

**Brookline Board of Appeals  
May 5, 2016, 7:00 PM  
Public Hearing**

**333 Washington Street  
Room 111**

**Board Members Present** – Jesse Geller (Chairman), Johanna Schneider, Steve Chiumenti  
**Staff Present** – Jay Rosa (Planning Dept.)

**93 Wolcott Road**

**Proposal:** Construct a second-story rear addition

**Zoning District:** S-15 (Single-Family)

**Precinct:** 16

**Board Decision:** Relief request **granted**, subject to conditions

**60 Hillside Road**

**Proposal:** Construct a parking court in the front yard

**Zoning District:** S-40 (Single-Family)

**Precinct:** 14

**Board Decision:** Relief request **granted**, subject to conditions

**71 Francis Street**

**Proposal:** Construct an attached garage in the rear yard

**Zoning District:** T-5 (Two-Family and Attached Single-Family)

**Precinct:** 3

**Board Decision:** Relief request **granted**, subject to conditions

**145 Sargent Road**

**Proposal:** Construct multiple additions, expand living space in garage, and construct an accessory pool house

**Zoning District:** S-40 (Single-Family)

**Precinct:** 5

**Board Decision:** Request for continuance granted to **July 14, 2016**

*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.*

**Brookline Board of Appeals  
May 5, 2016, 7:00 PM  
Public Meeting & Hearing**

**333 Washington Street  
Room 111**

**Board Members Present** – Jesse Geller (Chairman), Johanna Schneider, Steve Chiumenti, Mark Zuroff, Jonathan Book, Christopher Hussey, Kate Poverman

**Staff Present** – Joslin Murphy (Town Counsel), Alison Steinfeld, Polly Selkoe, Maria Morelli, Jay Rosa (Planning Dept.)

**6:00PM**

**Public Meeting**

Board Chairman Geller opened the hearing and called upon Joslin Murphy (Town Counsel) to review M.G.L., c.40B regulations and standard hearing procedure.

Ms. Murphy reviewed state standards and policy for comprehensive permit applications under M.G.L. c. 40B, specifically time lines, forms of approval or denial, and forms of appeal if necessary.

Board Member Mark Zuroff questioned whether the Board may seek legal advice from Town Counsel pertaining to upcoming 40B project or if it is more appropriate to request outside counsel. Ms. Murphy stated that Town Counsel support will be made available to the Board but may not be present at all public 40B hearings. Ms. Murphy also stated that executive sessions are also an opportunity for the Board to discuss legal matters.

Director of Planning and Community Development, Alison Steinfeld updated the Board on four pending proposals that will be submitted by 40B Comprehensive Permit application including: 265-299 Gerry Road, 1180 Boylston Street, 40 Centre Street, and 420 Harvard Street. Ms. Steinfeld stated that she intends to standardize all public hearings for these proposals and will be seeking funds for technical assistance from the Massachusetts Housing Partnership (MHP).

The Board voted unanimously to allow the Board Chair to sign applications for MHP 40B technical assistance for all upcoming comprehensive permit proposals.

Public Meeting Closed

**7:00PM**

**Public Hearing**

**Board Members Present** – Jesse Geller (Chairman), Johanna Schneider, Steve Chiumenti

**Staff Present** – Jay Rosa (Planning Dept.)

**93 Wolcott Road** – Construct a second story rear addition

Board Chairman Geller opened the hearing and called case #2016-0019. Mr. Geller reviewed standard hearing procedure.

Project architect Scott Simpson waived the reading of public hearing notice for the record and introduced contractor Robert Ferrier. Mr. Simpson described the proposal as a modest two-story addition that would create a powder room on the first floors and expand a full bathroom on the second floor. The gross floor area would increase by 132 total feet and the rear addition remains within the existing footprint of the structure.

Mr. Simpson further stated that zoning relief is requested for the resulting side yard setback of 9.3 feet and counterbalancing amenities for this relief are proposed in the form of matching material finishes and planter box installation along the side façade that faces the property at 101 Wolcott Road.

Board Member Schneider questioned whether or not the 9.3 foot side yard setback is a pre-existing nonconforming condition. Mr. Simpson confirmed that the 9.3 foot side yard setback is pre-existing and the structure will be extended vertically rather than closer to the side lot line in question.

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

Robert Ferrier submitted a letter expressing support for the project to the Board. Mr. Ferrier stated that the letter was provided by Amy Blumenthal and Richard Geller of 101 Wolcott Road, and dated April 11, 2016.

