



Town of Brookline

Massachusetts

BOARD OF APPEALS

Diane R. Gordon, Co-Chair
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Patrick J. Ward, Secretary

TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. BOA060032

Petitioner Michael J. Hynes applied to the Building Commissioner for permission to construct a dormer and three porches (one on each level) within the side setback at 566 Heath Street; and to increase the parking from three to six spaces (two per unit).

On 11 May 2006, the Board of Appeals 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 Appeal and fixed 27 July 2006 at 7:30 p.m. in the Selectmen's Hearing Room on the sixth floor of the Town Hall as the time and place of a hearing on the appeal. Notice of the scheduled hearing was mailed to the Petitioner, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent tax list, to the Planning Board and to all others required by law. Notice of hearing was published 6 and 13 July 2006, in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE MASSACHUSETTS BOARD OF APPEALS NOTICE OF HEARING

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

Petitioner: MICHAEL HYNES
Location of Premises: 566 HEATH ST BRKL
Date of Hearing: 07/27/2006
Time of Hearing: 7:30 p.m.
Place of Hearing: Selectmen's Hearing Room, 6th Floor

A public hearing will be held for a variance and/or a special permit from

- 1) 5.43: Exceptions to Yard and Setback Regulations; Special Permit Required
- 2) 5.60: Side Yard Requirements; Variance Required
- 3) Section 5.61 – Projections into Side Yards; Variance Required
- 4) Section 5.70 – Rear Yard Requirements; Variance Required
- 5) Section 5.71 – Projections into Rear Yards; Variance Required
- 6) Section 5.91 – Minimum Useable Open Space; Variance Required
- 7) Section 6.04.5.b – Design of Off Street Parking Facilities (setbacks)
For the Design of All Off-Street Parking Facilities:
6.04.5 b: Variance Required
6.04.12 – Special Permit Required
8.02.2: Alteration or Extension; Special Permit Required

Of the Zoning By-Law to
construct a open porch decks; to
construct dormers; and to increase the
existing parking to six cars per plans

At 566 HEATH ST BRKL

Said Premise located in a

M-1.0 district.

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**

At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing were Chair, Enid M. Starr and Board Members, Bailey Silbert, and Lawrence Kaplan. Petitioner and counsel were present at the hearing. Attorney Peter Spino, appeared for the Law Office of Thomas F. Feeney located at 39 Sheafe Street, Brookline, Massachusetts, Petitioner's counsel in this matter.

Michael Hynes, the petitioner, whose residence is 15 Homestead Drive, Medfield, Massachusetts, stated that the property is three-family under conversion to condominiums. The proposal is to add a dormer on the third floor with three decks on the side of the building and 3 tandem parking spaces for a total of 6 spaces. Mr. Hynes noted that the property abuts the Holyhood Cemetery.

Attorney Spino provided the following background regarding the project and requested relief: the residence located at 566 Heath Street is a two and a half story, 3 family structure, which is being renovated. The dwelling is located on an irregularly shaped very small lot, adjacent to the Holyhood Cemetery and the parcels of land which are part of the Hammond Heath Two LLC site.

The dwelling is located on the property boundary line on one side and the parking area for the site is located on the other side, adjacent to a large stone wall associated with the Holyhood Cemetery, and a large puddingstone rock extends from the stone wall into the property.

Applicant Michael J. Hynes proposes to construct 3 porches, a dormer on the third floor, and increase parking on site from 3 to 6 tandem spaces. The porches will be located on the southern side of the property adjacent to the parking area. The porches for each level will be constructed out of wood, will measure less than 100 s.f. and will be accessed by the separate unit

on each of the three levels. The existing deck at the rear of the first floor will be removed as part of this proposal.

The proposed dormer on the third floor has been revised from its original proposal so that it expands out no further than the bays below on the southern elevation. The proposed dormer, combined with some of the existing room from the existing kitchen area, will create an additional 16 s.f. bedroom in the 3rd floor apartment. The dormer is proposed to be constructed with clapboard and an asphalt shingle roof to match the existing structure.

The internal layout of the units as presented will reduce the number of total bedrooms in the property from 8 to 7. The parking requirement for the site is for 6 spaces and there are currently 3 parking spaces. The applicant is requesting to increase this to 6 spaces by providing tandem parking. The proposal includes widening the parking area and bringing it closer to the dwelling and the street and increasing the driveway entrance to 17'. A revised plan was submitted to the Planning Board showing the correct location of the house and stone.

The Zoning By-Laws affected are

Section 5.43 – Exceptions to Yard and Setback Requirements

Section 5.60 – Side Yard Requirements

Section 5.61 – Projections into Side Yards

Section 5.70 – Rear Yard Requirements

Section 5.71 – Projections into Rear Yards

Section 5.91 – Minimum Useable Open Space

Section 6.04.5.b – Design of Off Street Parking Facilities (setbacks)

Section 6.04.12 – Design of Off Street Parking Facilities (Special Permit)

	<u>Required/ Allowed</u>	<u>Existing</u>	<u>Proposed</u>	<u>Finding</u>
Side Yard Setback	15'	2.8'	2.8'	SP/ Variance
Projection into Side Yards	3'	2.8'	2.8'	SP/ Variance
Rear Yard Setbacks	30'	2.6'	2.6'	SP/ Variance

Projection into Rear Yard	3'	2.6'	2.6'	SP/ Variance
Useable Open Space	20% (757 s.f.)	0%	0%	SP/ Variance
Parking Area Setbacks	10' from front 5' from side/ rear	10+ 1'	4' 0'	SP**/ Variance
Parking Spaces (#)	6	3	6 (3 tandem)	SP**/ Variance

Petitioner requests the Board of Appeal, pursuant to Section 5.43, to waive yard and setback requirements because Petitioner will provide a counterbalancing amenity in the form of landscaping, particularly to screen the parking area from the Holyhood Cemetery.

Petitioner requests the Board of Appeal, pursuant to Section 6.04.12, to waive dimensional requirements where new parking facilities are being proposed to serve existing structures. Petitioner's proposal will provide 2 tandem parking spaces per unit and bring the property into conformance with the zoning bylaw in regards to parking numbers.

Finally, Petitioner requests the Board of Appeal to grant a Special Permit for said alterations to a dimensionally nonconforming structure, pursuant to Section 8.02.2.

Attorney Peter Spino stated that the relief sought would require special permits for setback requirements for the parking area.

Chair Enid Starr asked Attorney Spino how cars would be able to get in and out around the large outcropping of puddingstone. Attorney Spino stated that there is plenty of room for the cars to enter and exit the parking area. Board Member Murray Shocket stated that he visited the site and that he believes there is more than enough room to provide tandem parking for 6 spaces.

Attorney Spino stated the petitioner would like to maintain the existing variances and obtain the necessary relief as proposed.

Chair Enid Starr asked if there was anyone present who would like to speak in support of the petition.

Anthony Andreadis, a Town Meeting Member from Precinct #15, whose residence is 687 Heath Street, stated that he is familiar with this property and that he supports this petition. Mr. Andreadis stated that it was always a rental property and was neglected. He stated that the conversion will provide three owner-occupied units that will result in a better kept property. Mr. Andreadis stated that for more than twenty years the tenants of this property have been able to enter and exit the parking lot with no problems. He believes this project will be an enormous improvement to the neighborhood. Mr. Andreadis stated that he has talked with numerous abutters and neighbors and he stated that they are in support of this project.

Barbara Coffin, a resident of 677 Hammond Street, stated that she was speaking not only for herself but for abutters who live on Heath Street. Ms. Coffin stated that she supports the proposal, particularly for the additional parking, because there are a number of problems with people parking on the street. Ms. Coffin submitted a list of people, for the file, who are in support of the proposal.

Attorney Spino stated that the counterbalancing amenities the petitioner is adding includes a landscaping plan that includes the planting of additional trees and shrubbery to the property.

Timothy Greenhill, Planner for the Department of Planning and Community Development, representing the Planning Board, presented the Planning Board Report for 566

Heath Street, dated June 29, 2006. Mr. Greenhill stated the applicant had submitted revised plans that were a little more appropriate to the property. The Planning Board felt that the proposed plan is a minimal addition to the property and that the new setback non-conformities were de minimis. Mr. Greenhill noted that the Planning Board did have concerns concerning the 6 parking spaces but several Board members stated that it was a common situation faced by many homeowners in Brookline. Mr. Greenhill stated that the Planning Board recommended approval subject to the following conditions:

1. **The applicant shall submit to the Assistant Director of Regulatory Planning for review and approval, a final site and landscaping plan showing the large puddingstone rock and marked parking spaces with adequate access and appropriate counterbalancing amenities.**
2. **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 land surveyor, b) final building elevations with the heights of dormers indicated, stamped by a registered architect and, c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

Frank Hitchcock, Senior Building Inspector, Brookline Building Department, stated this proposal is to add a dormer at the top level that has a sharply shaped roof line. Adding the dormer will provide additional living space for the top unit. Mr. Hitchcock noted that the dormer does not come any closer to the side lot line than the building does; however, the existing building is short of the setback by 12 feet. Mr. Hitchcock stated that the proposal also requires the construction of three open decks which will provide some outdoor space adjacent to each unit. Mr. Hitchcock noted that these decks encroach into the rear yard setback. Mr. Hitchcock stated that the proposal calls for 6 parking spaces. He noted that the existing parking area is cramped but there is sufficient space to the right of the parking area to provide the additional spaces needed. Mr. Hitchcock noted that there is a significant outcropping of rock. He stated

that it was unnecessary to remove the rock because the cars would be parked well behind it. Mr. Hitchcock further noted that the wall at Holyhood Cemetery is partially supported by that rock and to remove it might cause preservation issues. Mr. Hitchcock stated that the relief being sought is by several special permits, including a special permit under Section 5.43 for the side and rear yard setbacks, and another under Section 8.02.2 for alteration and extension because the existing building is non-conforming as to setbacks.

Board Member Lawrence Kaplan asked Mr. Hitchcock whether a special permit would be required under Section 5.91. Mr. Hitchcock responded by stating that he believed that issue may be covered under Section 8.02.2 because the minimal open space has not changed.

Mr. Hitchcock stated that the Building Department had no objections to the proposal, to the special permits requested or to the conditions recommended by the Planning Board.

Chair Enid Starr asked the members of the Board if they had any questions. There were none.

The Board, having deliberated on this matter and having considered the foregoing testimony, unanimously concludes that the proposal requires zoning relief and that it is desirable to grant the special permit consistent with the plans entitled "Proposed Addition and Alterations to 3 Family Residence, 566 Heath Street, Brookline Mass" prepared by Leonard Saroff Architects and dated July 11, 2005 revised through June 14, 2006, and site plan stamped by Stephen J LaMonica dated June 21, 2006, subject to the following conditions:

1. The applicant shall submit to the Assistant Director for Regulatory Planning for review and approval, a final site and landscaping plan, showing the large

puddingstone rock and marked parking spaces with adequate access and appropriate counterbalancing amenities.

2. 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 land surveyor, b) final building elevations with the heights of the dormers indicated, stamped by a registered architect and c) evidence that the Board of Appeals Decision has been recorded at the Registry of Deeds.

Unanimous Decision of
the Board of Appeals



Enid M. Starr - Chair

Date of Filing:

A true copy

ATTEST



Patrick J. Ward, Clerk
Board of Appeals