

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

**333 Washington Street
6th Floor Selectmen's hearing Room**

Board Members Present – Jesse Geller (Chairman), Mark Zuroff, Christopher Hussey
Staff Present – – Michael Yanovitch (Building Department), Ashley Clark (Planning Department)

24 Holland Street

Proposal: Construct an addition in the front yard (rear of property)

Zoning District: S-15

Precinct: 14

Board Decision: Relief request granted, subject to conditions

12 Clearwater

Proposal: Convert the garage into living space and construct an addition at the rear

Zoning District: S-7

Precinct: 16

Board Decision: Relief request granted, subject to conditions

*Minutes shall be posted on the Town of Brookline website
(<http://www.brooklinema.gov/564/ZoningBoard-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). 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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Staff Present – Michael Yanovitch (Building Department), Ashley Clark (Planning Department)

7:00PM

24 Holland Road- Construct an addition in the front yard (rear of property)

Board Chairman Geller opened the hearing and called case #2016-0038. Mr. Geller reviewed standard hearing procedure.

Bob Wheeler, the designer for the project, waived the reading of public hearing notice for the record. Mr. Wheeler described the proposal to create a master bedroom and guest bedroom addition. Mr. Wheeler stated all the side setbacks are in compliance and further stated the FAR complies. Mr. Wheeler described why they qualify for a Special Permit for the front yard setback and the need to measure the setback from the private way. Mr. Wheeler further shared with the board details regarding plantings on the property have been worked out with their neighbor who had previously expressed concerns.

Board Member Hussey asked for clarification regarding the hearing scheduled next week with the Preservation Commission, which may result in a stay being placed on the property for a year, and the granting of a Special Permit expiring after one-year. Mr. Hussey was concerned the Special Permit may expire before the stay is lifted on the property.

Mr. Yanovitch from the Building Department explained in the case a stay is placed, the applicant may request an extension for up to a year for the Special Permit. Mr. Yanovitch further explained the proposal is considered demolition because it is altering an entire façade.

Chairman Geller inquired about the proposed counter balancing amenity.

Mr. Wheeler stated their plans to speak with their neighbor regarding a landscape plan, a landscape developer and to confer with the town.

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

There was no public comment submitted.

Board Chairman Geller called upon Zoning Coordinator Ashley Clark to review the findings of the Planning Board. Ms. Clark stated the Planning Board has no objection to the relief as requested. The proposed exterior addition is designed in a manner that complements the 1960's modern architectural style of the existing structure by incorporating an angled roof with a modest pitch. The expanded floor area is intended to improve the interior functionality of the dwelling in a manner that also minimizes the loss of usable open space. Additionally, the unique nature of the bisected lot triggers the noncompliant front yard setback because the setback distance must be measured from the private way itself rather than the southern lot line. The Planning Board asked the applicant to provide to the Board of Appeals the basement floor plans with a notation on the square footage of habitable space, if any.

Therefore, the Planning Board recommends approval of the site plan submitted by Paul J Tyrell, dated 3/15/2016, and floor plans and elevations submitted by Bob Wheeler, dated 4/18/2016, subject to the following conditions:

- 1. Prior to the issuance of a building permit, the Applicant shall submit a final site plan, floor plans including the basement, and elevations including final building materials, 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 landscape plan showing screening of the addition from the rear abutter, 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 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.**

Board Chairman Geller requested that Deputy Building Commissioner Michael Yanovitch review the findings of the Building Department. Mr. Yanovitch stated that the Building Department also has no objection to the relief requested and felt the relief sought was modest.

Board Deliberation

Board Member Zuroff had no objections to this proposal. Mr. Zuroff felt the relief was minimal and the counterbalancing amenities were sufficient as long as the neighbor was agreeable.

Board Member Hussey stated the conditions need to specifically require a landscape plan.

Chairman Geller also felt the relief and addition were modest. Mr. Geller stated the proposal meets all the requirements under Section 5.43 and Section 9.05.

The Board therefore voted unanimously to grant special permit 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 including the basement, and elevations including final building materials, 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 landscape plan showing counterbalancing amenities including the screening of the addition from the rear abutter, 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 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.**

12 Clearwater Road: Convert the garage into living space and construct an addition at the rear

Chairman Geller called case #2016-0035 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 and project architect Matt Gifford and Erin Gately. Attorney Allen described the two story single family road in an S-7 district which requires about 5,000 square feet. Attorney Allen stated Mr. Gifford's lot is the smallest on the block at 4,266 square feet. The proposal is to convert an existing single car garage. Mr. Allen stated said garage has never been used as a garage, and further it is not capable of fitting a car in it. Mr. Allen stated any changes to this house would require relief.

Matt Gifford presented the plans to the board. He described why they are seeking this relief in converting the garage into livable space. Mr. Gifford stated their proposal is the only option to feasibly add livable space to the house, due to the lot size. To accommodate for the loss of storage, they are proposing a shed on the back of the house. Further, Mr. Gifford stated, they are proposing to expand the driveway to reasonably accommodate for a second car. Mr. Gifford described the small size of the garage and explained though you may get a car into the garage, one could not get out of the car.

Chairman Geller inquired about the drive ways from the neighboring properties. Mr. Geller reviewed each of the houses submitted into the Neighborhood Context section of Mr. Gifford's presentation.

Board Member Hussey inquired about the current condition of the driveway, as well as the square footage proposed.

Mr. Gifford explained the size of the driveway, where it runs and the curb cut conditions.

The board discussed with Mr. Gifford the submitted FAR calculations, specifically if it includes the mudroom. It was established the final FAR calculation submitted was correct.

Board Member Hussey noted variations on the setback numbers between the submitted plans and report.

Attorney Allen stated there were a couple issues related to zoning but felt relief could be granted by a Special Permit. The garage is too small for vehicles, so it is not displacing any vehicles. The applicant will put together a landscaping plan for counter balancing amenities. The property is unique, not only is it undersized but it is the smallest in the S-7 district. Attorney Allen referenced the existing streetscape of the homes as all setback in the front yard. Mr. Allen argued this does not allow the owner to build into the front yard.

Attorney Allen stated the Planning Board appreciated that the proposal does not change the streetscape even though the owner could potentially tear down the garage and rebuild it. Mr. Allen reviewed project compliance with Zoning By-Law Section 9.05 standards for the grant of a special permit. Mr. Allen also as described why he believed this meets the requirements for a variance.

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

There was no public comment submitted.

Board Chairman Geller called upon Zoning Coordinator Ashley Clark to review the findings of the Planning Board. Ms. Clark stated the Planning Board is not opposed to this application to convert garage space into habitable space and construct a shed at the rear at 12 Clearwater Road. The design is consistent with the existing house and with the streetscape of the neighborhood. The Planning Board considered the general provisions of Section 5.22.1.e of the zoning by-law, which lists the general provisions for granting a special permit for FAR. It reads: "The interior conversion shall not result in the displacement of interior storage of equipment, vehicles, or materials to a location which is now exterior to the house." The applicant's attorney made a convincing argument that because of the small size of the garage, the owners have not been able to use the garage for vehicles, thus it would not compound the parking situation. The board suggested, per the counter balancing amenity requirement under section 5.43, the applicant install landscaping in the front yard.

Therefore, the Planning Board recommends approval of the site plan submitted by Stephen P. Desroche dated 3/15/2016, and architectural renderings submitted by Matthew Gifford and dated 5/2/2016, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, elevations, and floor plans subject to the review and approval of the Assistant Director for 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 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
 - 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Deputy Building Commissioner Michael Yanovitch stated that the Building Department also has no objection to the relief as requested. Mr. Yanovitch felt the relief is very minor and stated if it was determined that the parking situation is preexisting nonconforming; there are two options to grant relief.

Board Deliberation

Board Member Hussey felt the garage is practically unusable due to its size and the trend towards larger cars such as SUVs. On those grounds, Mr. Hussey stated he would accept the argument that the garage is unusable because of its size; therefore the special permit argument has merit.

Board Member Zuroff was concerned about parking in the front yard setback becoming an obstacle to pedestrians. Mr. Zuroff felt the relief requested is minimal and felt the temporary storage shed was appropriate.

Chairman Geller felt this proposal was worthy of relief and felt the applicant had a good reason for it due to the small size of the lot. Mr. Geller felt that Mr. Hussey raised an interesting point which is the historical obsolescence for a small garage. Mr. Geller felt the section was clear that it does not want for the conversion of garages and the placement of cars in the front yard setback. Mr. Geller explained the bylaw does not make an exception if you have a small garage or if you decide to stop using your garage. Mr. Geller felt there is an argument for a variance and cited a narrowing lot which prohibits an owner from doing anything else.

Board Member Zuroff was in agreement with Mr. Geller and felt that it was a good argument. Mr. Zuroff felt by granting relief through a variance, they are not going directly against what the code says, which would be the case if they granted relief by special permit.

Board Member Hussey was in support of either a variance or special permit.

Unanimous Board grant of requested relief, subject to conditions stated for the record to include counter balancing amenities.