



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline

Massachusetts

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2016-0008
OWNER: RICHARD CORN & JANICE FOX
19 DENNY ROAD, BROOKLINE, MA

Petitioners, Richard Corn and Janis Fox, applied to the Building Commissioner to construct an attached two-car garage located within required front and side yards at 19 Denny 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed March 17, 2016 at 7:15 p.m. in the Selectmen's Hearing Room as the time and place of a hearing for the modification. Notice of the 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 local tax list, to the Planning Board, and to all others required by law. Notice of the hearing was published on March 3, 2016 and March 10, 2016 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:

19 DENNY RD – CONSTRUCT AN ATTACHED GARAGE WITHIN THE REQUIRED FRONT AND SIDE YARDS in an S-15, Single-Family, residential district, on March 17, 2016, at 7:15 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: CORN RICHARD I & JANIS H FOX) Precinct 13

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

- 1. Section 5.43: Exceptions to Yard and Setback Regulations**
- 2. Section 5.01: Table of Dimensional Requirements, Footnote 1**
- 3. Section 5.50: Front Yard Requirements**
- 4. Section 5.54.2: Exceptions for Existing Alignment**
- 5. Section 5.60: Side Yard Requirements**
- 6. Any Additional Relief the Board May Find Necessary**

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 Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneirson@brooklinema.gov.***

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

Publish: March 3, 2016 & March 10, 2016

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Board Chairman Jonathan Book and Board Members Christopher Hussey and Jesse Geller. The Petitioner, Richard Corn, presented project details to the Board. Mr. Corn stated that he is proposing to construct an attached two-car garage that faces Denny Road. This garage will replace an existing garage that is located at the basement level of the single-family

dwelling and is accessed by a narrow and steep driveway. Mr. Corn stated that the new garage is intended to improve overall wheelchair and vehicle access to the property. Mr. Corn confirmed that this proposed garage will be located five feet from the front property line along Denny Road and ten and one-half feet from the side lot line to the southwest, therefore zoning relief is required to waive both front and side yard setback requirements. Mr. Corn believed that this zoning relief may be granted by special permit by the Board. Mr. Corn further stated that a single-story bedroom suite will also be constructed at the eastern end of the existing structure but this proposed addition complies with all zoning requirements.

Mr. Corn submitted photos to the Board to highlight the existing 17% grade of the front driveway, which slopes down toward the interior garage that is located below grade level. Mr. Corn described this driveway slope as being unsafe for his family, and dangerous for passing vehicles and pedestrians. Mr. Corn further stated that the narrow driveway exacerbates this problem and makes the current garage largely inaccessible, particularly in terms of handicapped access.

Mr. Corn described the existing 19 Denny Road lot topography and street trees as challenges that have dictated the most appropriate location to site this proposed garage in the front yard. Mr. Corn stated that the existing curb cut from Denny Road cannot be widened without adversely impacting existing street trees, and the slope of the eastern portion of the lot prevents the creation of a driveway in that area that complies with access driveway grade requirements. Additionally, the overall size of the proposed garage allows for the installation of a wheelchair access ramp, improved loading and unloading of vehicles, and roof pitches that are consistent with the existing structure. For these reasons, Mr. Corn stated that infilling the

existing driveway and constructing the new garage at grade level is the most appropriate solution to the previously stated challenge of accessibility.

Mr. Corn informed the Board that he has communicated the details of this proposal to neighboring residents and all directly abutting neighbors have submitted letters in support of this project. Mr. Corn also highlighted neighborhood properties that present garages that are situated within required front yard setbacks.

Mr. Corn concluded his comments by reviewing project compliance with the standards for the grant of a special permit in accordance with Zoning By-Law Sections 9.05 and 5.43. Mr. Corn specifically noted that he plans to work with his adjacent neighbor at 29 Denny Road to improve planted features along the shared side lot line to serve as counterbalancing amenities for the requested setback relief. Mr. Corn believed that these proposed additions most readily improve the functionality of the single-family structure for his family, but will also improve overall accessibility and safety for all potential future residents as well.

Board Chairman Book asked whether or not the garage setback will provide enough room for adequate driver sight lines when entering and exiting the proposed garage. Mr. Corn stated that he intends to back vehicles into the garage because his vehicles are rear loading for handicapped access. Backing vehicles into the garage will also allow for consistent sight lines when exiting the property. Board Member Hussey concurred that the proposed five-foot setback to the garage doors will allow vehicles backing out of the garage to clear the face of the garage prior to crossing over the public sidewalk.

Mr. Hussey questioned why two separate setback requirements are included in the submitted Planning Board report. Deputy Building Commissioner Michael Yanovitch stated that

the structural setback for this single-family district is twenty-five feet, however Zoning By-Law **Section 5.01, Footnote 1** does require that front-facing garage doors shall not be located closer than twenty feet from the front lot line.

Mr. Hussey also requested that the petitioner clarify if existing hemlocks are located on the subject property or on the public sidewalk. Mr. Corn confirmed that hemlocks included on the submitted site plan are located on his private property.

Board Chairman Book called for public comment in favor of, or in opposition to, the Petitioner’s proposal.

No members of the public commented in favor of, or in opposition to, the Petitioner’s proposal.

Board Chairman Book requested that Zoning Coordinator Jay Rosa review the findings of the Planning Board.

FINDINGS

Section 5.01 – Table of Dimensional Requirements, Footnote 1

If the entrance to a garage or covered vehicular passageway faces toward the street to which its driveway has access, said entrance shall be at least 20 feet from the street.

Section 5.50 – Front Yard Requirements

Section 5.54.2 – Exceptions for existing alignment

Section 5.60 – Side-Yard Requirements

S-15 (Single-Family)	Permitted	Existing	Proposed	Relief
Front-Yard Setback (Garage Door)	20 feet	±36.5 feet	5.1 feet	Special Permit*
Front-Yard Setback	25 feet	27.8 feet	5 feet	Special Permit*
Side-Yard Setback	15 feet	21.3 feet	10.3 feet	Special Permit*

Floor Area Ratio (FAR)	4,991 s.f. 100%	3,731 s.f. 74.8%	4,392.35 88%	Complies
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** Under Section 5.43, the Board of Appeals may waive yard and/or setback requirements if counterbalancing amenity is provided.*

Mr. Rosa stated that the Planning Board unanimously supported this proposed two-car garage. Board Members agreed that the front-yard location of the garage is perhaps the most feasible for the property, and both vehicular and resident access will be improve from the current driveway condition. Mr. Rosa noted that the Planning Board did suggest that the overall height of the garage door be increased to further improve sight lines. Additionally, a more detailed roof plan should be submitted to clearly illustrate water runoff and snow buildup areas.

Mr. Rosa further stated that the Planning Board recommended approval of the site plan submitted by Bruce Bradford, dated 1/27/16, and plans by Pierce Lamb Architects, dated 1/21/2016, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations with garage door details and a roof plan, subject to the review and approval of the Assistant Director of 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 of 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; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Chairman Book requested that Deputy Building Commissioner Michael Yanovitch review the findings of the Building Department. Mr. Yanovitch stated that Mr. Corn worked closely with Town staff to develop the most appropriate garage improvements for the subject

property. Mr. Yanovitch agreed that the garage reconfiguration immediately improves the usability of the structure for Mr. Corn and his family but also stands to benefit future property owners. Mr. Yanovitch confirmed that the Building Department will work with the Petitioner to ensure compliance with all imposed conditions and relevant building codes if the Board does find that the requirements for the grant of a special permit are satisfied.

The Board deliberated on the merits of special permit relief as requested. Board Member Geller stated that the garage design is a suitable proposal that is worthy of requested relief. The project solves an immediate family need however Mr. Geller cautioned that the limited front-yard setback could encourage parking in front of the garage itself, which may adversely impact pedestrian safety. Mr. Geller acknowledged that this potential exterior parking is more of a parking enforcement issue than a zoning relief issue.

Mr. Hussey concurred with these comments and again reiterated that he supported backing into the garage to improve vehicular safety when exiting the property. Mr. Hussey agreed that parking across the public sidewalk is prohibited by the Town and therefore any parking within the public way would require enforcement. Mr. Hussey further stated that the consideration of any potential future parking that is inconsistent with Town By-Laws is beyond the scope of the proposal that is currently before this Board.

Board Chairman Book stated that he was in favor of the requested zoning relief and believed the proposal to be thoughtfully designed. Mr. Book agreed that the requirements for the grant of a special permit under By-Law **Sections 9.05** and **5.43** are met and he was not troubled by the temptation to park in front of the new garage because it is a prohibited practice by the Town.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 9.05 and 5.43 of the Zoning By-Law, granting relief from the provisions of Sections 5.01, 5.50, 5.54.2 and 5.60. 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.
- The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people

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

- 1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations with garage door details and a roof plan, subject to the review and approval of the Assistant Director of 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 of 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; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

**Unanimous decision of the
Board of Appeals**

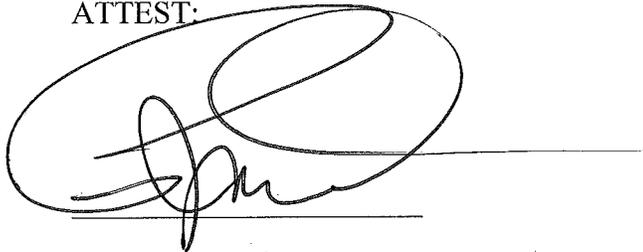


Jonathan Book, Chairman

Filing Date: 4/14/16

A True Copy

ATTEST:



Patrick J. Ward

Clerk, Board of Appeals

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