



BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Johanna Schneider

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0043
18 SPOONER ROAD, BROOKLINE, MA

Petitioners, Will and Gray Hughes, applied to the Building Commissioner for permission to construct an addition and construct a new garage. 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 September 5, 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 August 22, 2019 and August 29, 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:

18 SPOONER ROAD, BROOKLINE, MA 02467 - Construct addition and new garage in a(n) S-10 SINGLE-FAMILY on 09/05/2019 at 7:00PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Robert L. Allen, Jr.) Precinct 13

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:

§5.09.2.J – DESIGN REVIEW

§5.22 - EXCEPTIONS TO FLOOR AREA RATIO REGULATIONS FOR RESIDENTIAL UNITS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§6.04.5.C.3 – DESIGN OF ALL OFF-STREET PARKING FACILITIES

§8.02 - ALTERATION OR EXTENSION

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: 08/22/2019 & 08/29/2019

On September 5, 2019 at the time and place specified in the notice, this Board held a public hearing. At the September 5th hearing, the Board stated that the hearing would be continued to September 12,

2019 due to lack of a quorum. The hearing was continued to September 12, 2019 at 7:00 p.m. in the Select Board's Hearing Room. On September 12th at the continued hearing, the Board stated that the hearing would be continued to September 26, 2019 at 7:00 p.m. in the Select Board Hearing Room. Present at the continued hearing on September 26th were Chairman Mark Zuroff and Board Members Lark Palermo and Randolph Meiklejohn. Also present at the hearing were Charlotte Leis, Zoning Coordinator & Planner, and Joe Braga, Deputy Building Commissioner.

The case was presented by Robert L. Allen, Jr., Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts. Also present at the hearing were the Petitioner, Gray Hughes, and the architect for the proposal, Elizabeth Cahill, of ART Architects.

Chairman Zuroff called the hearing to order at 7:00 p.m. Attorney Allen waived the reading of the public notice.

Attorney Allen introduced the proposal and noted that the Petitioners, Gray and Will Hughes were longtime Brookline residents seeking to expand their living space and utilize a functioning garage. Mr. Allen noted that the property is in the Chestnut Hill North Local Historic District, and he stated that in May 2019, the Preservation Commission approved the proposed addition to the main dwelling as well as the demolition of the garage and construction of a new garage. He then explained the proposal to put construct an addition at the rear of the home and construct a two car garage. He further noted that the Planning Board was unanimously in support of the proposal, which will add 1,058 s.f. to the existing home. Mr. Allen noted that the Planning Board asked the applicants to look at the proposed extension of the driveway. He stated that while we looked at this, we all believe it is far safer to have the turnaround space. Furthermore, since the Planning Board meeting, the applicant has gathered and provided support letters from all five of the immediate abutters and their close neighbors. The most impacted abutter at 10 Spooner, right next to the proposed expanded driveway, is supportive of the proposal.

Chairman Zuroff inquired as to the Planning Board's concerns regarding the driveway, the green roof on the garage, and the chimney. Elizabeth Cahill, ART Architects, 262 Washington Street #2, Boston, Massachusetts, addressed the Chair's concerns.

Attorney Allen then stated that the Petitioner seeks relief by special permit under 5.22.3.b.1.b for FAR, for Section 5.09.2.j for design review, and from Section 6.04.5.C.3 under 5.43 for a pre-existing non-conforming parking setback, all pursuant to Section 9.05. The applicant also requires relief from Section 8.02.2 for alteration/ extension of a non-conforming structure. Mr. Allen noted that the counterbalancing amenities for the setback relief would include additional landscaping and a reduction of pavement.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed use as a single-family dwelling, the lot is within an S-10 zoning district and the surrounding neighborhood consists of many other single-family dwellings and the Preservation Commission approved the garage in this local historic district; the use will not adversely affect the neighborhood because the proposed addition is within the FAR allowed by special permit and the applicant is at 120% and the counterbalancing amenities will offset any impact and improve drainage issues; there will be no nuisance or serious hazard to vehicles or pedestrians as current parking conditions will be improved and two cars can be garaged out of site; adequate and appropriate facilities will be provided for the proper operation of a single-family dwelling with the two car garage; and there will be no effect on the supply on housing available for low and moderate income people.