Mr. Geller called upon Zoning Coordinator, Jay Rosa to review the findings of the Planning Board and the Building Department. Mr. Rosa stated that the Planning Board unanimously supported the proposed second-story addition. The floor area increase is minimal and exclusively intended to improve the interior functionality of the home. Board Members supported the design and proposed building materials but requested that the petitioner incorporate a pitched roof for the single-story portion of the addition and submit elevations for the entire structure which Mr. Ferrier has complied with.

Therefore, the Planning Board recommended approval of the site plan submitted by Jay Jarosz, dated 2/15/16, and floor plans and elevations by Scott Simpson, dated 2/4/16, 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 updated elevations, 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 including all counterbalancing amenities, 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. Rosa further stated that the Building Department also has no objection. The relief requested represents an extension of a pre-existing nonconformity that will not reduce the existing 9.3 foot side-setback of the rear bay. Additionally, the petitioner has proposed window planter boxes to serve as counterbalancing amenity for this setback relief in accordance with by-law section 5.43.

### ***Board Deliberation***

Board Member Schneider described the proposal as a modest project that will not exacerbate the existing non-conforming side-yard setback. Ms. Schneider noted that appropriate counterbalancing amenities are provided and she stated that she was in favor of granting special permit relief as requested.

Board Member Steve Chiumenti concurred with Ms. Schneider's comments and stated support for the proposal. Mr. Chiumenti requested clarification regarding the redundancy of relief requested under both Sections 5.43 and 8.02.

Mr. Rosa stated that special permit relief is indeed required to alter the pre-existing nonconforming structure under Section 8.02.2. The extended setback relief does also require special permit relief under Section 5.43, thus requiring counterbalancing amenities.

Board Chairman Geller stated that he was in support of the proposal and the associated special permit relief. Mr. Geller further stated that the general requirements for the grant of a special permit are also satisfied in accordance with By-Law Section 9.05.

**Unanimous Board grant of requested relief, subject to conditions stated for the record. Mr. Geller clarified that Board approval pertains to revised project plans dated, 4/19/16.**

### **60 Hillside Road – Install a parking Court in the front yard**

Board Chairman Geller called case #2016-0003 and reviewed standard hearing procedure.

The Petitioner's Attorney, Robert Allen of the Law Office of Robert Allen Jr. (300 Washington Street, Brookline, MA) waived the reading of public hearing notice for the record and introduced property owner Parhar Nanji and representatives from Vona Construction. Attorney Allen stated that the Petitioner purchased the subject property in 2011 and built the current single-family home that exists on the lot. Mr. Nanji's family lives in the structure and proposes to install a surface parking court within the required 30-foot front-yard setback. This parking court would provide parking area for visitors and enough "swing space" for delivery vehicles. A retaining wall is required for structural support due to the natural grade of the property and evergreen hedges are proposed to surround front and side portions of the parking court.

Attorney Allen further stated the subject property is located in an S-40 zoning district and borders the S-15 district, which requires less substantial front-yard setbacks. Attorney Allen confirmed that

the Planning Board recommended denial of this proposal, largely citing the fact that new construction, and the overall size of the lot, should allow the Petitioner to construct code compliant parking. Mr. Allen explained that water runoff and drainage or key issues that dictated the location of the structure itself and the subsequently proposed parking court. Two large-scale drainage galleys are located directly to the rear of the structure and directly to the east of the structure. Drainage and water runoff are a documented challenge in this neighborhood and the Petitioner is limited in terms of feasible portions of the lot to support a parking court of this size. Attorney Allen further stated that a potential reduction in the depth of the parking court by eight foot would prohibit safe vehicular swing space.

Attorney Allen concluded his comments by stating that special permit relief may be granted by the Board for this non-compliant front-yard setback under Zoning By-Law Section 5.43. Front-yard parking courts of similar design and location are located throughout the surrounding neighborhood and the proposed evergreen hedges are intended to screen headlight glare. Attorney Allen reviewed project compliance with By-Laws Section 9.05 requirements for the grant of a special permit and noted that the most impacted abutting resident at 63 Hillside Road submitted a formal letter in support of the project.

Board Chairman Geller questioned whether the parking court plan was developed along with the overall design of the house of after completion of the residential structure. Mr. Nanji stated that the house was designed with no parking court. The structure was situated in a manner that would maintain a usable rear yard and allow for adequate drainage systems. Upon moving into the home, Mr. Nanji explained that there is limited access to the front entrance to the home and vehicle turn-around is only available for vehicles that are exiting the attached two-car garage.

