



Board of Appeals
Jesse Geller, Chair

Town of Brookline

Massachusetts

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Board of Appeals Virtual Public Hearing Minutes

Thursday, August 19, 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, Johanna Schneider, and Lark Palermo

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

Chair Mark Zuroff opened the meeting.

2021-0011 15 Euston Street – Add new unit to existing three-family, no exterior changes

Attorney Robert L. Allen, on behalf of the applicant, requested a continuance to September 9, 2021.

Mr. Allen stated that the Planning Board requested additional plans, and the architect needed additional time prior to returning.

Chair Mark Zuroff, and Board Members Johanna Schneider and Lark Palermo had no objection.

The Board unanimously granted the request to continue the application to September 9, 2021.

2021-0033 131 Carlton Street – Proposed garage in the rear

Attorney Robert L. Allen, on behalf of his partner Attorney Jennifer Dopazo Gilbert, requested a continuance to October 7, 2021.

Mr. Allen stated that Ms. Dopazo Gilbert is working with the abutter's attorney and needed additional time prior to returning to the Board.

Chair Mark Zuroff, and Board Members Johanna Schneider and Lark Palermo had no objection.

The Board unanimously granted the request to continue the application to October 7, 2021.

2021-0037 142 Bellingham Road – Construct second story addition

The Petitioner's Attorney, Robert L. Allen, waived the reading of the public hearing notice and provided an overview of the project.

Attorney Allen stated that 142 Bellingham Road is a single-family home in the S-10 zoning district, and the proposal is to build a second floor above the existing first floor, all within the existing footprint.

Mr. Allen stated that the Petitioner has agreed to return to the Planning Board for final design review, and the Preservation Commission issued a Certificate of Non-Significance for the structure in April 2021.

Mr. Allen stated that the proposal would increase the FAR from a .21 to .40, where the maximum allowed FAR is .30, and a variance is being requested for FAR, per recommendation from the Planning Board, which pointed out the unique features of the lot, and advised that the variance for the FAR would also result in a better project.

Mr. Allen stated that M.G.L. c. 40A, Sec, 10 expressly authorizes a permit granting authority to grant a variance and opined that the subject property presents circumstances relating to the soil conditions, shape, or topography affecting the property, but not generally affecting the zoning district in which it is located.

Mr. Allen described that there is a significant amount of rock and ledge that covers approximately half of the lot, which created a unique condition for the home because it impeded the basement from becoming habitable space, which would otherwise require a finding under an M.G.L. c.40A, Section 6. Mr. Allen further noted that the ZBA has seen many cases where the existing basement pushed the home over the allowable FAR, and into a pre-existing nonconformity condition.

Mr. Allen stated that literal enforcement of Section 5.20 of the Zoning By-Law would involve a substantial hardship, financial and otherwise, to the Petitioner, and because of the soil and topography of the lot, the Petitioner could not build out the basement space.

Mr. Allen stated that the Petitioner is proposing an FAR of 133%, and unfortunately cannot take advantage of Section 5.22.3.b.1.c of the Zoning By-Law, and the Petitioner is seeking a modest variance to allow 450 square feet, to make up for the lost 867 square feet taken up by the ledge in the basement.

Mr. Allen explained that the Planning Board is supportive of the variance request, and the abutter most impacted is also in support of this option, and stated that the Board may grant the desirable relief without substantial detriment to the public good and without nullifying, or substantially derogating, from the intent or purpose of the By-Law.

Mr. Allen then stated that relief is also sought from the provisions of Section 5.60 for the left side yard setback. He noted that the existing setback is 8.8 feet, which will be extended vertically and will not encroach further into the setback, and the Petitioner will provide a landscaping plan to satisfy the counterbalancing requirement for this relief.

Mr. Allen opined that the proposal meets the criteria for the grant of special permit relief under Section 9.05 of the Zoning By-Law.

Chair Zuroff called for public comments in favor of the application. Timothy Sullivan, resident at 146 Bellingham Road, stated that the variance design is preferable, and expressed concern about long-term affordability in the neighborhood when homes are doubled in size.

Chair Zuroff 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 encourages the applicant to seek a Variance from the Zoning Board of Appeals for additional FAR.

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

Board Member Palermo stated that Mr. Allen provided a compelling case for a variance, that a valid argument was made in relation to the basement, and would support the relief as requested.

Board Member Schneider concurred and noted there are a unique set of circumstances, and opined that while it is unusual to have a different type of zoning treatment, in this case it does meet the variance criteria, and would support the relief as requested.

Chair Zuroff agreed and noted that the variance criteria, including the uniqueness, had been satisfied. He further stated that the result is a relatively minor expansion that has the support of the abutter and the Planning Board, and supported the relief as requested.

The Board unanimously granted the variance and the request for special permit.

2021-0043 39 Thorndike Street – Remove existing shed, and install 2 AC condensers with a screening fence

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

Mr. Wolpowitz stated that the proposal is to place AC condensers with a fence along the rear of the property, and explained that the Planning Board recommended that the AC condensers be proposed in a different location to minimize any noise nuisances for the neighbors, and that he was amenable to the revised location.

Mr. Wolpowitz stated that he proposes to remove asphalt and provide a landscape plan to satisfy the counterbalancing amenity requirement.

Chair Zuroff inquired for clarification on what relief is being requested. Deputy Building Commissioner, Paul Campbell stated that the Petitioner is only requesting relief from the side yard setback, however the Petitioner's site plan did not include the distance between the AC condensers and the rear lot line confirming that the proposal complies with the required rear yard setback.

Chair Zuroff called for public comments in favor of the application. Steven Bloomenthal, an abutter to the subject property, asked to view the site plan on the screen and agreed with the revised location of the AC condensers.

Chair Zuroff 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 and recommended that the applicant relocate the AC condensers along the left-side property line.

Paul Campbell, Deputy Building Commissioner, stated that the proposal will need to comply with the Noise By-Law, and that the Building Department will require the applicant to submit the proposed fence height to confirm it complies with the Zoning By-Law. Mr. Campbell further stated that the Building Department had no objections, and would work with the Petitioner to ensure compliance.

Chair Zuroff clarified that the applicant will need to submit a landscape plan and a plot plan that identifies the proposed AC condensers' rear yard setback to the Building Department for approval prior to the issuance of a Building Permit, and would be in favor of granting the relief.

Board Member Schneider agreed and noted that the special permit criteria are met with respect to the placement of an accessory structure within the side yard setback. Board Member Schneider further added that compliance with the required rear yard setback should be confirmed through submission of a plot plan prepared by a registered surveyor, and would be in favor of granting the relief.

Board Member Palermo agreed with Board Member Schneider and Chair Zuroff, and would be in favor of granting relief subject to the revised conditions.

The Board unanimously granted the request for special permit.

Minutes

The Board unanimously approved the Minutes for 08/05/21.

The meeting was adjourned.