privacy.

Karen Chavez, Planner & Zoning Coordinator, provided the Planning Board Report. The Planning Board is 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 Meiklejohn noted the likelihood of the existing large tree to survive the construction of the proposed project is unlikely, and found the proposed intermediate-sized group of trees in large planters to be a good green amenity. He further stated that the project is well-designed, and that the conditions for the approval of the special permit have been met.

Board Member Geller stated that the Petitioner has provided satisfactory landscaping measures and complies with the Zoning By-law. After considerations of the lot width and size, Board Member Geller was satisfied that the setback to the side property line was appropriate, and does not infringe on the light or the air of the existing buildings.

Chair Zuroff stated that the proposal meets the requirements under Section 5.43 and 9.05.

The Board unanimously granted the request for special permit.

Minutes

The Board unanimously approved the Minutes for 06/10/21.

The meeting was adjourned.