Board Member Schneider requested additional detail regarding the size of delivery vehicles that were referenced by Mr. Nanji. Mr. Nanji explained that he referenced "swing space" for standard UPS/FedEx delivery vehicles.

Chairman Geller requested additional detail regarding area parking courts as referenced by Attorney Allen. Mr. Allen stated that the majority of these front-yard parking courts existed prior to current zoning requirements and a new parking court located at 63 Hillside Road was granted zoning relief by the Board of Appeals in 2016.

Board Member Chiumenti asked if the Petitioner has communicated project plans with abutting residents and if the requested zoning relief at 63 Hillside Road was similar. Attorney Allen stated that limited residents live on the dead end private way and the most impacted property across the street has expressed support. Attorney Allen confirmed that relief from front-yard setback requirements was required for the parking court located at 63 Hillside Road and that proposed setback was much closer to the street lot line.

Chairman Geller called for public comment in favor of, or in opposition to, the Petitioner's proposal. No members of the public commented.

Chairman Geller requested that Zoning Coordinator Jay Rosa review the findings of the Planning Board and the Building Department.

Mr. Rosa stated that the Planning Board recommended denial of the front yard parking court. Board members felt that the entire structure including the court itself is new construction and therefore could easily comply with the 30 foot front yard requirement if parking court dimensions were revised. Additionally, Board Members felt that the lot already provides adequate parking and vehicular maneuverability with the two-car garage located at the rear of the structure.

Therefore, the Planning Board recommended denial of the site plan submitted by Bruce Bradford, dated 12/11/2015. Should the Board of Appeals find that the requirements for the grant of a special permit are met, the Planning Board recommends the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan including all counterbalancing amenities and features intended to minimize the visual impact of vehicle headlights on abutting properties, 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) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Rosa further stated that the Building Department has no objection to the relief as requested. Front yard parking courts of this style are common in the immediate neighborhood along Hillside Road and Heath Hill Road. The 22 foot setback is still significant and Hillside Road is a dead end so the Building Department does not anticipate any adverse impact from citing the court in this location. Additionally, the petitioner has proposed hedges around the court to screen potential headlight glare.

Mr. Rosa confirmed that abutting residents frequently express concern about drainage in this neighborhood because the natural topography slopes down from Warren Street to Lee Street. Mr. Rosa also confirmed that all final drainage will require review by the Department of Engineering.

### ***Board Deliberation***

Board Member Chiumenti stated that he was initially troubled by the fact that the Petitioner did not revise parking court dimensions following review by the Planning Board. Mr. Chiumenti acknowledged that the dead end way limits impact from this project to the abutting property at 63 Hillside Road. Mr. Chiumenti was also satisfied that the parking court layout and location is directed by drainage and soil condition rather than an aesthetic amenity.

Chairman Geller agreed that his initial response aligned with the Planning Board findings, however it appears that the abutting neighborhood has no issue with the parking court, the parking area would be appropriately buffered by evergreen hedges, and the design is consistent with the surrounding neighborhood.

Board Member Schneider stated less reservation in supporting the proposal. Ms. Schneider stated that the proposal emerged in response to limited parking functionally for the current property. Ms.

Schneider also cited the fact that the proposed parking court would improve access to the front portion of the structure, the resulting 22 foot front-yard setback is ample, and the resulting impact on abutting property owners is minimal.

**The Board found that the standards for the grant of a special permit are met in accordance with By-Law Sections 5.43 and 9.05 and voted unanimously to grant special permit relief as requested, subject to conditions stated for the record.**

**71 Francis Street** – Construct a two-car garage with a roof deck in the rear yard and connect to the existing single-family dwelling

Chairman Geller called case #2016-0018 and reviewed standard hearing procedure.

The Petitioner's Attorney Robert Allen Robert, of the Law Office of Robert Allen Jr. (300 Washington Street, Brookline, MA), waived the reading of public hearing notice for the record and introduced property owner Kathleen Scanlon. Attorney Allen stated that the subject property is located within a T-5 Two-Family and Attached Single-Family district and abuts the Lawrence School playground. Attorney Allen described the neighborhood as being dense and stated that the Petitioner worked closely with neighboring residents to create a garage design that works for a variety of abutters.

