

**Brookline Board of Appeals
September 15, 2016 Public Hearing
7:00PM
333 Washington Street
6th Floor Selectmen's hearing Room**

Board Members Present – Jonathan Book (Chairman), Johanna Schneider, Kate Poverman

Staff Present – Ashley Clark (Planning Dept.)

28 Fernwood Road (2016-0067):

Proposal: Construct a tennis court in the rear yard

Zoning District: S-40 Single Family

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

85-87 Harvard Street (2016-0053)

Proposal: Convert retail space into health club

Zoning District: G-2.0 General business

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

7:00PM

28 Fernwood Road (2016-0067): Construct a tennis court in the rear yard

Board Chairman Book opened the hearing and called case #2016-0067. Mr. Book reviewed standard hearing procedure.

Attorney Robert Allen (300 Washington Street, Brookline, MA) waived the reading of public hearing notice for the record and introduced the applicants. Mr. Allen described the subdivision of the property in 2013. Mr. Allen stated the proposal for the tennis court is appropriate in location as it is next to the country club. Mr. Allen described the outreach to neighbors.

The project's architect, Tom Li, described the design of the tennis court and its location in the backyard. Mr. Li also described the substantial landscaping around the tennis court.

Attorney Allen described the zoning relief they are seeking and enumerated why the proposal is worthy of said relief according to the town's bylaw.

There was a discussion regarding the height of the fence around the tennis court and how it is designed to have the least impact on abutting neighbors. Mr. Book asked if sound was addressed and referenced a letter from an abutter expressing a concern over sound. Mr. Allen stated the concern was noise and a solid fence would have created an echoing. Mr. Allen stated they have decided on an open fence at a 10' height which was recommended by tennis court experts.

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

Ms. Karen of Babcock was concerned about the vacant lot and how vibrational noise will affect their property.

Board Chairman Book stated the abutters have received public notice regarding the proposal and have had an opportunity to speak out in favor or against the proposal.

Mr. Allen stated they are landscaping the area in anticipation of potential development on the vacant lot.

Board Chairman Book called upon Zoning Coordinator, Ashley Clark, to deliver the findings of the Planning Board and Building Department. Ms. Clark stated the Planning Board supports the tennis/multi-use court as an accessory structure on this property. The court will have limited impact, if any, on neighbors due to the large lot sizes and heavily wooded areas. The applicant has provided ample landscape counterbalancing amenities surrounding the tennis court.

Therefore, the Planning Board recommends approval of the site plan "Fernwood Residence" by TL Studio, Inc.," dated 6/6/16, 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. The tennis court lighting will be reviewed prior to the issuance of a Certificate of Occupancy to ensure its conformity with zoning requirements.
3. Prior to issuance of a building permit, a final landscaping plan shall be submitted for review and approval of the Assistant Director of Regulatory Planning.
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 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.

Ms. Clark then stated the Building Department has no objection to this request for relief. If the Board finds the petitioner meets the criteria for the grant of the requested relief, the Building Department will work with the petitioner to ensure compliance.

Deliberations

Ms. Schneider stated she would vote to grant the requested relief. Ms. Schneider stated it is a large lot with a lot of landscaping and is thoughtfully designed.

Ms. Poverman concurred with Ms. Schneider.

Mr. Book agreed for all the reasons Ms. Schneider stated.

Unanimous grant of relief subject to the conditions read into the record.

85-87 Harvard Street (2016-0053)

Board Chairman Book opened the hearing and called case #2016-0053. Mr. Book reviewed standard hearing procedure.

Attorney Robert Allen (300 Washington Street, Brookline, MA) waived a reading of the notice. Mr. Allen introduced Cee Cee Mayher who is seeking to move her gym, Benefitness, into 85-87 Harvard Street. Mr. Allen described the vacancy in the building and how they have created enough space to allow for the gym to fit. Mr. Allen stated they are seeking relief for use as well as parking waiver. Mr. Allen stated they need a waiver for five parking spaces, though are requesting a waiver of six parking spaces. Mr. Allen reviewed alternate modes of transportation to cars gym members prefer.

Mr. Allen asked if the Board would consider removing clause one in the second condition of the Planning Board report requiring a final site plan.

There was a discussion regarding available bike parking and the possibility of the addition of additional racks.

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

Ms. Karen of Babcock was concerned about the treatment of the people in the building. Ms. Karen was also wondering how Benefitness plans on distinguishing itself from other fitness centers.

Mr. Book thanked Ms. Karen for her questions and stated they are not germane to the case under review by the Board of Appeals.

A resident stated she has been a member of the health club for many years and thinks Benefitness is a community asset and is excited about the opportunity for the health club to move into a new location.

Board Chairman Book called upon Zoning Coordinator, Ashley Clark, to deliver the findings of the Planning Board and Building Department. Ms. Clark stated the Planning Board supports the conversion of the retail space into a gym as it will improve this currently vacant corner storefront at a prominent intersection in Brookline Village. The Board believes there would be adequate on-street parking for this new gym location and also takes into account that gym goers are more likely than average to walk or ride a bicycle to the site. Public transportation is also available via the Harvard Street bus and the Brookline Village MBTA rapid transit stop is nearby.

Therefore, the Planning Board recommends approval of the site plan and floor plans labelled "Benefitness Health Club" by Mark Armstrong Architect, LLC, dated 6/21/16, 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 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.

Ms. Clark then stated the Building Department has no objection to this request. This proposal will occupy a space that has been vacant for a several years. The relief requested is minimal. If the Board finds the proposal meets the requirements for the grant of relief, the Building Department will work with the petitioner ensure compliance with the conditions as well as the State Building Code.

Deliberations

Ms. Poverman stated it will be a nice addition and be great to have the space filled. Ms. Poverman voted to approve.

Ms. Schneider stated they know what their parking needs are and would support granting the waiver for six parking spaces as requested. Ms. Schneider further stated she would vote in favor of granting the requested relief with the modification of condition number two to remove the requirement of a final site plan.

Mr. Book agreed with Ms. Schneider and stated there is great access to public transportation and is walkable. Mr. Book stated he is glad to see there will be use in that storefront.

Unanimous grant subject to the condition as amended removing clause one of condition two:

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 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.