



TOWN OF BROOKLINE

Massachusetts

BOARD OF APPEALS

DIANE R. GORDON, Co-Chair
HARRY MILLER, Co-Chair
BAILEY S. SILBERT

333 Washington Street
Brookline, MA 02445
617-730-2010
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PATRICK J. WARD, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
NO. BOA 060004

Petitioner Gordon Weeks applied to the Building Commissioner for permission to convert an existing three family residence located at 317 St. Paul Street into a five family residence. The proposal would convert a portion of the existing basement into habitable living space, creating two new bedroom units. The existing units in the dwelling will remain unchanged, except for a slight reduction in the size of one first floor unit to accommodate a new stairway into the basement. The Building Commissioner denied the petitioner's application due to the fact that the conversion violated the Zoning By-Law and an appeal taken to this Board.

On December 8th, 2005 the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals. The Board then fixed the date of February 16th, 2006 at 7:00 p.m. in the Selectmen's Hearing Room on the sixth floor of Town Hall as the time and place of a hearing of the appeal. Notice of the hearing was mailed to petitioners and their attorney, (if any of record), to owners of properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on January 26th and February 2nd, 2006 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice as follows:

LEGAL NOTICE
TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEAL
NOTICE OF HEARING

PETITIONER: Gordon Weeks
LOCATION OF PREMISES: 317 St. Paul Street

DATE AND PLACE OF HEARING
Thursday February 16th, 2006

At 7:00 p.m. in the Selectman's Hearing Room on the sixth floor of Town Hall
333 Washington Street Brookline, Massachusetts.

A public hearing will be held for a Special Permit from Section 5.05; Conversions; Section 5.43; Exceptions to Yard and Setback Regulations; Section 6.01.2.a; General Regulations Applying to Required Off Street parking Facilities; and Section 8.02.2 Alteration and Extension; and a Variance from: Section 5.50; Front Yard Requirements; Section 5.52; Fences and Terraces in Front Yards; Section 5.61; Projections into Side Yards; Section 5.62; Fences and Terraces in Side Yards; Section 5.90; Minimum Landscaped Open Space; Section 5.91; Minimum Usable Open Space; Section 6.01.1: General Regulations Applying to Required Off Street Parking; and Section 6.02.1; Table of Off Street Parking Space Requirements, to convert a three family dwelling into a five family dwelling as per plans.

At 317 St. Paul Street
Said premises is located in an M 1.5 District
Apartment House Residence District

The Town of Brookline does not discriminate on the basis of disability in admission to, or access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Co-ordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone (617) 730-2330; TDD (617) 730-2327.

Diane R. Gordon
Harry Miller
Bailey Silbert

At the time and place specified in the notice a public hearing was held by this Board. Present were Diane Gordon, Chair, Bailey Silbert and Harry Miller.

Petitioner was represented by Attorney Jacob Walters of Goldenberg, Walters and Popkewitz of Seven Harvard Street in Brookline. Mr. Walters began by stating

that all the needed relief could be granted by Special Permit. A Special Permit under Section 5.05 would allow the Board to waive dimensional requirements (other than minimum lot size) in an M zone as long as no pre-existing non-conformity was being increased. Mr. Walters stated that no such increase is being proposed by the petitioner, as the footprint of the building will not change. Under Section 6.01.2.a, the Board could grant a Special Permit waiving one half the required parking spaces. The aforementioned Section states that when one or more units are being added to a dwelling in an M District, parking requirements for the entire structure must be provided. In this case the petitioner has seven parking spaces and the Building Department had determined eleven are required. Accordingly the Board is being asked to waive four parking spaces. Mr. Walters stated that previously the petitioner had eight spaces, with cars parking in tandem. Mr. Walters added that at present only two of the eight spaces are being used by tenants at 317 Washington Street, and the remaining spaces are rented out. Mr. Walters indicated that due to the requirement of window wells at the rear of the dwelling, a parking space is being lost. Mr. Walters went on to say that this neighborhood is very urban and due to the proximity to Boston University and the Commonwealth Avenue trolley line, it is an area of Brookline sought out by tenants who do not have automobiles. Mr. Walters pointed out that one of the seven spaces has been reserved for a Zip Car or similar program, which will not only assist a resident of 317 St. Paul but others in the neighborhood who wish to take advantage of the zip car service. Mr. Walters stated that the remaining special permits required were under Section 5.43, allowing the Board to waive dimensional requirements if counterbalancing amenities are provided and under Section 8.02.2, alteration or extension of an existing non-conforming structure. Mr. Walters stated that the counterbalancing amenity being offered pursuant to Section 5.43 was landscaping in and around the window wells, which would also soften the impact of the window wells as viewed from the street. Mr. Walters concluded by stating that the both applicant and his architect Mark Nielson of CYMA 2 of Brookline had worked with the Planning Board and its staff to come up with a creative solution to the parking problem and urged the Board to approve the petition.

The Chair asked if any members of the public wished to be heard in favor or in opposition to the applicant's proposal. Edward Gillis of 163 Kent Street asked if adequate provisions for drainage had been taken into account regarding the installation of window wells. The project architect, Mark Nielson, addressed the issue and stated that measures had indeed been taken to provide drainage from the window wells. Mr. Nielson added that the system would channel water back into the ground but away from the dwelling. The Chair then recognized Myra Trachtenberg of St. Paul Street. Ms. Trachtenberg asked what would happen if Zip

Car no longer wished to utilize the parking space. Mr. Walters responded by stating that since the Board was making the rental of a Zip Car space or similar program a condition of the grant of relief, the applicant would have to come back to the Board in the event of a change. The Chair also recognized Rita Lu of 327 St. Paul Street. Ms. Lu expressed concern about parking in the neighborhood in general and asked if the addition of 2 units at 317 St. Paul was going to increase the need for parking. Ms. Lu also wondered if the building was going to be converted to condominiums, and indicated that on the odd numbered side of St. Paul Street in that block in question most of the buildings were owner occupied condominiums. Finally, Ms. Lu asked what steps were going to be taken in the event of renovation and or condo conversion to avoid cutting cables and telephone lines. Ms. Lu cited a renovation in the neighborhood in which cable television and telephone lines had been cut causing great inconvenience to some of the neighbors. Mr. Walters responded to Ms. Lu by stating that parking was not necessarily expected to increase due to the added units. Mr. Walters also stated that the subject building was not being converted into condominiums by Mr. Weeks, and would continue to be a rental property. Mr. Walters stated further that the Zip Car concept was intended to assist parking problems, as several neighbors would be able to share the use of the car and 317 St. Paul Street would provide a dedicated parking space for the vehicle. Finally, Mr. Nielson addressed the renovation concern, stating that the renovation at 317 St. Paul would not be extensive and would consist of interior work other than the window wells. Mr. Nielson added that since no exterior work would take place, the likelihood of cutting a cable of any type would be minimal, but offered to warn the contractor working at 317 St. Paul St. to be especially mindful to not cut any cables or wires during the course of their work

The Chair then called upon Timothy Greenhill of the Brookline Planning Department to present the Planning Board report. Mr. Greenhill stated that the Planning Board recommends approval of the requested zoning relief and noted that the Board had concerns regarding the reduction of parking spaces from eight to seven, but appreciated the zip car concept as a creative solution. Mr. Greenhill concluded by stating that the proposed conditions recommended by the Planning Board were - (1) Prior to obtaining a building permit, the applicant shall submit to the Chief Planner a final landscaping plan and parking plan, including striping and spaces, for review and approval. (2) Prior to obtaining a building permit the applicant shall submit to the Chief Planner of the Planning and Community Development Department, details of the type of bike rack to be provided. The bike rack shall be substantial and attractive in design. (3) A parking space shall be made available for a zip car or similar program; and (4) Prior to obtaining a building permit the applicants shall submit to the Chief Planner of Planning and Community

Development Department for review and approval for conformance to the Board Appeals decision, a final site plan, stamped and signed by a registered architect or land surveyor.

The Chair then called upon Frank Hitchcock of the Brookline Building Department. Mr. Hitchcock stated that the Building Department has no objection to the applicant's proposal, and mentioned that the waiver of four parking spaces and other relief needed could be granted by Special Permit. Mr. Hitchcock also stated that there were no proposed changes to the exterior of the building.

The Board, having heard all testimony, and after review of the plans voted unanimously to grant special permits under Sections 5.05, 5.43, 6.01.2.a, and 8.02.2 to allow the construction of the proposed addition, with the following conditions:

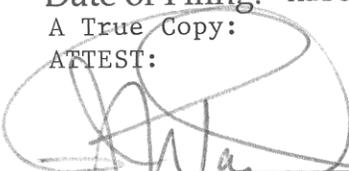
1. Prior to obtaining a building permit, the applicant shall submit to the Chief Planner a final landscaping plan and parking plan, including striping and spaces, for review and approval.
2. Prior to obtaining a building permit the applicant shall submit to the Chief Planner of the Planning and Community Development Department, details of the type of bike rack to be provided. The bike rack shall be substantial and attractive in design.
3. A parking space shall be made available for a zip car or similar program; and
4. Prior to obtaining a building permit the applicants shall submit to the Chief Planner of Planning and Community Development Department for review and approval for conformance to the Board Appeals decision: a final site plan, stamped and signed by registered architect or land surveyor.

Unanimous decision of the Board of Appeals

Date of Filing: March 7, 2006

A True Copy:

ATTEST:



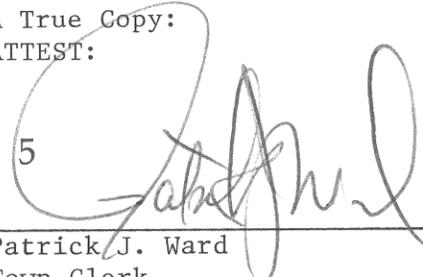
Patrick J. Ward
Board of Appeals



Diane Gordon, Chair

Twenty days have elapsed and no appeal has been filed.

A True Copy:
ATTEST:



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Patrick J. Ward
Town Clerk

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2006 MAR 7 A 9:24

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2006 MAR 1 A 9:43