



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2015-0028
OWNER: DAVID AND TRACY FRANKEL
173 LAUREL ROAD, BROOKLINE, MA

Petitioner, The LaGasse Group, as the contractor for the owner of the property, applied to the Building Commissioner for a permit to partially demolish a two-car garage and construct an attached three-car garage with expanded living space above and below at 173 Laurel Road. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed October 29, 2015 at 7:05 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for appeal. Notice of the hearing was mailed to the Petitioner, to their attorney 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 hearing was published on October 15, 2015 and October 22, 2015 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

Notice of Hearing

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

173 LAUREL RD – REPLACE EXISTING GARAGE WITH A NEW THREE-CAR GARAGE WITH LIVING SPACE ABOVE in an S-15, Single-Family, residential district, on

October 29, 2015, at 7:05 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner: THE LAGASSE GROUP; Owner: FRANKEL DAVID & TRACEY) Precinct 15

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and additional zoning relief as needed:

- 1. Section 5.43: Exceptions to Yard and Setback Regulations**
- 2. Section 5.60: Side Yard Requirements**
- 3. Section 8.02.2: Alteration or Extension**

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: www.brooklinema.gov.

*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 Town programs and services may make their needs known to **Robert Sneider**, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneider@brooklinema.gov.*

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller, and Board Members Christopher Hussey and Jonathan Book. The Project Architect, Tom Catalano of Catalano Architects, 115 Broad Street, Boston, Massachusetts presented project details to the Board on the Petitioner’s behalf.

Mr. Catalano stated that the Petitioner is seeking special permit relief to demolish the existing 1 ½ story garage structure in order to construct a new attached three-car garage with expanded living space above and basement floor area below to be used for additional living space. A new deck is also proposed at the rear of this garage. The garage will include interior parking for three vehicles, two of which will be tandem. Mr. Catalano stated that a majority of proposed new floor area will be located below the natural grade of the property.

Mr. Catalano confirmed that special permit relief is required to further expand the gross floor area to 119.5% of the allowed maximum. Special permit relief is also required to extend a pre-existing non-conforming side-yard setback along the northwest lot line to 9.4 feet.

Mr. Catalano stated that the Petitioner has worked closely with the immediate abutting resident at 167 Laurel Road. These conversations resulted in proposed landscape screening along the shared side lot line and the proposed application of translucent film on new windows facing that abutting property.

Board Member Book questioned if the abutting resident in fact supported this garage reconfiguration proposal. Mr. Catalano confirmed that the abutting resident has seen and supports proposed plans. These visual screening strategies were suggested as impact mitigation.

Chairman Geller requested that Mr. Catalano provide additional detail regarding the relief as requested. Mr. Catalano stated that the existing side-yard setback is difficult to improve due to the existing configuration of the structure on the lot itself. This non-compliant setback will be further reduced by 8 inches as a result of this proposed garage expansion. Mr. Catalano also confirmed that Zoning By-Law Section 5.22.3.b.1.b provides special permit relief for exterior additions that result in a gross floor area that remains below 120% of the allowed. Mr. Catalano further stated that the Planning Board supported the overall design, massing, and streetscape of this proposed addition.

Chairman Geller called for public comment in favor of or, or in opposition to, the Petitioner's proposal.

No members of the public commented.

Chairman Geller requested that Jay Rosa review the findings of the Planning Board and Building Department.

FINDINGS

Section 5.09.2.j – Design Review

Any exterior addition for which a special permit is requested pursuant to Section 5.22 shall be subject to the community and environmental impact and design review procedures and standards specified in Section 5.09.

Applicable Community and Environmental Impact and Design Standards

a. Preservation of Trees and Landscape

A fence and arborvitae currently screen the west façade on which the addition is proposed. The project does not explicitly propose removing existing trees and landscaping; however, the arborvitae are very close to proposed construction area and may suffer damage or not survive construction at all. The Board recommends that any damaged or removed arborvitae be replaced in kind or with similar plantings that provide at least same degree of screening.

b. Relation of Buildings to Environment

The height of the addition would be 24 feet above grade and would not extend above the ridge line of the main portion of the dwelling. The abutting home at 167 Laurel is a ranch-style dwelling set back the required 15 feet from this side lot line. Because of the insufficient setback on the applicant's property, adequate screening is imperative on the right side lot line, especially if existing arborvitae do not survive construction.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood

Although the Planning Board in general prefers that attached garages be set back from the front façade of the main building, the front yard setback to the garage entrance is nearly 36 feet—much deeper than the minimum 25 feet that is required.

d. Open Space

The Planning Board recommends that additional landscaping be added to the front yard as an amenity to counterbalance the side yard setback relief.

f. Stormwater Drainage

Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies and paved areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic, and will not create puddles in the paved areas.

In addition, an erosion and sediment control plan may be required pursuant to Section 8.26 of the Town Bylaw and subject to review by the Director of Engineering.

Section 5.22.3.b.1.b – Exceptions to Maximum Floor Area Ratio

Section 5.43 – Exceptions to Yard and Setback Requirements

Section 5.60 – Side Yard Requirements

Section 8.02.2 – Alteration or Extension

Dimensional Requirements (S-15)	Allowed	Existing	Proposed	Finding
Floor Area Ratio	7,733 sf. 0.25	6,818 sf. 0.22	9,243 sf. 0.298	Special Permit*
Side Yard Setback	15 feet	10 feet	9.4 feet	Special Permit/Variance**

* Under **Section 5.22.3.b.1.b**, In all S and SC Districts, a special permit may be granted for an increase in floor area above the permitted gross floor area for only one of the following subparagraphs; namely (1b) an exterior addition that is less than or equal to 20% of the permitted gross floor area;

Under **Section 5.43, the Board of Appeals may waive the setback requirements *if counterbalancing amenities are provided*. The applicant will address additional landscaping as the counterbalancing amenity at the Planning Board meeting.

Mr. Rosa stated that the Planning Board unanimously supported this proposed garage reconstruction and floor area increase. Board Members felt that pertinent design review guidelines are satisfied and generally felt that the proposed design is attractive and appropriate for the neighborhood. Therefore, the Planning Board recommended approval of the plans by Registered Architect Thomas R. Catalano of Catalano Architects Inc. dated 10/20/2015, and the site plan submitted by Professional Land Surveyor Robert A. Gemma of Metrowest Engineering dated 7/21/2015, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, elevations, and floor plans, including habitable and non-habitable areas of the basement identified, subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director for Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner 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; 2) final floor plans and elevations stamped and signed by a registered architect; 3) evidence that an Order of Conditions was filed with the Conservation Commission; and 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Rosa suggested that Condition 3, point 3 be revised to include language clarifying that the Order of Conditions be required if deemed applicable by the Conservation Commission.

Mr. Rosa further stated that the Building Department also has no objection to the relief as requested. Side-yard setback relief represents an extension of a pre-existing non-conforming condition and the proposed FAR falls within the allowable special permit threshold for exterior additions under By-Law Section 5.22.3.b.1.b. The Building Department also conferred with the Conservation Commission and is satisfied that proper wetland buffer protections will be in place during and after construction.

The Board deliberated on the merits of special permit relief as requested. Board Member Hussey stated support for the proposal and concurred with the Planning Board finding that design review standards for requested FAR relief are satisfied.

Board Member Book concurred with Mr. Hussey's comments and believed that the proposal is worthy of requested relief. Mr. Book did believe that further modification of proposed conditions is required in order to incorporate specific counterbalancing amenities suggested by Mr. Catalano.

Chairman Geller also supported the request for relief and specifically noted that counterbalancing amenities are provided in accordance with By-Law Section 5.43 and the general standards for special permit relief under By-Law Section 9.05 are also satisfied.

Board Members agreed that proposed Condition 2 should be modified to specifically include landscaped planting along the side lot line and an additional "spec" sheet detailing window film to be installed on the northwest façade of the garage structure. Chairman Geller also suggested the required submission of a final drainage plan to be reviewed and approved by the Engineering Department.

Mr. Catalano stated that there is no net increase in impervious surface and water runoff. Mr. Catalano also stated that water naturally drains to the southwest and there is no pre-existing adverse drainage condition at the site.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 5.43, 5.09.2.j, and 9.05 of the Zoning By-Law, granting relief from the provisions of Sections 5.22.3.b.1.b, 5.60, and 8.02.2 of the Zoning By-Law. The Board made the following specific findings pursuant to Section 9.05 of the Zoning By-Law:

- The specific site is an appropriate location for such a use, structure, or condition.
- The use as developed will not adversely affect the neighborhood.
- There will be no nuisance or serious hazard to vehicles or pedestrians.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Accordingly, the Board voted unanimously to grant special permit relief, subject to the following revised conditions:

- 1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, elevations, and floor plans, including habitable and non-habitable areas of the basement identified, subject to the review and approval of the Assistant Director for Regulatory Planning.**
- 2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, including without limitation, landscape screening along the northwest side lot line, and a specification sheet detailing all non-landscaping counterbalancing amenities, subject to the review and approval of the Assistant Director for Regulatory Planning.**
- 3. Prior to the issuance of a building permit, the applicant shall submit a final drainage plan, subject to the review and approval of the Director of Engineering and Transportation.**
- 4. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner 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; 2) final floor plans and elevations stamped and signed by a registered**

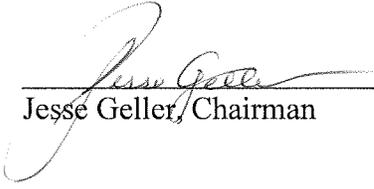
architect; 3) evidence that an Order of Conditions or a determination of non-applicability was filed with the Conservation Commission; and 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous decision of the

Board of Appeals

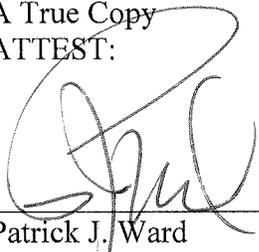
Filing Date:

11/13/15



Jesse Geller, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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