



TOWN OF BROOKLINE

Massachusetts

BOARD OF APPEALS

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HARRY MILLER, Co-Chair
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PATRICK J. WARD, Secretary

TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. 060016

Petitioner, 156 LLC, applied for modification of Board of Appeals Case #050058 to change the proposed three level underground garage at 156-160 St. Paul Street and 76-78 Sewall Avenue to a two level underground garage.

On April 13, 2006, 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 and fixed May 11, 2006, at 7:30 p.m., as the time and place of a hearing on the appeal in the Selectmen's Hearing room on the sixth floor of the Town Hall. Notice of the scheduled hearing was mailed to the Petitioner, to his attorney (if any of record), to the owners of the 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 scheduled hearing was published April 20, 2006 and April 27, 2006, in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: 156 LLC

Location of Premises: 150-160 St. Paul Street & 76-78 Sewall Avenue

Date of Hearing: **05/11/2006**

Time of Hearing: **7:30 p.m.**

Place of Hearing: **Selectmen's Hearing Room, 6th. Floor**

A public hearing will be held for a

Modification of Board of Appeals Case# 050058 dated March 17, 2006

Of the Zoning By-Law to change the current three level underground garage to a two level underground garage at 150-160 St. Paul and 76-78 Sewall Avenue

Said Premise located in a

M-1.5 district and the Coolidge Corner IPOD.

The Town of Brookline does not discriminate on the basis of disability in admission to, 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 Coordinator, 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

Publish: April 20, 2006 and April 27, 2006.

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Board members Harry Miller, Murray Schocket, and Enid Starr. Petitioner was represented at the hearing by Attorney Jeffrey P. Allen of Seegel, Lipshutz & Wilchins, P.C.

At the hearing, Tim Greenhill, Planner of the Planning Department distributed the Planning Board Report dated April 27, 2006. Mr. Allen then described the factual background for the petition as follows:

Under Case No. 050058, the Board of Appeals approved construction of 38 units in a major impact project including preserving and renovating the existing buildings on site into 22 units, constructing a new 16 unit structure and a three level, 80 space underground parking area.

156-160 St. Paul Street is a large lot at the corner of St. Paul Street and Sewall Avenue, one block away from Beacon Street. The property currently contains a large 31 unit apartment building with a total of 36,600 square feet of living space. A landscaped courtyard is accessible from St. Paul Street and is surrounded on three sides by the apartment building. The courtyard provides three separate accesses to the building and provides a visual relief from the overall massing of the apartment building. The courtyard is raised above street level and accessed by a single stairway from the sidewalk.

The corner section of the lot is currently operating as a 25-car parking area for the adjacent 31 unit apartment building and is accessed from St. Paul Street. The parking area is largely paved and has minimal landscaping.

76-78 Sewall Avenue, also known as the Shannon McCormack House, is currently being used as a rooming house for Dana Farber patients recovering from treatment. This is a Queen Anne style building constructed around 1890. These are some unique features to this property and it has been identified by the Preservation Commission as historically significant.

The development approved under Case No. 050058 is a combination of preservation, restoration and new construction. The project will provide 38 condominium units; 16 of these units in a new building (150 St. Paul Street), 20 units (reduced from 31 units) in the existing 156-160 St. Paul Street (160 St. Paul Street), and 2 units in the existing 76-78 Sewall Avenue. The

buildings currently have approximately 36,600 square feet of living space and when completed they will have approximately 65,639 square feet.

As approved, the new building was to be a five-story masonry structure with three parking sublevels. The proposed materials for the new building are a combination of brick and pre-cast simulated stone, hardyboard or similar product, and real stone on the entrance façade. The building will incorporate projecting panel bays and recessed balconies and have a flat roof.

The building at 76-78 Sewall Avenue is presently licensed for use as a rooming house authorized for 20 residents. As part of St. Paul Arms, this building will be returned to its original state as a two family home. The architecture will remain unchanged, but the building will undergo full restoration.

The current site has 27 parking spaces for 33 residential units (the rooming house is calculated as 2 units). This equates to a parking ratio of .8 parking spaces per unit. The proposed development contains 80 spaces for 38 units, which comes out to 2.1 spaces per unit. The zoning code parking requirement is 78 spaces. The 80 spaces will include 4 handicapped spaces (1 van accessible). One entrance and exit to the underground parking will be located off of St. Paul Street in close proximity to the current curb cut.

In regard to affordable housing, since 18 new units are being built on the site, three affordable units are required. The developer will provide three 2-bedroom affordable units and provide one parking space for each unit. For FAR and height, the developer obtained a special permit based on public benefit incentives.

The applicant has proposed a modification to the previously approved underground parking plan. The existing three-level garage will be converted to a two-level garage. To

accommodate an equal number of parking spaces, the footprint of the garage will be increased and will now extend underneath the Shannon House. Mr. Allen explained that this change will not visually impact the site above grade or the current building design. The Shannon House will remain and be supported by the sub-surface structure below. However, the new garage design will have a minor impact on the proposed landscape plan. The total number of trees adjacent to the Shannon House will be increased from two to four. These trees will be located along Sewall Avenue and will include 18” high planter walls to provide adequate soil depth.

The zoning relief required is as follows:

Section 5.09.2.d – Environmental Impact and Design Review

A special permit is required for multiple dwellings of more than 10 units. All of the standards in paragraph (d) have been discussed and comments on the most relevant follow:

- b) Relation of Buildings to Environment – The proposed changes to the underground parking garage will have no impact on the design of the above ground structures.
- c) Open Space – The revision to the parking plan will have a minimal impact on the landscaping for the property. Two trees adjacent to the Shannon House will be replaced with a total of four trees along Sewall Avenue. These trees will include 18” high planter walls to provide adequate soil depth.
- d) Circulation – The proposed amendments to the parking garage will have no impact on vehicular or pedestrian circulation. The parking garage will still have a single vehicle entry/exit point onto St. Paul Street. Pedestrian access for the building will still be located at the corner of St. Paul Street and Sewall Avenue and within the courtyard along St. Paul Street.

The Chairperson inquired if any members of the public wished to be heard in regard to the matter being heard by the Board. No member of the public appeared to speak in favor or against the application.

Tim Greenhill, on behalf of the Planning Board, gave the following report:

The Planning Board has no concerns regarding this proposal to modify the underground parking garage at 156-160 St. Paul Street and 76-78 Sewall Avenue.

This modification will provide a more cost effective and functional garage plan for the applicant and will have no impact on the design of the above ground structures. The Board is pleased that the applicant has proposed to increase the number of trees adjacent to the Shannon House and has revised the porch design for the Shannon House in response to comments from the Preservation Commission staff. Therefore, the Planning Board recommends approval of the modified parking plan, prepared by Edward Nunes and dated April 5, 2006, subject to the same conditions as the previous decision, Case No. 050058 dated March 17, 2006.

Frank Hitchcock, Senior Building Inspector, spoke on behalf of the Building Commissioner. He restated the various sections of the Zoning By-Law under which relief is needed. The Building Department has no objections to the requested modification and will ensure that all State Code provisions are satisfied.

The Board then deliberated on this matter, considered the foregoing testimony and concluded that it is desirable to grant the relief requested by this petitioner, subject to the previously imposed conditions.

The Board considered the visual relationships of the proposed two-level garage to the use, scale, and architecture of the surrounding community. The Board has considered whether the proposal creates harmonious visual relationships and the Board has determined that the relationship is, in general, harmonious. The Board further finds that the proposed two-level garage will not be more detrimental to the neighborhood than the approved three-level garage. The use as proposed to be developed and the site design are aesthetically pleasing. The proposed design is adequate and appropriate for the neighborhood. The proposed modification to the approved garage will not have any effect on the traffic nor will it cause a nuisance or serious hazard to vehicles or pedestrians. The building, driveways, walkways and open space are functional and are proper for the proposed use. The Board finds that the proposed use will not

remove any existing low or moderate-income housing in the Town, but instead, will add additional affordable housing units.

Accordingly, the Board makes the following findings pursuant to Sections 5.09 and 9.5:

1. The location, topography, vicinity and natural features of the site make it particularly suitable for the proposed modification to the approved underground parking garage.
2. The change from a three-level to a two-level underground parking garage as proposed by the Petitioner will not adversely affect the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The change from a three-level to a two-level underground parking garage, as proposed, will not have a significant adverse affect on the supply of housing available for low and moderate income people, but instead, the development as previously approved will add affordable housing units.

Accordingly, the Board grants a special permit pursuant to Section 5.09.2.d. The foregoing grant is all zoning relief requested to modify Case No. 050058 to allow construction of a two-level underground parking garage in place of the previously approved three-level underground parking garage, and is granted subject to the following conditions imposed under Case. No. 050058:

1. Prior to the issuance of a building permit, final design of facades, rooftop details, colors, materials, and finished facing of the existing courtyard retaining walls shall be subject to the review and approval of the Planning Board. The final façade details for the Shannon House shall be subject to the review and approval of the Planning Board, after input from the Preservation Commission staff.

2. Prior to the issuance of a building permit, a final landscaping plan, including streetscape improvements, fencing, mechanical and dumpster equipment location, exterior lighting, two benches at the entrance to the Sewall Avenue walkway, and the designation of the patio/lawn area and walkway as open to the public, stamped by a registered landscape architect, shall be subject to the review and approval of the Planning Board.
3. Pursuant to the provisions of Section 4.08 Affordable Housing Requirements of the Zoning By-law, the petitioner shall:
 - a. provide three two-bedroom affordable units, consistent with the locations and square footages listed in the Affordable Housing Plan dated January 5, 2006;
 - b. two units shall qualify as low and moderate income housing under the Comprehensive Permit Law (Chapter 40B), including that they shall be sold to households with incomes less than or equal to 80 percent of area median income;
 - c. one unit shall be sold to a household with incomes less than or equal to 100 percent of area median income;
 - d. each affordable unit shall be sold with the exclusive use of one parking space;
 - e. proposed deviations, if any, of affordable units from market rate units with respect to floor plans, interior finishes or appliances shall be submitted to the Director of Planning and Community Development for prior approval;
 - f. no building permit shall be issued until the applicant has submitted, and the Director of Planning and Community Development with the advice of the Housing Advisory Board has approved, a Revised Affordable Housing Plan which shall include a final schedule of units and reference to specific floor plans, which Plan shall be legally binding as part of this special permit;
 - g. no certificate of occupancy shall be issued for any market rate unit until (i.) the Town has approved a marketing and selection plan for the affordable units which provides local priorities, initial sales prices for the affordable units, and condominium documents, consistent with the *Affordable Housing Guidelines for Developers of Condominium Housing in Accordance with Section 4.08 of the Brookline Zoning By-law* (approved by the Planning Board on September 18, 2003) and (ii.) all affordable units have obtained a certificate of occupancy;
 - h. affordable units shall be sold subject to a restrictive covenant to the Town of Brookline permanently controlling the resale price and process for such units.

4. Prior to the issuance of a building permit, a construction management plan, including parking locations for construction vehicles and rodent and dust control, shall be submitted for review and approval by the Transportation Director, and an approved copy submitted to the Planning and Community Development Department.
5. Prior to the issuance of a building permit, a final traffic and parking management plan, including a warning device at the driveway exit and the prohibition of left hand turns from the garage onto St. Paul Street between 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. shall be submitted and subject to the review and approval of the Transportation Director, with a copy of the approved plan to the Planning and Community Development Department.
6. Two temporary construction and/or development signs, not to exceed 20 s.f., shall be allowed during the construction and initial sales period, with the design and colors of the sign subject to the review and approval of the Chief Planner of the Planning and Community Development Department.
7. The location of the foundation of the new building shall be certified by a registered professional engineer or land surveyor to be in accordance with the approved site plan, prior to issuance of a building permit for the remainder of the building.
8. Prior to the issuance of any occupancy permits, complete as-built plans shall be prepared and certified by a registered professional engineer and/or registered architect to be in conformance with the approved plans and filed with the Building Commissioner.
9. Prior to the issuance of a Certificate of Occupancy all landscaping and street trees on the site shall be planted subject to the review and approval of the Chief Planner of the Planning and Community Development Department.
10. Prior to the issuance of the Certificate of Occupancy all right of way improvements and locations of street trees shall be subject to the review and approval of the Director of Public Works.
11. Prior to the issuance of the Certificate of Occupancy, a \$25,000 contribution shall be made to the Town's Public Works Department for traffic mitigation.
12. Prior to the issuance of the Certificate of Occupancy, a \$25,000 contribution shall be made to the Town's Park and Recreation Department for maintenance of the Minot Rose Garden on St. Paul Street.
13. The Condominium Association documents shall include language that the patio/lawn and walkway area are open to the public and require appropriate signage to that effect.

14. Prior to the submission of construction drawings to the Building Commissioner for purposes of obtaining a building permit, the applicant shall submit to the Chief Planner of the Planning and Community Development Department 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, including fencing, lighting, and location and screening of utilities; and 2) building elevations and floor plans stamped and signed by a registered architect.

Unanimous Decision of
The Board of Appeal



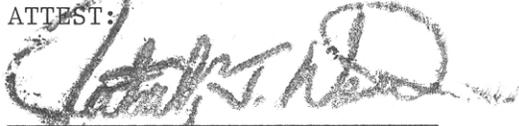
Harry Miller

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A True Copy:

ATTEST:



Patrick J. Ward
Board of Appeals