



**PLANNING BOARD**

Linda K. Hamlin, Chairman  
Steven A. Heikin, Clerk  
Robert Cook  
Blair Hines  
Sergio Modigliani  
Matthew Oudens  
Mark J. Zarrillo

# Town of Brookline Massachusetts

DRAFT

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**BROOKLINE PLANNING BOARD MEETING MINUTES  
Room 111, First Floor, Brookline Town Hall  
January 21, 2016 – 7:30 p.m.**

**Board Present:** Linda Hamlin, Steven Heikin, Robert Cook, Blair Hines, Sergio Modigliani, Matthew Oudens, and Mark Zarrillo

**Staff Present:** Maria Morelli

Chair Linda Hamlin called the meeting to order at 7:30 pm.

## **BOARD OF APPEALS CASES**

**172 Dean Road** – convert attic and basement to habitable space requiring FAR relief (1/28) Pct. 14

Maria Morelli described the relief requested.

Architect Stephen Sousa described the proposal. The only substantial exterior change to the dwelling would be the enlargement of an existing dormer to improve circulation in the attic space.

Attorney Bailey Gaffney made the following legal argument for FAR relief: Under Section 5.22, attic and basement conversions are permitted up to 150% of the maximum allowed FAR. The existing FAR is 148%; yet, the conversion of the attic and basement had never been permitted under this provision. Attorney Gaffney maintained that this condition is an existing nonconformity. She cited recent case law, *Deadrick v. ZBA of Chatham* and explained that although the owner of a non-conforming single- or two-family home needs a variance for any reconstruction that creates new nonconformities, that owner can nonetheless expand existing nonconformities with just a special permit and a Chapter 40A Section 65 finding, as long as there is no substantial detriment to the surrounding neighborhood pursuant to Brookline's criteria for a special permit (Section 9.05). Attorney Gaffney continued to explain that Brookline's ZBA had initially been wary of this argument, but supported it when it was applied to five recent cases.

Sergio Modigliani asked for confirmation that the attic is habitable but was not permitted. Attorney Gaffney confirmed that is the case. If the owner had formally requested relief under the 150% provision under Section 5.22, then *Deadrick* would not apply now.

Mr. Modigliani asked if the living area calculation excludes or includes the knee walls. The architect responded that the FAR excludes the knee walls. Linda Hamlin confirmed that this is consistent with the current policy of the Building Department.

Steven Heikin asked if other dormer treatments were considered. The architect mentioned a few iterations that had been considered and then rejected as being too top-heavy. Ms. Hamlin agreed that this treatment is very likely the least obtrusive.

***Linda Hamlin motioned to recommend approval.  
Robert Cook seconded the motion.***

**Voted (7-0): If the ZBA finds that the statutory criteria for granting a variance are met, the Planning Board recommends approval of site plan by George C. Collins dated 8/25/15 and plans by Sousa Design, dated 10/8/15, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit final elevations and floor plans 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 site plan, including landscaping, subject to the review and approval of the Assistant Director of Regulatory Planning
3. Prior to 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; 2) final building elevations and floor plans stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

**14 Harvard Place** – allow in-home tutoring requiring home occupation relief (2/4) Pct. 7

Maria Morelli described the relief requested. Kay Lin Park is the owner of the two-unit residence and wishes to convert the use of one of units to in-home tutoring for which a special permit is required. She is the program director of the tutoring

Sergio Modigliani proposed conditions to limit the use, if the Board finds the proposal acceptable; for example, limiting use to four students at one time, for four hours a day, and for two months a year. Steven Heikin also suggested that another condition be added to require a Planning Board review in one or two years. Blair Hines asked if these conditions would sufficiently limit the use. Linda Hamlin responded that once conditions are imposed, they can be enforced.

Maria Morelli noted that Harvard Place is a private way and recommended a condition prohibiting vehicular drop off on Harvard Place. The Board generally agreed.

Ms. Hamlin noted that abutters at 16 Harvard Place, Henry and Ellen Katz, submitted written comments opposing the proposal. Ms. Katz was in attendance and summarized her concerns:

Harvard Place is unsafe for children to walk on. In addition, the business will attract illegal vehicular traffic on the private way and strangers. Other neighbors are opposed, and overall the abutters found out too late about the proposal. She added that the applicant's surveyor ruined her driveway when rebar was installed to mark the boundary lines, which are not consistent with the assessor's atlas.

Ms. Park responded to the abutter's claims about the property dispute; however, Ms. Hamlin stated that the Board trusts surveyed plans not the assessor's maps, which are only a guide. Furthermore, disputes about the property's boundaries were not pertinent to the appeals case.

Mr. Heikin commented that opposing a business because it would attract strangers in the area was unreasonable. He would support the use with reasonable limitations.

The Board summarized those limitations:

- 4-6 students maximum at one time
- 9 am to 1 pm, Monday through Friday, June and July
- No vehicular drop off or pick up on Harvard Place
- Review by the Planning Board after one year

*Linda Hamlin motioned to recommend approval.*

*Mark Zarrillo seconded the motion.*

**Voted (7-0): the Planning Board recommends approval of the first floor diagram submitted by Kay Park, dated 12/17/2015, and the site plan submitted by Antoni Szerszunowicz, dated 12/9/2015, subject to the following conditions:**

1. Vehicular pick-up and drop-off shall not occur on Harvard Place.
2. The hours of operation shall be 9 am to 1 pm, Monday through Friday, for the months of June and July. The number of students shall be limited to six at one time.
3. The applicant shall return to the Planning Board for review within one year.
4. 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 first floor plan; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

**40 Norfolk Road** – connect rebuilt garage to house requiring rear yard setback relief (2/11) Pct. 13

Board member Blair Hines recused himself from the discussion and voting because he is the landscape architect working on the proposal. Maria Morelli described the relief requested. The Preservation Commission reviewed and approved the proposal for a two-story connecting rear addition and relocation of the garage. The applicant is not required to return to the Preservation Commission after the ZBA hearing for further review.

Attorney Bailey Gaffney and architect Kent Duckham described the proposal and noted that abutters support the project. Attorney Gaffney added that a landscaping plan, though not included here, was approved by the Preservation Commission. The owner is working with the abutter most affected to ensure that he finds that the proposed landscaping satisfactory.

Robert Cook asked why the garage would be relocated. Applicant Steve Luby responded that it needs to be rebuilt entirely because it is dilapidated; the footprint will not change.

Linda Hamlin complimented the architect on the quality of the design and the drawings he prepared.

*Linda Hamlin motioned to recommend approval.*

*Sergio Modigliani seconded the motion.*

**Voted (6-0): the Planning Board recommends approval of the site plan by Everett M. Brooks, dated 10/1/2015, and the plans by Duckham Architecture & Interiors, last dated 12/1/2015, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations subject to the review and approval of the Preservation Commission staff and the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan indicating all 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; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

**40 Thorndike Street** – convert a single to a two family requiring yard setback, FAR, usable open space and parking design relief (2/11) Pct. 9

Maria Morelli described the relief requested. Attorney Jacob Walters described the proposal. Because the property currently does not meet usable open space requirements, Attorney Walters argued that the proposal would require a special permit not a variance under Chapter 40A, Section 6. Attorney Walters noted that five parking spaces are proposed but won't be needed.

Blair Hines recommended making the driveway shorter to meet the usable open space requirement.

*[Maria Morelli later revisited existing and proposed parking conditions and confirmed with the Deputy Building Commissioner, Michael Yanovitch, that a parking plan with fewer than five parking spaces would require a variance, because the existing parking conditions conform. Despite the in-*

*law apartment, which was not formally permitted, the structure is currently considered a single-family and meets parking requirements).]*

**Public Comment:**

Direct abutters Robert Lepson, Gina Belavier, and Leslie Rudnick were concerned about the impact the decks and stone walls would have on the streetscape and the lack privacy in the side rear yard, once the garage is demolished and the surface parking area extended. Overall, abutters felt that the too much development would be crammed onto a small lot. The Board generally agreed that these were reasonable concerns.

**Board Discussion resumed:**

The Board found the plans difficult to read and recommended renderings to show the renovated building in context and more details on the elevations illustrating the finished product. The Board generally agreed on the following design recommendations:

- Inferior quality fencing should be improved
- Consider using a 7 foot fence instead of 6 foot in the rear
- Use plantings instead of fencing for screening in the front side yard to create more of a front yard
- Eliminate stone walls at front property line—not consistent with surrounding streetscape
- Excessive driveway paving should be reduced if possible
- Second floor deck on front façade is excessive and exacerbates insufficient front yard setback
- More effort needed to provide usable open space for each unit
- Adjust two window wells to better accommodate parking spaces and shorten driveway
- Interior circulation and location of mudroom and front entrance seem awkward
- Elevations are diagrammatic. Need more detail to illustrate what the final product would be.

The Board recommended continuing the case to allow design recommendations to be considered.

Jacob Walters and his client agreed to continue the case and work with the neighbors to address design concerns.

CASE CONTINUED.

**January 7, 2016 Minutes**

**Voted (6-0):** Minutes of the January 7, 2016 meeting were approved with corrections noted.

**Meeting adjourned at 9:10 pm.**

**Materials Reviewed During Meeting:** Staff Reports, Site Plans, and Elevations