



BOARD OF APPEALS
Jesse Geller, Chair
Kate Poverman

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Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0041
7 LEVERETT STREET, BROOKLINE, MA

Petitioner Stephanie Cooper applied to the Building Commissioner for permission to create parking in the side yard and a curb cut at 7 Leverett Street. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed August 1, 2019 at 7:00 PM., in the Select Board's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioners, to their attorney (if any) of record, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on July 18, 2019 and July 25, 2019 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

Notice of Hearing

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

7 LEVERETT STREET, #_CONDOMAIN, BROOKLINE, MA 02445 - Permit application for a curb cut and residential parking permit for owners and residents of 7 Leverett Street. in a(n) M-1.0(CAM) APARTMENT HOUSE on August 1, 2019 at in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Josh Anyaosahosah, d/b/a JAJT International) Precinct 6

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

§5.09 - DESIGN REVIEW

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§6.02 - OFF-STREET PARKING SPACE REGULATIONS

§6.02.2.F – OFF-STREET PARKING SPACE REGULATIONS

Any additional relief the Board may find necessary.

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: www.brooklinema.gov.

The Town of Brookline does not discriminate in its programs or activities on the basis of disability or handicap or any other characteristic protected under applicable federal, state or local law. Individuals who are in need of auxiliary aids for effective communication in Town programs or activities may make their needs known by contacting the Town's ADA Compliance Officer. Assistive Listening Devices are available at the Public Safety Building for public use at Town of Brookline meetings and events. Those who need effective communication services should dial 711 and ask the operator to dial the Town's ADA Compliance Officer.

If you have any questions regarding this Notice or the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

***Jesse Geller, Chair
Christopher Hussey
Mark Zuroff***

Publish: 7/18 & 7/25

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Kate Poverman and Board Members Stephen Chiumenti and Randolph Meiklejohn. Also present at the hearing were Zoning Coordinator / Planner Charlotte Leis, Assistant Director of Regulatory Planning Polly Selkoe, and Deputy Building Commissioner Joseph Braga.

The case was presented by Applicant Stephanie Cooper of 7 Leverett Street. Chairman Poverman called the hearing to order at 7:00 p.m. Ms. Cooper waived the reading of the public notice.

Ms. Cooper confirmed that she had the authority to act on behalf of the condo association and then gave an overview of why they are proposing to build parking spaces. She then handed out a parking plan that had been revised after the Planning Board hearing to take that Board's comments into account. The plan reviewed by the Planning Board had proposed 2 parking spaces, but the new plan proposed 3 spaces. Ms. Cooper went over the plans and explained the changes that they had made.

Board Member Chiumenti asked about the current conditions of the proposed parking area. Ms. Cooper said it is grassy and they have been using it as a yard. Board Member Chiumenti asked whether they will have to back into Boylston St (Route 9) to get out. Ms. Cooper said that is correct, but that a stoplight is nearby. Josh Anyaosah (7 Leverett) said they can also use the parking lane. Mr. Anyaosah said they never thought about adding parking to the lot until their current rental parking situation was no longer possible. He said they don't really drive to work, and they want this to be as safe as possible.

Board Member Meiklejohn said he walked by the area earlier. It is important that the stoplight is present, but he doesn't see a prevailing pattern of other people backing into street as the current proposal requires the residents to do. Ms. Cooper provided photos of nearby parking areas and noted the places where she or other residents of 7 Leverett have seen cars back out of driveways into the street. Board Member Meiklejohn said that while they might have seen people back out, those people had a choice to turn around within the lot and that the proposed parking situation wouldn't give them that option. Chair

Poverman said the choice to back out or not is important. She noted that before the 3-car idea was suggested, the area where the 3rd car is now proposed was planned to be used as a maneuvering space for the other 2 cars. Ms. Selkoe said the maneuvering space wouldn't have allowed them to back out, but would have given them more space to get in and out of the spots; the car in front might have a hard time getting out of its spot if there is a car parked in the maneuvering area. Board Member Meiklejohn said the new design is much more constrained than the previous design.

Board Member Chiumenti asked how a building got approved in the first place given the parking requirements for the number of units. Ms. Selkoe said it was built before the current zoning existed.

Ms. Cooper said given the constraints, they have tried to design the best possible parking area. Chair Poverman asked if they have considered renting parking spaces at the Homewood Suites. Ms. Cooper said they have not looked into that lot specifically. Mr. Anyaosah said they asked when it was built but haven't since then. Ms. Selkoe noted that the Homewood Suites let NETA use parking during the day.

Board Member Meiklejohn asked about snow removal; since the parking area is up to lot line and the design requires the entire parking area to be clear where will the snow go? Mr. Anyaosah said they plan to blow the snow into a very small area on the property. Ms. Cooper said dealing with the snow will be possible. She said they feel like they've exhausted other parking alternatives. In addition to the right-side neighbor, they have asked another neighbor for an easement in order to make the area into a 1-way driveway but the neighbor wasn't interested. Tara Anyaosah (7 Leverett) said they are not everyday drivers; the parking would mostly allow them to store their cars. Board Member Meiklejohn said that in the long run that might not be true, and the Board needs to think about the design regardless of the current situation.

Chair Poverman asked if anyone was there to speak for or against the project. No one spoke.

Chair Poverman asked Ms. Selkoe for the Planning Board recommendation. Ms. Selkoe noted the following:

FINDINGS

Section 6.02.1: Table of Off-Street Parking Space Requirements

Section 6.02.2.f: Parking Space Requirements for Visitors and Tradespeople

The current parking on site is pre-existing nonconforming, and the proposal will improve the existing circumstances.

Section 6.04.5.b: Surfaced Area Setback from Lot Lines

This provision requires a 5-foot setback from all lot lines. The applicant's proposal does not provide any setback. A Special Permit can be granted for relief from this provision in accordance with Section 6.04.12.

Section 5.09.2.a: Design Review

The property is located on Boylston Street, and therefore any structure or outdoor use requires Design Review. Below are the relevant standards and criteria:

- Preservation of Trees and Landscape
- Open Space
- Circulation
- Stormwater Drainage

The elimination of open space and landscaped areas that are required by this proposal are unfortunate but not inconsistent with the surrounding area. The quality of the existing open space is poor, and parking can only be provided on this site by replacing the open space with the proposed driveway and parking spaces. Therefore, the existing landscape is being preserved as much as is practicable. The circulation standard is not met. There is insufficient space on the site to accommodate two tandem parking spaces and the necessary maneuvering space. See Planning Department comments below for more information. The stormwater drainage standard seems to be met.

PLANNING DEPARTMENT COMMENTS

The Planning Department supports this proposal if the parking spaces are reduced by one. The area available for the 2 parking spaces and associated maneuvering areas is insufficient. The tandem parking spaces are located on the left side of the driveway (along an existing fence) and have a width of 7.5 ft. The average car has a width of 6.5 ft. When an average car is parked along a fence on its left side, it needs to leave a few extra feet to open the driver-side door, which means a parking space located along a fence on the left (as is the case here) should have a width of at least 9 feet, likely more for real functionality. Further consideration should also be given to snow accumulation on this condensed site and how that could further reduce available maneuvering space. It should also be noted that a car exiting this site would need to back-up on to Route 9, although a traffic signal a few feet up the road will make this easier. With all these considerations, the Planning Department feels that 2 tandem spaces should not be approved. One parking space would be more reasonable.

PLANNING BOARD RECOMMENDATION

The Planning Board was sympathetic to the request for two parking spaces because the residents were losing parking at the adjacent site that is about to be developed for six townhouses. Because of the nearby traffic light, the Planning Board felt that backing out onto busy Route 9 could be safely done when the light is red. The Board was also not opposed to three parking spaces for this three family and recommended that permeable pavers be used for the driveway.

Therefore, the Planning Board recommended approval of the site plan by Green Seal Environmental, Inc., dated 4/30/19, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan showing the parking spaces subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Member Chiumenti asked if the state cares about this project because it is on Route 9. Ms. Selkoe said the state cares, and the applicants believe that they can get a curb cut approved by MassDOT. Mr. Anyaosah said he had been in contact with Kevin Carr of MassDOT who said they would approve the curb cut if Brookline was fine with it.

Board Member Meiklejohn said the project amounts to paving over most of the lot and asked if it is subject to review from other departments to deal with storm water issues. Ms. Selkoe said all projects like this get reviewed by Transportation and Engineering to deal with that issue prior to a building permit being issued. Board Member Meiklejohn said the Planning Board suggested permeable pavers but because the site slopes away from Boylston it might be appropriate to require storm water capture on-site and not only rely on permeable pavers. Ms. Selkoe said they have sometimes put in a condition on projects requiring approval of drainage plan and can do so for this project if desired. Chair Poverman asked if permeable paving is part of a drainage plan. Board Member Meiklejohn said the pavers don't help with drainage when the ground is frozen; he would be more comfortable protecting abutters by

capturing water than relying on permeable pavers. Ms. Selkoe said the Planning Board was focusing more on aesthetics than drainage when considering the permeable pavers.

Mr. Braga said the Building Department has no objection to the relief being sought by this project. He noted that the Building Department requires a storm water plan for any driveway, even if it already exists and it's just being repaved. This project would be required to have a drainage plan approved by Engineering.

Board Member Chiumenti said that while the state has granted a curb cut he's not sure if the state knows that the parking plan involves backing into Route 9. He's fine with approving 3 spaces and letting the residents figure out the logistics.

Board Member Meiklejohn said storm water is still a concern and he regrets the loss of so much open space but is willing to approve 3 spaces. It will be a logistical challenge to manage but it's not out of place in this neighborhood.

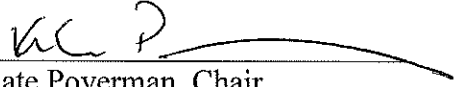
Chair Poverman said houses were built without cars in mind and she has issues with not serving the design review standards of open space, but overall equity leans in favor of granting the special permit. She recommended adding a condition that the Director of Engineering approve storm water plan.

The ZBA members voted unanimously to approve the special permit relief per the site plan by Green Seal Environmental, Inc., dated 7/31/19, subject to the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall submit a final site plan showing the parking spaces subject to the review and approval of the Assistant Director of Regulatory Planning.**
- 2. Prior to the issuance of a building permit, the applicant shall submit a storm water drainage plan subject to the review and approval of the Engineering Department.**
- 3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision:**

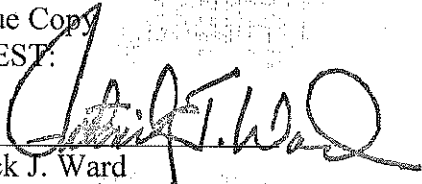
1) a final site plan stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals


Kate Poverman, Chair

Filing Date: 8/21/19

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals