



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2016-0030
DAN QUIRK
315 LEE STREET, BROOKLINE, MA

Petitioner, Dan Quirk (and Owner, John Raymond Realty Associates, LLC), applied to the Building Commissioner for permission to construct a carriage house for four vehicles, for a total of seven parking spaces on the lot. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the property affected was that shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed June 2, 2016, at 7:30 p.m. in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney (if any) 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 May 19, 2016, and May 26, 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:

315 LEE ST – CONSTRUCT A DETACHED FOUR-CAR GARAGE, in an S-40, Single-Family, residential district, on June 2, 2016, at 7:30 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: Dan Quirk/John Raymond Realty Associates, LLC) Precinct 15

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 4.07: Table of Use Regulations, Use #55**
- 4. 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 Sneideron, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneideron@brooklinema.gov.***

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

At the time and place specified in the notice, the Zoning Board of Appeals held a public hearing. Present at the hearing was Zoning Coordinator Jay Rosa. The case was presented by the attorney for the Petitioner, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was the Petitioner’s architect Stephen Sousa, 81 Boylston Street, Brookline, Massachusetts 02445. Zoning Board of Appeals Chairman Jonathan Book called the hearing to order at 7:30 p.m. Attorney Allen waived the reading of the public hearing notice.

Attorney Allen presented to the Board a background of the Petitioner and the proposal stating: 315 Lee Street is a single-family dwelling on a lot in an S-40 District. The Preservation Commission determined in January that the dwelling was not significant and could be

demolished. The Building Department issued a demolition permit for the structure in April, and the dwelling is expected to be demolished soon. Attorney Allen said the Petitioner plans to construct a new single-family dwelling with an attached three-car garage on the lot. The Petitioner also proposes to construct a detached carriage house to the rear of the new single-family dwelling, which will be used as a garage for four vehicles. Attorney Allen said the petitioner, Mr. Quirk, is in the automobile business and has a number of vehicles for personal use. 315 Lee Street is an oversized lot, with 61,000 s.f. in the S-40 District, and surrounding properties are also fairly large single-family homes. Attorney Allen said the only zoning relief being requested is for the total number of vehicles on the lot, which will be seven, as the carriage house will comply with all setback and other dimensional requirements. The carriage house will be located to the rear of the principal structure, and the doors will face the rear of the property, not the street. Attorney Allen said the carriage house has been designed attractively and will relate well to the home, and Mr. Quirk's architect Stephen Sousa is here to answer any questions related to its design.

Zoning Board of Appeals Chairman Jonathan Book asked if the carriage house would have a residential component. Attorney Allen said no, the carriage house will be used only for vehicles or related storage.

Board Member Christopher Hussey asked if more vehicles could be parked in the carriage house. Attorney Allen said that the Petitioner plans to park only four cars in the carriage house. Board Member Hussey asked for clarification on the site plan's markings. Stephen Sousa said Board Member Hussey is referring to previously existing trees shown on the site plan. Attorney Allen said the Petitioner's landscaping team moved the project up ahead of schedule and they cleared the entire lot, which upset some neighbors. Attorney Allen said landscape architect Blair

Hines has been brought in to develop an appropriate landscaping plan with dense screening to maintain everyone's privacy.

Attorney Allen said **Section 4.07, Use #55**, of the Zoning By-Law requires a special permit for parking more than four vehicles on the lot. Attorney Allen said the project was not cited for floor area ratio (FAR), but they have reviewed the FAR regulations with the Planning and Building Departments and the project complies. Attorney Allen said that at the Planning Board meeting on May 19, 2016, a few neighbors raised concerns about privacy and screening for the property; the Petitioner has since hired landscape architect Blair Hines to develop a landscaping plan with dense vegetative screening. Attorney Allen said that in addition to having the Assistant Director for Regulatory Planning review and approve the landscaping plan, the Petitioner has agreed to reach out to the neighbors so they can review the proposed landscaping plan. Attorney Allen said there will also be new fencing on the property, and they have been talking with the neighbor to the rear about replacing an existing chain link fence.

Attorney Allen said the proposal received unanimous support from the Planning Board. Attorney Allen stated the following: (1) the specific site is an appropriate location for the carriage house, as it exceeds minimum lot size requirements and can easily accommodate seven vehicles all within enclosed structures, accessory buildings are common in this neighborhood, and this structure will meet all setback and open space requirements and will be well screened with landscaping; (2) there will be no adverse effect on the neighborhood, the property will continue to be a single-family home with vehicular access from Lee Street and all vehicles will be stored within enclosed structures, and the carriage house has been designed to relate well with the principal dwelling and setback from all property lines; (3) no nuisance or serious hazard to vehicles or pedestrians exists, and the property will continue to access Lee Street in the same

manner; (4) adequate and appropriate facilities will be provided for the proper operation of the use, as the carriage house and attached garage will meet all of the requirements for vehicle storage under Zoning and the Building Code; and (5) the development will not have a significant adverse effect on the supply on housing available for low and moderate income people. Attorney Allen said the proposal meets the special permit requirements under **Section 9.05** of the Zoning By-Laws, the relief is minimal, and is fairly common in the S-40 District.