Chairman Zuroff then asked whether anyone was present to speak in favor of the proposal. No one spoke in favor of the proposal.

Chairman Zuroff then asked whether anyone was present to speak in opposition to the proposal. No one spoke in opposition to the proposal.

Chairman Zuroff then called upon Charlotte Leis, Zoning Coordinator & Planner, to deliver the findings of the Planning Board. Ms. Leis noted the following:

FINDINGS

Section 5.22: Exceptions to Floor Area Ratio Regulations for Residential Units

Floor Area Ratio	Maximum	Existing	Proposed	Relief
S-10; 1-family detached dwelling	0.30	0.30	0.36	Special Permit*
	100%	100%	120%	
	5,249sf	5,317sf	6,375sf	

Section 5.09.2.j: Design Review

The project consists of an exterior modification for which a special permit is requested pursuant to §5.22, and therefore Design Review is required. Relevant sections of the design review standards are described below. See also the applicant’s Impact Statement.

The addition will not significantly expand the structure and the altered structure and garage will remain completely consistent with the scale and architectural style of other homes in the neighborhood. The addition is also located in the rear and will therefore be minimally visible from the public way. Landscaping is hardly affected, with the only significant impact being the removal of a 22-inch evergreen tree. Stormwater Drainage will be addressed through a stormwater management system subject to review under the Stormwater By-Law. All other aspects of the project would remain unaffected and satisfy the criteria of design review.

Section 5.43: Exceptions to Yard and Setback Regulations

Section 6.04.5.C.3: Design of All Off-Street Parking Facilities

Areas of the driveway do not conform to the minimum 5’ setback from Section 6.04.5.c.3. The Zoning Board of Appeals may grant relief from these setback requirements if the applicant provides a counterbalancing amenity. No specific counterbalancing amenity has yet been identified but screening would be appropriate.

Section 8.02: Alteration or Extension

The existing structure is nonconforming and therefore may be altered as allowed by §8.02.2, provided that no nonconforming condition is increased. The proposal complies with this section.

PLANNING BOARD RECOMMENDATION

The Planning Board is generally supportive of the proposal, but raised some minor concerns with the stability of the new chimney, the wisdom of a green roof for the garage, and the extent of the driveway towards the southern property line. The Planning Board strongly recommended that the applicant pull

the retaining wall and paved area back to the required setback for driveways. In all other aspects, the Planning Board is supportive.

The Planning Board recommends approval of the site plan by EMB, dated June 5, 2019 and architectural plans by ART Architects, dated May 28, 2019, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans, and elevations 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 final landscaping plan showing proposed counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
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.

Chairman Zuroff then called upon Joseph Braga, Deputy Building Commissioner, to deliver the comments of the Building Department. Mr. Braga stated that the Building Department had no objections to the relief requested.

During deliberation, Board Member Meiklejohn noted support for the proposal and no issue with the requested relief. Board Member Palermo and Chairman Zuroff agreed.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for relief under 5.22.3.b.1.b for FAR, for Section 5.09.2.j for design review, and from Section 6.04.5.C.3 under 5.43 for a pre-existing non-conforming parking setback, all pursuant to Section 9.05 of the Zoning By-Law were met, finding specifically under said Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition because the proposed use as a single-family dwelling is allowed in the S-10 district and is the current use of the property.
- b. The use as developed will not adversely affect the neighborhood because the addition is at the rear and the use and driveway are consistent with the neighborhood. Furthermore, the Preservation Commission approved these changes in the local historic district.

- c. There will be no nuisance or serious hazard to vehicles or pedestrians as a reduction of pavement in the rear will improve existing conditions and a functioning garage will allow the owners to house two cars out of sight.
- d. Adequate and appropriate facilities will be provided for the proper operation of a single-family dwelling.
- e. Development will have no effect on the supply of housing available for low- and moderate-income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:


- 1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans, and elevations 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 final landscaping plan showing proposed counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
- 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

Filing Date: 10/11/19


Mark G. Zurloff, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals