



TOWN OF BROOKLINE

Massachusetts

BOARD OF APPEALS

DIANE R. GORDON, Co-Chair
HARRY MILLER, Co-Chair
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PATRICK J. WARD, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
NO. BOA060044

Marshall Medoff applied to the Building Commissioner for permission to convert a carriage house at the rear of the property, located at 90 Addington Road into habitable living space. The application was denied as the proposed conversion to a different use violated the Zoning By-Law. An appeal was taken to this Board.

On October 26, 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 November 30, 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 November 9th and 16th, 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: **MARSHALL MEDOFF**
Location of Premises: **90 ADDINGTON ROAD BRKL**
Date of Hearing: **11/30/2006**
Time of Hearing: **07:00 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; Uses 1 and 6, Variance Required,
- 2) 5.04.2; Residential Building on Rear of Lot, Special Permit Required,
- 3) 5.09.2.k; Design Review, Special Permit Required,
- 4) 5.20; Floor Area Ratio; Variance Required,
- 5) 5.43; Exceptions to Yard and Setback Regulations; Special Permit Required,
- 6) 5.50; Front Yard Requirements, Variance Required,
- 7) 5.60; Side Yard Requirements; Variance Required,
- 8) 5.70; Rear Yard Requirements; Variance Required,
- 9) 5.71; Projections into Rear Yards; Variance Required,
- 10) 6.04.5 c. 1; Design of All Off-Street Parking Facilities; Variance Required,
- 11) 6.04.5.c. 2; Design of Off Street Parking Facilities, Variance Required,
- 12) 6.04.9.b; Design of Off Street Parking Facilities, Variance Required,
- 13) 6.04.12; Design of Off Street Parking Facilities, Special Permit Required,
and
- 14) 8.02.2; Alteration or Extension; Special Permit Required.

Of the Zoning By-Law to
convert the carriage house into
habitable living space

at **90 ADDINGTON ROAD, BRKL**

Said Premise located in a
SC-7 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, Lawrence Kaplan and Enid Starr.

Petitioner was represented by Attorney Jacob Walters of Goldenberg, Walters and Popkewitz of Seven Harvard Street in Brookline. Mr. Walters began by stating that the applicant wished to preserve the carriage house at 90 Addington Road and the only realistic way to do so

was to convert it into habitable living space. Mr. Walters then gave a brief history of the carriage house stating that it was built in 1890, designed by architect George Moffett and preceded the main dwelling house on the lot. Mr. Walters added that the carriage house was unique not only due to its age, but also because of the architect and its unusual style.

Mr. Walters stated that the relief required for the preservation of the carriage house includes Variances and Special Permits. The Variances required are under Section 4.07, Uses #1 and #6, and Section 5.20, Floor Area Ratio. Section 4.07 does not allow for two dwellings on the same lot, and in this instance the conversion creating additional living space will exceed the allowable floor area ratio. Mr. Walters stated that the carriage house structure exists on the lot, predating the main dwelling house, and in this instance acquiring additional land in order to make the lot conform is not possible. Mr. Walters added that the concept of hardship as set forth in the Zoning Statute, is intended to address circumstances such as that which exists at this site. Mr. Walters went on to cite Section 9.09.1.d, which allows the Board of Appeals to grant a variance in order to preserve a historically or architecturally significant structure in a manner sufficient to justify the relief granted. Mr. Walters stated that the Brookline Preservation Commission has determined that the carriage house is both historically and architecturally significant, having communicated that fact to this Board in a letter stating its support for the preservation of the structure in question. Addressing the Special Permits needed, Mr. Walters stated that under Section 5.09.2.k, Design Review was required. Mr. Walters stated that the Planning Board reviewed the elements of design review, including Relation of Buildings to Environment, Open Space, Circulation and Heritage, and determined that the design of the proposed carriage house renovation was appropriate. Mr. Walters went on to say that a Special Permit was required under Section 5.43 of the Zoning By-Law, which allows for the substitution of dimensional requirements where counterbalancing amenities are being provided. Mr. Walters indicated that in this case the applicant is providing significant landscaping on the side and at the rear of the premises.

Mr. Walters went on to state that Special Permits are also needed under Section 6.04.12 and Sections 8.02.1 and 8.02.2. With reference to Section 6.04.12, Mr. Walters stated this Board may issue a Special Permit waiving dimensional requirements for parking spaces where new parking is being provided for existing structures. Mr. Walters made reference to the revised site plan prepared by Everett Brooks and dated November 14, 2006, which shows four parking spaces at the rear of the property and two along the side of the driveway. Mr. Walters then stated that his client adopted the suggestions of the Planning Board regarding the location of the two parking spaces, moving them farther up the driveway to keep all parking out of the required front yard. Mr. Walters added that the final Special Permits needed are under Sections 8.02.1 and 8.02.2, to alter the pre-existing non-conforming carriage house structure. Mr. Walters went on to say that the applicant accepts the conditions recommended by the Planning Board and will continue to work with the Chief Planner and the Board with regard to the final design of the carriage house. Mr. Walters concluded his remarks by noting that there is precedent for preservation of an historic carriage house such as at 90 Addington Road, citing case No. BOA

0500064, where this Board allowed a variance for Floor Area Ratio and dimensional relief at 23 Harvard Avenue in order to allow for the preservation of a carriage house with unique features.

The Chair then recognized Lynn Osborn, the applicant's architect. Ms. Osborn stated that the carriage house was constructed just a few years before the invention of the automobile, which spared the structure years of use and abuse by animals as the structure was basically used for storage. Ms. Osborn opined that the carriage house structure is relatively sound and can be restored to its former condition.

The Chair then asked if any members of the public wished to speak in favor of the applicant's proposal. The Chair recognized Mr. Owen Pless of 4 Addington Road, who stated that the carriage house in question has been in poor condition for several years and anything that can be done to improve it has his support. The Chair then recognized Mr. John Elder of 86 Addington Road. Mr. Elder stated that he did not oppose the project but was not familiar with the plans. The Chair suggested that Mr. Elder be allowed time to review the plans during the presentation of the Planning and Building Department reports and then comment on them if he has concerns or objections.

The Chair then called upon Polly Selkoe of the Brookline Planning Department to present the Planning Board report. Ms. Selkoe stated that the Planning Board supports the applicant's proposal, and noted that the applicant had incorporated all of the suggestions made by the Planning Board in the revised Site Plan. Ms. Selkoe advised the Planning Board recommends approval of the proposal from plans submitted and stamped by West Hill Architects, dated 8-18-06, with the following conditions: (1) The final exterior design details of the carriage barn, including doors, windows, decorative trim and materials, shall be reviewed and approved by the Planning Board, after consultation with Preservation Commission staff, prior to the issuance of a building permit. (2) A final site plan, indicating materials for the driveway, parking area and paths, and a final landscape plan showing details about plant materials, including type, size and spacing, as well as appropriate landscaping materials to protect the existing trees and landscaping materials to prevent front yard parking in the future. (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, including catch basins, stamped and signed by a registered architect or land surveyor, (b) final building elevations stamped and signed by a registered architect, and (c) a final landscape plan, stamped and signed by a registered landscape architect or architect, and (d) evidence that the Board of Appeals Decision has been recorded at the Registry of Deeds.

The Chair then called upon Frank Hitchcock of the Brookline Building Department. Mr. Hitchcock noted that the structure was not close to other buildings given the large lot size of the 90 Addington Road parcel. Mr. Hitchcock stated that even with the carriage barn being converted into habitable living space, the lot still has a sufficient amount of open space. Mr. Hitchcock went on to say that the main relief required is because in this district more than one

residence on a single lot is not allowed. Mr. Hitchcock added that while there are approximately twenty thousand (20,000) structures in Brookline there are fewer than 50 carriage barns left in the Town. Mr. Hitchcock concluded by stating that the Building Department supports the restoration of the carriage barn and has no objections to the conditions suggested by the Planning Board.

The Chair then asked Mr. Elder if he wished to comment on the applicant's proposal or raise any questions about the plans he had reviewed. Mr. Elder responded by stating that he had reviewed the plans for the carriage house and had no questions or objections.

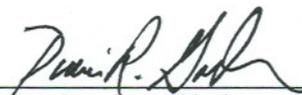
The Board, having heard all testimony, and after review of the plans submitted, voted unanimously to grant variances under Section 4.07, uses one (1) and six (6), Section 5.20 and Section 9.09.1.d, and special permits under Sections 5.09.2.k, 5.43, 6.04.12 and 8.02.2 to allow the conversion of the existing carriage house into habitable space. The approval was granted with the following conditions:

1. The final exterior design details of the carriage barn, including doors, windows, decorative trim and materials, shall be reviewed and approved by the Planning Board, after consultation with Preservation Commission staff, prior to the issuance of a building permit.

2. A final site plan, indicating materials for the driveway, parking area and paths, and a final landscape plan showing details about plant materials, including type, size and spacing, as well as appropriate landscaping materials to protect the existing trees and landscaping materials to prevent front yard parking in the future.

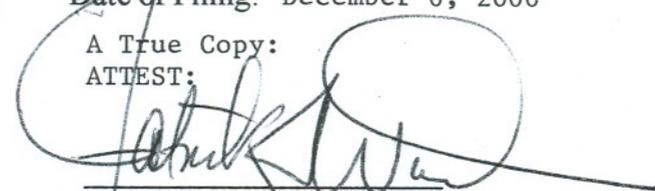
3. Prior to obtaining a building permit the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals Decision: (a) a final site plan, including catch basins, stamped and signed by a registered architect or land surveyor, (b) final building elevations stamped and signed by a registered architect, and (c) a final landscape plan, stamped and signed by a registered landscape architect or architect, and (d) evidence that the Board of Appeals Decision has been recorded at the Registry of Deeds.

Unanimous decision of
the Board of Appeals


Diane Gordon, Chair

Date of Filing: December 6, 2006

A True Copy:
ATTEST:


Patrick J. Ward
Board of Appeals

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK