

**Brookline Board of Appeals  
March 17, 2016, 7:00 PM  
Public Hearing**

**333 Washington Street  
6<sup>th</sup> Floor Selectmen's Hearing Room**

**Board Members Present:** Jonathan Book (Chairman), Jesse Geller, Christopher Hussey  
**Staff Present:** Michael Yanovitch (Building Dept.), Jay Rosa (Planning Department)

**39 Columbia Street**

**Proposal:** Construct a two-car garage at the rear  
**Zoning District:** T-5 (Two-Family and Attached Single-Family)  
**Precinct:** 9  
**Board Decision:** Request for **withdrawal without prejudice granted**

**19 Denny Road**

**Proposal:** Construct an attached two-car garage in the front and side yards  
**Zoning District:** S-15 (Single-Family)  
**Precinct:** 13  
**Board Decision:** Relief request **granted**, subject to conditions

**1616 Beacon Street**

**Proposal:** Construct a partial fourth story sunroom with a roof deck  
**Zoning District:** G-1.75 (WS) General Business  
**Precinct:** 11  
**Board Decision:** Relief request **granted**, subject to conditions

*Minutes shall be posted on the Town of Brookline website (<http://www.brooklinema.gov/564/Zoning-Board-of-Appeals>) upon approval. Draft minutes shall be made available upon request.*

*Decisions shall be posted on the Town of Brookline website ([www.brooklinema.gov](http://www.brooklinema.gov)). Appeals, if any, shall be filed with land court or superior court within twenty days after the date of filing of such notice in the office of the town clerk.*

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**Board Members Present** – Jonathan Book (Chairman), Jesse Geller, Christopher Hussey  
**Staff Present** – Michael Yanovitch (Building Dept.), Jay Rosa (Planning Dept.)

**7:00PM**

**39 Columbia Street** – Construct a two-car garage at the rear

Board Chairman Jonathan Book opened the hearing and called case #2015-0059. Mr. Book reviewed standard hearing procedure.

The Petitioner's Attorney, Robert Allen of the Law Office of Robert Allen (300 Washington Street, Brookline, MA) waived the reading of public hearing notice for the record and introduced property owner Belinda Negron. Attorney Allen stated that the Petitioner is seeking to withdraw this appeal without prejudice. Attorney Allen further stated that Ms. Hunsinger worked with neighboring residents and Building Department representatives to revise project plans and explore modifications that may eliminate the need for zoning relief. Attorney Allen believed that the Petitioner has reached a project design that is "as-of-right" but he did wish to briefly review the revised project for the record and for abutting residents in attendance.

Attorney Allen stated that the project that will be presented to the Building Department consists of a completely detached two-car that will not include a roof deck. The garage dimensions will follow the footprint of an existing concrete parking pad that is a remnant from a previously demolished garage. Two additional tandem parking spaces will be situated in the existing driveway along the side (northeast) lot line. Attorney Allen stated that all resulting zoning nonconformities (open space, rear/side yard setbacks) are pre-existing in nature and will not be altered by this modified proposal.

**The Board had no objection to this request and unanimously voted to grant the request for withdrawal without prejudice.**

**19 Denny Road** – Construct an attached two-car garage in the front yard and side yards

Board Chairman Book called case #2016-0008 and reviewed standard hearing procedure.

Property owner Richard Corn waived the reading of public hearing notice for the record and introduced his wife Janice Fox and his son Jarred. Mr. Corn stated that he is seeking zoning relief from side and rear yard setback requirements in order to make his home more handicapped accessible. Mr. Corn confirmed that a proposed bedroom suite located at the ground level requires no zoning relief therefore the proposed front garage is the most pertinent aspect of this proposal.

Mr. Corn presented photos detailing the existing 17% grade of the front driveway that slopes down to an interior garage that is located below grade level. Mr. Corn described this driveway slope as being unsafe for his family and dangerous for passing vehicles/pedestrians. Mr. Corn further stated that the narrow driveway exacerbates this problem and makes the garage largely inaccessible, particularly in terms of handicapped access.

Mr. Corn described the existing lot topography and street trees as challenges that dictate the most appropriate location to site this proposed garage in the front yard. Mr. Corn stated that the existing curb cut cannot be widened without impacting street trees and the slope of the eastern portion of the lot prevents the creation of a driveway that is code compliant. Additionally, the size of the garage is dictated by the need to install a safe access ramp and garage roof pitches that match the existing structure. With this in mind, the existing driveway will be filled and the new garage will be constructed at grade. A mudroom will also be installed within the existing structure to further improve access.

Mr. Corn informed the Board that he has communicated this proposal to neighboring residents and all directly impacted abutters have submitted letters in support of this project. Mr. Corn also highlighted neighborhood properties that present garages that are situated within required front yard setbacks.

Mr. Corn concluded his comments by reviewing project compliance with the standards for the grant of a special permit in accordance with Zoning By-Law Sections 9.05 and 5.43. Mr. Corn specifically noted that he plans to work with his adjacent neighbor at 29 Denny Road to improve planted features along the shared side lot line to serve as counterbalancing amenity for the requested setback relief.

Mr. Corn believed that these proposed additions most readily improve the functionality of the single-family structure for his family, but will also improve overall accessibility and safety for all potential future residents as well.

Board Chairman Book asked whether or not the garage setback will provide enough room for adequate driver sight lines. Mr. Corn stated that he intends to back vehicles into the garage because his vehicles are rear loading for handicapped access. Backing vehicles into the garage will also allow for consistent sight lines when exiting the property. Board Member Hussey concurred that the proposed 5 foot setback to the garage doors would allow vehicles backing out of the garage to clear the face of the garage prior to crossing over the public sidewalk.

Mr. Hussey questioned why two separate setback requirements are included in the Planning Board report. Deputy Building Commissioner Michael Yanovitch stated that the structural setback for the single-family district is 25 feet however Zoning By-Law Section 5.01, Footnote 1 does require front facing garage doors shall not be closer than 20 feet to the front lot line.

Mr. Hussey also requested that the petitioner clarify if existing hemlocks are located on the subject property or on the public sidewalk. Mr. Corn confirmed that hemlocks included on the submitted site plan are located on his private property.

Board Chairman Book called for public comment in favor of, or in opposition to the Petitioner's proposal.

No members of the public commented.

Board Chairman Book requested that Zoning Coordinator Jay Rosa review the findings of the Planning Board. Mr. Rosa stated that the Planning Board unanimously supported this proposed two-car garage. Board Members agreed that the front-yard location of the garage is perhaps the most feasible for the property and both vehicular and resident access will be improve from the current driveway condition. The Board suggested that the overall height of the garage door be increased to further improve sight lines and a more detailed roof plan be submitted to clearly illustrate water runoff and snow buildup areas.

Therefore the Planning Board recommends approval of the site plan submitted by Bruce Bradford, dated 1/27/16, and plans by Pierce Lamb Architects, dated 1/21/2016, 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 with garage door details and a roof plan, 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 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 floor plans and 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.

Board Chairman Book requested that Deputy Building Commissioner Michael Yanovitch review the findings of the Building Department. Mr. Yanovitch stated that Mr. Corn worked closely with Town staff to develop the most appropriate garage improvements for the subject property. Mr. Yanovitch agreed that the garage reconfiguration immediately improves the usability of the structure for Mr. Corn and his family but also stands to benefit future property owners. Mr. Yanovitch confirmed that the Building Department will work with the Petitioner to ensure compliance if the Board does find that the requirements for the grant of a special permit are satisfied.

### ***Board Deliberation***

Board Member Geller stated that the garage design is a good proposal that is worthy of requested relief. The project solves an immediate family need, however Mr. Geller cautioned that the limited front yard setback could encourage front-yard parking that may negatively impact pedestrian safety. Mr. Geller acknowledged that this exterior parking would be more of an enforcement issue than a zoning relief issue.

Mr. Hussey concurred with these comments and again reiterated that he supported backing into the garage to improve vehicular safety when exiting the property. Mr. Hussy agreed that parking across the public sidewalk is prohibited by the Town.

Chairman Book stated that he was in favor of the requested zoning relief and believed the proposal to be thoughtfully done. Mr. Book agreed that the requirements for the grant of a special permit under By-Law Section 9.05 and 5.43 are met and he was not troubled by the temptation to park in front of the new garage because it is a prohibited practice.

**The Board unanimously voted to grant requested relief, subject to conditions stated for the record.**

**1616 Beacon Street** – Construct a partial fourth story sunroom with a roof deck

Board Chairman Book called case #2015-0053 and reviewed standard hearing procedure.

The Petitioner's Attorney, Jeffrey Allen of Lawson and Weitzen LLP (88 Black Falcon Ave., Boston, MA) waived the reading of public hearing notice for the record and introduce property owner Alex Politman. Attorney Allen stated that the proposed project is a modest fourth-story addition to create a sunroom and roof deck that will not be easily visible from Beacon Street. Attorney Allen stated that requested zoning relief is specifically required for design review because the property is located within 100 feet of the major Beacon Street thoroughfare. Attorney Allen further stated that zoning relief is also required for minimum usable open space requirements, which Attorney Allen characterized as a pre-existing nonconformity. Attorney Allen stated that the proposed sunroom will increase to gross floor area of the structure by approximately 453 square feet and usable open space requirements are calculated based on a percentage of this gross floor area. Attorney Allen confirmed that relief for both of these matters may be granted by special permit because this residential structure is located within a business district. Attorney Allen stated that the current design before the Board was heard twice by the Planning Board because several design modifications were suggested, which the Petitioner has incorporated into revised plans.

Attorney Allen described design alterations from the prior iteration including the use of brick veneer and eliminating a staircase headhouse that is the most visible portion of the addition from Beacon Street.

Attorney Allen also noted that the revised plans submitted to the Board are inaccurate because the front façade of the addition was expanded toward the front lot line. Attorney Allen explained that the prior iteration of 4<sup>th</sup> floor plans accurately detail the dimensions of the sunroom but the headhouse must be eliminated from those plans. Attorney Allen stated that he supported any potential conditions that require these modifications prior to the issuance of a building permit.

Mr. Hussey clarified that initial plans are dated 12/21/15 and the inaccurate updated plans are dated 3/9/2016. Mr. Hussey also asked if a proposed roof deck qualifies as usable open space.

Mr. Yanovitch stated that the uncovered roof deck does not satisfy dimensional requirements to be included in open space calculations however the Board may waive these requirements by special permit.

Attorney Allen further stated that the pre-existing nonconforming open space calculation will not be altered however new open space is indeed being proposed for the roof area.

Mr. Hussey questioned whether or not the Petitioner has finalized proposed building materials. Mr. Politman stated that the 4<sup>th</sup> story addition will be constructed of brick.

Mr. Hussey stated his support for the use of clapboard.

Board Chairman Book called for public comment in favor of, or in opposition to, the Petitioner's proposal.

No members of the public commented.

Mr. Book requested that Mr. Rosa review the findings of the Planning Board. Mr. Rosa stated that the Planning Board recommended approval of the partial fourth story and associated roof deck following two public meetings. The Board supported the use of brick veneer to match the existing structure but strongly recommended that the headhouse that is visible from Beacon Street be removed from project plans in favor of a low skylight. As Attorney Allen noted, the revised plans incorporate this recommendation however there is a discrepancy in the length of the enclosed 4<sup>th</sup> story sunroom. The original plans indicate a 12 foot length for the majority of the sunroom but revised plans extend the sunroom 18' – 11" from the rear façade. The Planning Board prefers the 12 foot length for the sake of minimizing visual impact on Beacon Street.

Therefore, the Planning Board recommended approval of the site plan, dated 1/9/2015, by Peter Nolan and Associates, and the floor plans and elevations, dated 12/21/15 and prepared by RAV and Associates. If approved by the Board of Appeals, the Planning Board recommends the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans, and elevations showing the elimination of the forward head house, subject to review and approval by the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan, subject to review and approval by the Assistant Director for 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 floor plans and 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.

Mr. Book requested that Mr. Yanovitch review the findings of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the relief as requested. Mr. Yanovitch described the relief as being fairly modest and confirmed that special permit relief is only required for usable open space and overall design review. Mr. Yanovitch again confirmed that the Building Department would work with the Petitioner to ensure compliance if the Board determines that the requirements for the grant of a special permit are satisfied.

### ***Board Deliberation***

Mr. Book noted that the Board may grant special permit relief to waive the overall open space calculation requirement, or they may waive the 15' x 15' requirement that precludes the roof deck area from satisfying open space requirements. Mr. Book also emphasized that the final Board decision must include accurate floor area and open space calculations based on the original floor plans submitted for this project.

Board Member Hussey stated that he supports the grant of requested zoning relief and he believed that the 4<sup>th</sup> story addition meets the requirements for zoning relief as requested. Mr. Hussey described the roof alterations as being fairly innocuous and reiterated the fact that the roof deck does indeed provide open space that is usable for residents.

Board Member Geller stated that he was in favor of the relief as requested and he agreed that the requirements for the grant of a special permit are met in accordance with By-Law Section 9.05.

Chairman Book concurred with prior Board Member comments and he agreed that the proposal is worthy of requested relief. Mr. Book also noted that special permit relief is also required under By-Law Section 8.02.2 in order to alter a pre-existing nonconforming structure.

Unanimous Board grant of requested relief, subject to the following revised conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans, and elevations showing the elimination of the forward head house, subject to review and approval by the Assistant Director for 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; 2) final floor plans and 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.

**Hearing Closed.**