The Petitioner is requesting to demolish and replace a dilapidated garage with a more active two-car garage with a roof deck. The current garage is covered in vines and is located on a portion of the property that slopes down toward the north. This location aligns the roof of the garage with the ground floor of the primary structure. The existing garage is 400 square feet and the proposed garage would be expanded to 600 square feet, resulting in a side yard setback of 1' and a rear yard setback of 6'-1".

Project Architect Dan Heisel further described the final garage design. Mr. Heisel stated that he worked closely with Ms. Scanlon to create a contemporary garage with usable open space above. The structure also lends itself to expanding vines to serve as landscaped screening.

Board Member Chiument requested additional detail regarding potential privacy issues that may arise with the garage roof deck located in close proximity to the side lot line. Mr. Heisel stated that the side wall in question would extend above the roof height to create a parapet. Benches and future vine growth would enhance this privacy screening.

Mr. Chiumenti asked what is located in the adjacent rear yard along this side lot line. Ms. Scanlon stated that the adjacent rear yard is currently used for a garden.

Attorney Allen reviewed project compliance with By-Law Section 9.05 and 5.43 requirements for the grant of a special permit. Mr. Allen restated that the rear lot line in question abuts a public playground and neighboring residents support and contributed to the final garage design.

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

Robert Leinbach, of 67 Francis Street, stated his support for the project and confirmed that many single-family homes along this portion of Francis Street include rear decks similar to the garage roof deck proposed by the Petitioner.

Chairman Geller called upon Zoning Coordinator, Jay Rosa to review the findings of the Planning Board and the Building Department. Mr. Rosa stated that the Planning Board unanimously supported the proposed rear garage. The modern garage design will improve the condition of the existing property as the current garage in this location is in disrepair. A functioning garage will also allow the petitioner to eliminate tandem surface parking in the driveway. The garage footprint will not be located any closer to the side lot line in question and the rear lot line abuts the Longwood playground. In general Board Members also supported overall garage design as well as the expanded usable open space created by the roof deck.

Therefore, the Planning Board recommended approval of the site plan and elevations by DHA, Inc, dated 2/3/2015 subject to the following conditions.

- 1) Prior to the issuance of a building permit, the applicant shall submit a final site plan and elevations, with materials indicated, 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, 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 stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

Mr. Rosa further stated that the Building Department also has no objection. To clarify the proposed 6 foot rear yard setback meets requirements for an accessory structure however the connecting bridge forces us to interpret the garage as the primary structure, hence the 30 foot requirement. Again, the building department has no objection and always supports organizing parking for the sake of improved safety and maneuverability.

### ***Board Deliberation***

Chairman Geller suggested that condition #2 be revised to include counterbalancing amenities because setback relief is being requested under By-Law Section 5.43.

Board Member Chiumenti stated that he was in favor of the proposed garage and associated setback relief. Mr. Chiumenti also commended the Petitioner for working with neighboring residents to reach a project design that works for all impacted individuals.

Ms. Schneider concurred with Mr. Chiumenti and further stated that the new garage would be safer and more aesthetically pleasing. Ms. Schneider believed that the garage is well designed for the tight area provided in the rear yard.

Chairman Geller concurred with Board Member comments and specifically stated that requirements for the grant of a special permit under By-Law Section 5.43 and 9.05 are met.

**Unanimous Board grant of requested relief, subject to revised conditions stated for the record.**

**145 Sargent Road** – Construct multiple additions, expand living space above garage, and construct an accessory pool house

Board Chairman Geller called case #2016-0010 and reviewed standard hearing procedure.

The Petitioner's Attorney Robert Allen Robert, of the Law Office of Robert Allen Jr. (300 Washington Street, Brookline, MA), stated that the Petitioner is seeking a case continuance to July 14, 2016. The Planning Board and abutting residents expressed concern about the current proposal and the Petitioner intends to return before the Planning Board in June.

Neal Glick, of Swiggart and Agin (197 Portland Street, Boston, MA) stated that he represents several abutting residents and requested additional detail regarding the case procedure moving forward.

Mr. Rosa stated that a public meeting with the Planning Board will be scheduled following the submission of any revised plans. All abutters within 300 feet of the subject property would be notified of this meeting date one week prior. Public comment will be permitted at that meeting and the Petitioner ideally would come back before this Board of Appeals on July 14<sup>th</sup> with a final recommendation from the Planning Board in hand. Mr. Rosa confirmed that public notice for the Board of Appeals date will be mailed to abutting residents two weeks prior.

**Unanimous Board grant of case continuance to 7/14/16.**

**Hearing closed.**