



TOWN OF BROOKLINE
Massachusetts

BOARD OF APPEALS

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PATRICK J. WARD, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
NO. BOA060020

Petitioner Edward Latessa applied to the Building Commissioner for permission to relocate the existing driveway and access at 1 Hillside Road and to construct a new driveway and access to his property. The Building Commissioner denied petitioners' application due to the fact that the proposed driveway violated the Zoning By-Law. An appeal of the denial was taken to this Board.

On April 6th, 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. The Board then fixed the date of May 18th, 2006 at 7:15 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 May 4th and May 11th, 2006 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEAL
NOTICE OF HEARING

PURSUANT TO M.G.L. CH. 39, SECTION 23A & 23B. THE BOARD OF APPEALS WILL CONDUCT A HEARING AND DISCUSS THE FOLLOWING CASE:

PETITIONER: Edward Latessa

LOCATION OF PREMISES: 1 Hillside Road BRKL

DATE AND PLACE OF HEARING May 18th, 2006

TIME OF HEARING 7:15 p.m.

PLACE OF HEARING Selectmen's Hearing Room 6th floor

A public hearing will be held for a variance and/or a special permit from (1) 4.07 Table of Use Regulations; Use #54 , Variance Required; Use #55, Special Permit Required. (2) 5.91, Minimum Usable Open Space, Variance Required. (3) For the Design of Off Street Parking Facilities; 6.04.5.c.1, Variance Required, 6.04.5.c.2, Variance Required, 6.04.5.c.3, Variance Required, 6.04.9.b, Variance Required, 6.04.12, Special Permit Required. 8.02.2 Alteration or Extension, to construct a new driveway and motor court per plan; Special Permit Required of the Zoning By-Law.

at 1 Hillside Road BRKL
Said premises located in a S-40 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 specified in the notice a public hearing was held in the Selectmens's hearing room on the sixth floor at Brookline Town Hall by this Board. Present were Diane Gordon, Chair, Bailey S. Silbert and Enid Starr.

Petitioner was represented by Attorney Jacob Walters of Goldenberg, Walters and Popkewitz of Seven Harvard Street in Brookline. Mr. Walters stated that all the relief required could be granted by Special Permit. Mr Walters stated that the petitioner's plan was to remove the old driveway and substitute the same for a new driveway and turn around for automobiles at the front of the dwelling. Mr. Walters stated that the new driveway will create a great deal of additional open space at the rear of the property. Mr. Walters then addressed the required relief, stating that the three Special Permits were under Section 4.07, Use 55, Section 6.04.12 and Section 8.02.2. With regard to Use #55, Mr. Walters stated that the petitioner did not intend to park more than 4 cars on a permanent basis. Mr. Walters stated, with reference to Section 6.04.12, that the Board may substitute dimensional requirements for those which would allow the new parking spaces where new parking being created for an existing structure. Mr. Walters went on to say that the new parking would have no impact upon the neighborhood as it would not be visible from the street. Mr. Walters went on to say that the only other special permit needed was under Section 8.02.2, Extension or Alteration because the side yard setback was non-conforming and added that under the new plan the side yard setback is increased from 0 feet to 4 feet and the requirement under the By-Law is 5 feet. As for other dimensions, Mr. Walters indicated that the front setback was being reduced from 20 feet to 7 feet, but the rear yard would be increased from 7 feet to 80 feet, thus creating a great deal of additional open space. Mr. Walters concluded by stating that the new driveway plan makes good sense and has no impact on the neighborhood.

