



Board of Appeals
Jesse Geller, Chair

Town of Brookline

Massachusetts

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Board of Appeals Virtual Public Hearing Minutes

Thursday, August 5, 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, Mark Zuroff, and Paul Bell

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

Chair Jesse Geller opened the meeting.

2021-0037 142 Bellingham Road – Construct second story addition

Attorney Jennifer Dopazo Gilbert, on behalf of the applicant, requested a continuance to August 19, 2021.

Karen Chavez, Zoning Coordinator and Planner, disclosed that the Petitioner advertised in the Notice of Hearing was incorrect, and re-noticing has been done with the correct Petitioner.

Chair Jesse Geller, and Board Members Mark Zuroff and Paul Bell had no objection.

The Board unanimously granted the request to continue the application to August 19, 2021.

2021-0039 3 Cleveland Road – Construct second-story addition and addition over detached garage

Attorney Jennifer Dopazo Gilbert, on behalf of the applicant, requested a continuance to September 23, 2021.

Ms. Gilbert stated that the applicant received neighborhood feedback, and the plans will be revised prior to returning.

Chair Jesse Geller, and Board Members Mark Zuroff and Paul Bell had no objection.

The Board unanimously granted the request to continue the application to September 23, 2021.

2021-0038 52 Kendall Street – Construct two story addition at rear of structure

The Petitioner’s Attorney, Jennifer Dopazo Gilbert, waived the reading of the public hearing notice and provided an overview of the project. The project architect, Scot Osterweil, provided an overview of the design.

Attorney Dopazo Gilbert stated that the subject site is an undersized, triangular lot located in the M-1.0 Multi-Family Zoning District. She stated that the Preservation Planner issued a Certificate of Non-Significance for this property in March 2020.

Ms. Dopazo Gilbert stated that the proposal is to construct a 132 square-foot, two-story addition on the rear left side of the home, and noted that the addition will stay within the existing outline of the building and within the allowable FAR.

Ms. Dopazo Gilbert noted that the Petitioners have discussed the plans with the immediate abutters, who provided their support, and the Planning Board was unanimously supportive of the proposal.

Ms. Dopazo Gilbert stated that minimal relief is required for the setbacks, and that the FAR will be below the required 1.0 at 0.87.

MS. Dopazo Gilbert argued that this project is an example whereby the Building Commissioner could have in his discretion deemed the project “small scale” pursuant to M.G.L. Chapter 40A, Section 6, forgoing the costly and lengthy special permit process. Ms. Dopazo Gilbert opined that this was the intent of Section 6, with regards to single and two-family structures, nevertheless property owners’ move forward with a special permit process for small projects rather than challenging the decision.

Ms. Dopazo Gilbert explained that the project site has pre-existing nonconforming conditions, the addition will not encroach closer to the property line, it will not create a new nonconformity, and there will be no substantial detriment to the neighborhood. Ms. Dopazo Gilbert stated that relief can be granted by a special permit under M.G.L. Chapter 40A, Section 6 and the proposal meets 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 is supportive of the proposal.

Paul Campbell, Deputy Building Commissioner, stated that the Building Department had no objections, and would work with the Petitioner to ensure compliance.

Board Member Zuroff was in support of the requested relief and found that the criteria had been met for a M.G.L. c.40A, Section 6 finding.

Board Member Bell agreed and voted in favor of the relief.

Chair Geller stated that the proposal met the provision under M.G.L. c.40A, Section 6 and the requirements under Section 9.05 of the Zoning By-Law, noting that the proposal was a de minimis case, and voted in favor of the relief.

The Board unanimously granted the request for special permit.

2021-0028 177 Coolidge Street – Convert a ground floor screened porch to enclosed space

The Petitioner's builder, Jeff Capello, waived the reading of the public hearing notice and provided an overview of the project.

Mr. Capello stated that the project site is located on the corner of Abbotsford Road and Fuller Street, and the proposal is to convert the existing screened porch into interior living space and construct a second story above with the same dimensions.

Mr. Capello explained that the applicant is requesting relief from the front yard setback required by the Zoning By-Law. Mr. Capello stated that the applicant received feedback received from the Planning Board, and are therefore raising the existing plantings from about 40 inches to 5.5 feet as a counterbalancing amenity.

Chair Geller called for public comments in support of the application. Ric Panciera, resident at 173 Thorndike Street, stated that he had no objections to the modifications nor to the plantings around the perimeter.

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 is supportive of the proposal.

Paul Campbell, Deputy Building Commissioner, inquired whether the height of the proposed plantings would conflict with Section 5.45 of the Zoning By-Law that speaks to traffic visibility across corners.

Chair Geller stated that the Zoning Board of Appeals did not have jurisdiction to waive an ordinance requirement, and if it was determined that the proposed landscaping impeded the line of sight, the Board can provide a condition identifying the conflict for the Assistant Director for Regulatory Planning to review prior to approving the landscaping plan.

Paul Campbell, Deputy Building Commissioner, stated that the Building Department had no objections, and would work with the Petitioner to ensure compliance.

Board Member Bell inquired whether the Board could approve the proposal when the proposed counterbalancing amenities were at risk of noncompliance with the Zoning By-Law. Chair Geller noted that the landscaping is being proposed at the recommendation of the Planning Board, and clarified that the concern was whether the height of the proposed landscaping located adjacent to two intersecting streets was safe.

Board Member Zuroff stated that his interpretation of Section 5.43 of the Zoning By-Law was that a counterbalancing amenity is required that benefits the general area, as opposed to requiring a counterbalancing amenity in a particular location.

Chair Geller recommended deferring the review of the landscaping plans for compliance with the Zoning By-Law, and engaging the respective department having jurisdiction, to the Assistant Director for Regulatory Planning, while conditioning that one of the review standards be line-of-sight safety.

Board Member Bell agreed with the recommendation, and voted in support of the relief.

Board Member Zuroff also agreed with the recommendation, noted that the proposal meets Section 5.43 and 9.05 of the Zoning By-Law, and voted in favor of granting the relief.

Chair Geller voted in favor of granting the relief, subject to the revised conditions

The Board unanimously granted the request for special permit.

Minutes

The Board unanimously approved the Minutes for 07/15/21 and 07/22/21.

The meeting was adjourned.