Zoning Board of Appeals Chairman Jonathan Book asked if anyone wanted to speak in favor of the requested relief. Tom Kerner, 130 Clyde Street, said he abuts the property to the rear, and he attended the Planning Board meeting where he received a copy of the Planning Board report. Kerner said he supports the application as long as the special permit includes the Planning Board's recommended condition #2, requiring a landscaping plan approved by the Assistant Director of Regulatory Planning in conjunction with the staff landscape architect and a landscape architect member of the Planning Board, after achieving consensus with direct abutters. Mr. Kerner said he believes his neighbor to the north feels similarly, though he doesn't want to speak for him.

Zoning Board of Appeals Chairman Jonathan Book asked if anyone wanted to speak in opposition to the proposal. No additional comment was offered.

Attorney Allen said he is fine with the Planning Board's recommended condition #2.

Zoning Board of Appeals Chairman Book called upon Jay Rosa, Planner for the Town of Brookline, to deliver the findings of the Planning Board:

FINDINGS:

Section 4.07 – Table of Use Regulations, Use #55

	Permitted	Existing	Proposed	Finding
Sec. 4.07, Use 55	4 spaces*	0 (new construction)	7 spaces 3 in attached garage 4 in carriage house	Special Permit**

*Per Section 4.07, Use 54, an accessory private garage or parking area for noncommercial motor vehicles with not more than four parking spaces for a single-family dwelling on a 10,000 sf or larger lot is permitted as of right.

**Accessory Uses, #55: Other private garage or parking or more noncommercial motor vehicles belonging to occupants or users of the lot than permitted in Use 54 may be granted by Special Permit.

The Planning Board has no objection to this proposal for a carriage house for four vehicles. It will be architecturally harmonious with the new single-family home. The parcel is an oversized lot and the site would well exceed minimum requirements for usable open space. The side and rear yard setbacks to the accessory structure exceed the minimum setback requirements for a principle structure. The landscaping surrounding the parcel is extensive; however, the existing landscaping on the site has been completely cleared. The applicant should submit a landscape plan that meets the approval of the direct abutters to ensure no adverse impact.

Therefore, the Planning Board recommends approval of the site plan by professional land surveyor Peter Nolan and Associates LLC dated 3/9/2016, and the architectural plans by registered architect Stephen Sousa, dated 5/19/2016, 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 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 landscape plan subject to the review and approval of the Assistant Director of Regulatory Planning in conjunction with the staff landscape architect and a landscape architect serving on the

Planning Board after the applicant has achieved consensus among direct abutters.

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 building 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.

Zoning Board of Appeals Chairman Book called upon Mr. Rosa to report on behalf of the Building Department. Mr. Rosa said the Building Department has no objection to this request. The proposed FAR is as of right, and the Building Department worked closely with the Petitioner to make sure the FAR was appropriately calculated. The proposal only needs relief to park more than four vehicles, which is allowed by special permit. The Building Department will work closely with Engineering if this proposal is approved, specifically looking at stormwater management, drainage engineering, and topography. If the Board finds that the proposal meets the standards for a special permit, the Building Department will work with the Petitioner to ensure compliance.

During deliberations, Board Member Hussey said he had no further questions about the proposal and he would support the requested relief.

Board Member Zuroff said he has no objections to the proposal, and it is well within the scope of the Board's authority to grant the relief.

Chairman Book said he agreed, and the Board has approved a number of similar proposals in this area. Chairman Book said this request is worthy of relief and meets the requirements of **Section 9.05** of the Zoning By-Law. Chairman Book emphasized that the accessory structure, though referred to as a carriage house, is a garage, not a dwelling.

The Board then determined by unanimous vote that the requirements for relief by special permit from the application of the provisions of Section 4.07 – Table of Use Regulations, Use #55 of the Zoning By-Law pursuant to Sections 4.07 and 9.05 of the Zoning By-Law were met.

The Board made the following specific findings pursuant to said Section 9.05:

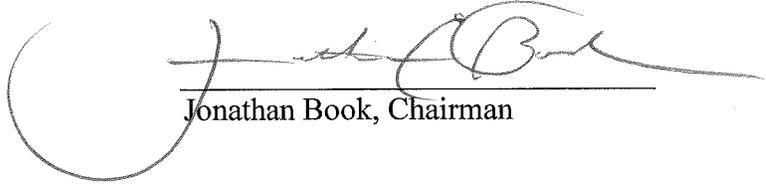
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have any effect on the supply of housing available for low and moderate income people.

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

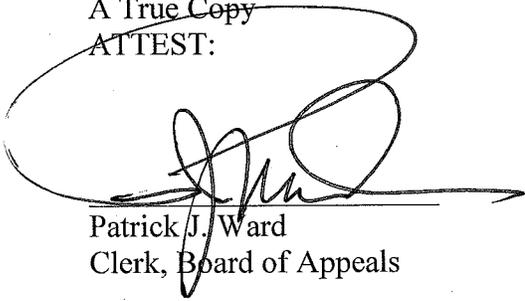
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Unanimous Decision of
The Board of Appeals

Filing Date: 6/20/16


Jonathan Book, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

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