The Board raised with Mr. Walters the question of safety when exiting from the proposed driveway, noting that the intersection of Warren Street, Dudley Street and Hillside Road is one of the more dangerous in Brookline. Enid Starr was concerned that the entrance and exit to the subject dwelling was being move closer to the intersection and asked for the exact distances. The Petitioner responded that the existing driveway is 50 feet from the end of Hillside Road and the proposed driveway entrance would be 24 feet from the end of Hillside Road. The Petitioner, Mr. Latessa, pointed out that Hillside Road is a dead end, with a stop sign at the intersection. Mr. Latessa stated that he and his family have occupied the Hillside property for 5 years, and are familiar with the intersection. Mr. Latessa concluded by stating that while the entrance to his property is indeed closer to the intersection, the traffic control (stop sign) at the end of Hillside Road at the intersection in question does not allow vehicles to proceed through the intersection without first stopping to determine if they can do so safely. The Chair then asked the Petitioner if he would place a parabolic mirror on the appropriate post at the end of his driveway to give drivers a better view of oncoming traffic. Both the Petitioner and his general contractor indicated that they would and could provide such a mirror.

The Chairman then called upon Michael Shepard the Zoning Administrator to offer the Planning Board report. Mr. Shepard stated that the Planning Board recommends approval of the plans originally submitted on January 26th and amended by a plan dated April 20, 2006. Mr. Shepard stated that the Planning Board approved of the reduction of impervious material on the site and the opportunity for the Petitioner to create a larger landscaped rear yard. The Board also felt the impact on abutters would be reduced due to the fence surrounding the property. The Planning Board was concerned with the loss of some large trees in front of the property. Mr. Shepard concluded by stating that the Planning Board's suggested conditions were as follows:

(1) Prior to obtaining a building permit the applicant shall submit a drainage plan for the rear parking area to the Director of Engineering for review and approval, if he finds one necessary,

(2) Prior to obtaining a building permit, the applicant shall submit a detailed landscaping plan to the Chief Planner for review and approval.

(3) Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals Decision, (a) a final site plan stamped and signed by a registered engineer or land surveyor that clearly distinguishes between existing and proposed conditions.

The Chairman then called upon Frank Hitchcock of the Brookline Building Department. Mr. Hitchcock stated that while the Building Department has no objection to the applicant's proposal, he requests that the final plan clearly show that all the asphalt at the rear of the property is to be removed. Mr. Hitchcock then stated that the Petitioner was not cited for the positioning of the new driveway because it did not violate the Zoning By-Law. Mr. Hitchcock stated that a curb cut would have to be applied for and suggested that it be made clear that the old driveway entrance be removed. Mr. Hitchcock concluded by confirming that the Building Department had no objection to the project or the relief requested, and agreed it could be done by three Special Permits.

The members of the Board deliberated concerning the need for additional conditions, including the installation of a parabolic mirror, the curb cut, maximum of four cars being permanently parked at the premises and the removal of all asphalt.

The Board, having heard all testimony, and after review of the plans submitted, voted unanimously to grant special permits under Sections 4.07, Use

#55, Section 6.04.12 and Section 8.02.2, with the following conditions:

- (1) Prior to obtaining a building permit the applicant shall submit a drainage plan for the rear parking area to the Director of Engineering for review and approval, if he finds one necessary,
- (2) Prior to obtaining a building permit, the applicant shall submit a detailed landscaping plan to the Chief Planner for review and approval, showing the removal of all asphalt from the premises and the closing of the existing driveway curb cut,
- (3) Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals Decision, (a) a final site plan stamped and signed by a registered engineer or land surveyor that clearly distinguishes between existing and proposed conditions,
- (4) The Petitioner shall install a parabolic mirror on the appropriate post at the end of the proposed driveway allowing drivers to see oncoming traffic,
- (5) The Petitioner shall submit the plan showing the new driveway and entrance to the Brookline Transportation Engineers and to the Department of Public works for their approval, and
- (6) Parking of more than four (4) automobiles on a permanent basis shall be forbidden.

Unanimous decision of the Board of Appeals



 Diane Gordon, Chair

RECEIVED
 TOWN OF BROOKLINE
 TOWN CLERK
 2006 MAY 31 AM 8:14

Date of Filing: May 31, 2006

A True Copy:
ATTEST:



 Patrick J. Ward
 Board of Appeals