

**Brookline Board of Appeals  
August 4, 2016, 7:00 PM  
Public Hearing**

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

**Board Members Present** – Mark Zuroff (Chairman), Christopher Hussey, Kate Poverman

**Staff Present** -Ashley Clark (Planning Dept.)

**7:00PM**

**1517 Beacon Street:** Convert from a three-family to a four-family dwelling and install parking

Board Chairman Zuroff opened the hearing and called case #2016-0044 1517 Beacon Street. Mr. Zuroff reviewed standard hearing procedure.

Attorney Michael Merrill (100 State Street, Boston, MA 02109) waived the reading of public hearing notice for the record and stated he is representing the applicant 1517 Beacon Street LLC.

Attorney Merrill presented the proposal to convert a three family to a four family. Mr. Merrill described the neighborhood context and the abutting properties. Mr. Merrill described in detail the shared passageway and how residents access the garages behind the row houses. Mr. Merrill stated the proposal is not to change the existing footprint, only to add an additional unit within the existing space. Mr. Merrill stated the new windows will match the existing windows.

Mr. Merrill stated the zoning relief requested may be granted as a special permit. Mr. Merrill stated when creating an additional dwelling unit in a M district, the Board of Appeals may by special permit, waive dimensional requirements with the exception of minimum lot size, provided no previously existing non-conformity is increased. Mr. Merrill stated this proposal conforms to minimum lot size and seeks only an increase in Floor Area Ratio to the level allowed under special permit and in conformance with Bylaw ~~Section 5.22.3.b.2.~~

Mr. Merrill stated as a project on Beacon Street they are subject to design review which the Planning Board has decided design standards have been met.

There was a discussion between the Board and Mr. Merrill regarding the shared passageway they are proposing to repave as part of a counter balancing amenity to the neighbors.

Board Member Poverman asked why the Planning Board recommended five parking spaces instead of six.

Mr. Merrill stated it was in response to an abutter's concern. Ms. Clark stated there was a concern over cars queuing in the passageway and potentially creating a blockage. The project's architect presented, on a board, the parking plan and tandem spaces.

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

Attorney Michael Barrows, representing the abutters who reside at 103 Griggs Road, Brookline MA, stated they were in conversations with Attorney Merrill to provide some privacy fence screening where there is an existing retaining wall that is out of disrepair. Mr. Barrows described the agreement to remove a tree that is causing the encroachment onto the property at 103 Griggs Road. Mr. Barrows stated it needs to be updated according to local law and stated he has not reached an accord in regards to the tree. Mr. Barrows stated though there will be a separate agreement, would like those conditions reflected in the Board of Appeals conditions.

Board Member Poverman asked the applicant to demonstrate and describe exactly where the retaining wall and tree under discussion was located. Ms. Poverman inquired about the ownership of the retaining wall and tree and who was responsible for maintaining it.

Mr. Merrill described the retaining wall conditions and stated that it jogs across the property line.

Mr. Zuroff stated the wall was not a zoning issue and thus the Board was not going to decide on that. Mr. Zuroff further stated they would not include that in their conditions however if the Petitioner and Abutter wanted to come to a private agreement they could do so.

There was a discussion regarding the passageway and who has ownership interest in maintaining it. Board Member Poverman and Chair Member Zuroff felt the agreement over the retaining wall and how to move forward regarding the tree was not a zoning issue and therefore not for them to determine or include in their conditions.

Board Chairman Zuroff asked Attorney Merrill what has been agreed to with the abutters at 103 Griggs Road. Mr. Merrill stated they have agreed to straighten the retaining wall, install a privacy fence 4'-6' on top of the retaining wall and remove trees on the common passageway. Mr. Merrill stated they have not agreed to planting trees on the passageway.

Ronnie Baer, 1519 Beacon Street, stated she would be excited for the trees to be removed because getting cars in and out of the garage is a challenge, especially during winter conditions. Ms. Baer further stated they would be delighted if there were no new planting after construction.

Attorney Barrows stated the owners are not entitled to a four-unit building which is why they are asking for a special permit. Mr. Barrows stated they have not proven a basis for a special permit.

Board Chairman Zuroff called upon Zoning Coordinator, Ashley Clark from the Planning Department to review the findings of the Planning Board. Ms. Clark stated the Planning Board does not object to the lower level being finished for an additional dwelling. The building will be brought up to meet all current building codes. The elevator will provide handicap accessibility and convenience to the residents. There is rapid public transit directly across the street from the building and the additional finished floor area is within the 120% increase allowed by special permit. The applicant is providing a benefit to residents of the attached row houses by agreeing to repave the common passageway and to repair the stairways at both ends of the garages. An abutter

raised the issue of a tree on the edge of the common passageway damaging the concrete retaining wall and the applicant agreed to work with them and the other users of the passageway on evaluating the best way to address this, possibly replacing the tree with new landscaping and or installing a fence on top of the wall as part of the counter balancing amenity. The Planning Board was concerned about the impact of three additional cars on the common passageway and recommended that the parking be limited to five cars, which also presents a much more workable situation for moving the cars and storage of trash receptacles in the garage.

**Therefore, the Planning Board recommends approval of the plans by Hendren Associates, dated 3/18/16 and the revised parking plan, dated 7/15/16, subject to the following conditions:**

- 1) Prior to the issuance of a building permit, the applicant shall submit final floor plans, elevations, and parking plans, limited to five cars, 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, fencing and possible tree removal, subject to the review and approval of the Assistant Director of Regulatory Planning.
- 3) Prior to a certificate of occupancy, the common passageway shall be repaved and the two stairs to it repaired.
- 4) 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.

Board Chairman Zuroff requested that Ms. Clark review the findings on behalf of the Building Department. Ms. Clark stated that the Building Department has no objection to this request. The building is currently under construction as a three family dwelling. The Building Department is aware there has been some concern regarding the construction and the impact on the abutting structures; we have made many site visits and have spoken to concerned abutters. The construction is proceeding according to code. The developer needs to keep an eye on the day to day activities and address the concerns of the abutters regarding cleanliness of the passage/alley and vehicles blocking the passage. Most, if not all of the work is interior of the building. If the board finds the proposal meets the requirements for the grant of the special permits, the Building Department will work with the petitioner to ensure compliance with any conditions as well as the Massachusetts State Building Code.

Board Member Hussey inquired about the Planning Board condition regarding the stairs. After discussion it was determined the condition should be edited to state "stairways" instead of "two stairs."

**Board Deliberation**

Board Member Poverman felt the conditions for approval of special permits have been met requested for Floor Area Ratio, Garage setback, usable open space and off-street parking. Board Member Poverman felt the site is appropriate; the use will not adversely affect the neighborhood and there will not be a serious hazard to vehicles or pedestrians, there will be appropriate facilities and will not be a significant adverse effect on the supply of available affordable housing for low income or moderate income people. Board Member Poverman was in support of this proposal.

Board Member Hussey concurred with Board Member Poverman and agreed this should be moved for approval. Board Member Hussey stated he would not support replacing the trees or adding landscaping due to the narrow clearance.

Chairman Zuroff felt the project is worthy of the requested relief. Mr. Zuroff encouraged the developer to work with the abutters to reach an agreement that worked for everyone although all should be aware that the passageway is owned by the 1517 Beacon Street and the owner does not have to do anything there but it is providing a better situation for the abutters on Beacon Street. The project does provide benefit to the community not just to Griggs Road abutters. Mr. Zuroff concluded stating he concurred with other Board members that this is a worthy project meeting all the requirements under ~~Section 9.05~~ and the requested relief is justified.

**Unanimous grant of the requested relief subject to the conditions read into with the proviso the conditions state stairways and not stairs.**

**50-52 Columbia Street-** Construct decks at rear of property and add roof to front porch

Chairman Mark Zuroff opened the hearing and called case #2016-0045.

Bruce Miller, the architect for the project, introduced the applicant, Akiva Rabinovich and waived the reading of public hearing notice for the record.

Mr. Miller described the proposal to convert their building to a two family from a condominium. The owners are reconfiguring the space on the interior of the building to accommodate for a rental unit in the downstairs unit. Mr. Miller described the proposed deck at the back of the house looking over and connecting to the backyard. The proposed deck crosses the setback line. Additionally Mr. Miller described the deck on the front of the house and their proposal to replace a trellis with a roof. Mr. Miller stated the front deck is an existing nonconforming condition as it crosses the front setback line. Mr. Miller stated they are asking for dimensional relief to make the house nicer and more user friendly.

Chairman Zuroff inquired about the counter balancing amenities.

Mr. Miller stated they are planning on speaking with a landscaper to improve and come up with a landscape plan including shrubs along the back property line to provide more privacy between the abutters.

Chairman Zuroff inquired about neighbor support.

Mr. Miller stated they have spoken with neighbors and stated letters have gone out and there seems to be no opposition to their proposal.

Chairman Zuroff inquired about the number of decks on the house.

Mr. Miller stated it is difficult to determine when the deck on the side of the house was built and speculated there was a two story deck at one time.

Chairman Zuroff inquired about the number of steps and asked Mr. Miller to describe how the stairs function.

Mr. Miller described the three flights of stairs and how they interact with the building and proposed decks into the yard.

Board Member Hussey inquired if the building was a one or two family building.

Mr. Miller stated it is a two-unit condominium.

Board Member Hussey stated that explains the side deck, as it is the entrance to the other unit.

Board Member Hussey inquired about the parking situation.

Mr. Miller described where the parking is available for the residents.

Mr. Rabinovich explained the private way shared between the house he owns and the homeowners on the Terrace.

Ms. Poverman stated the landscape plans were vague and would feel more comfortable if there were actual plans proposed for counter balancing amenities as they are required by the statute.

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

### **Ricky Morell**

**Abutter at 22 Thorndike generally have no problem with the project. A few concerns, main about the background deck- 2<sup>nd</sup> floor concerned about backyard property. After discussion with the Petitioner they have agreed that planting evergreen trees would be beneficial to both parties.**

Board Chairman Zuroff called upon Zoning Coordinator, Ashley Clark from the Planning Department to review the findings of the Planning Board.

Ms. Clark stated The Planning Board is supportive of the proposed new roof on the front porch and decks at the rear of the property. The additional outdoor space will provide attractive recreational space for the two units within the dwelling. The additions will not substantially change the appearance of the structure. Further, the alterations should have a minimal visual impact on the abutting properties. However, since the porch will be visible from some neighboring properties, additional landscape plans should be submitted. Screening is recommended as a counterbalancing amenity to improve the aesthetic of the decks and to shield the recreational space from abutting

properties.

**Therefore, the Planning Board approves the site plan by Joseph Small, dated 4/25/16, and the plans prepared by Bruce Miller Associates, dated 6/15/16, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all dimensions and materials 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 landscape plan indicating all counterbalancing amenities.
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.

Board Chairman Zuroff requested that Ms. Clark review the findings on behalf of the Building Department. Ms. Clark stated the Building Department has no objection to the request. The relief is minimal. The Building Department is aware the rear abutter had some concerns and suggested the Applicant meet with the abutter to discuss concerns regarding the rear deck. If the Board finds the proposal meets the criteria for the grant of the special permit the Building Department will work with the petitioner to ensure compliance.

### ***Board Deliberation***

Board Member Hussey stated the proposal appears complete and no great impact on neighbors, votes for approval and believes meet conditions for special permit.

Board Member Poverman agreed with Board Member Hussey and was in support of the proposal.

Board Member Zuroff agreed with Board Members Hussey and Poverman. Mr. Zuroff stated he felt it would have a minimal impact on the neighborhood and noted the cooperation between the abutters and encouraged it to continue. Mr. Zuroff felt the proposal was worthy of the request and meets requirements of ~~Section 8.02.2~~ and ~~Section 5.43~~ with the landscaping plan.