



Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Christopher Hussey

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TOWN OF BROOKLINE
RECORDS DEPT.
Town of Brookline
Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2012-0026

Petitioners, Ricki Morrell and John Hechinger, applied to the Building Commissioner for permission to remove an existing garage and construct a new garage at the left side rear of their home at 22 Thorndike Street. The application was denied and an appeal was taken to this Board.

On 29, March 2012, 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 and fixed 17, May 2012, at 7:00p.m. in the Selectmen's Conference Room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, 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 April 26 and May 3, 2012, 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. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **HECHINGER JOHN E MORELL RICKI A**
Owner: **HECHINGER JOHN E MORELL RICKI A**
Location of Premises: **22 THORNDIKE ST**
Date of Hearing: **May 17, 2012**
Time of Hearing: **07:00 PM**
Place of Hearing: **Selectmen's hearing room, 6th floor**

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

1. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
2. **5.63; Accessory Buildings or Structures in Side Yards, special permit required.**
3. **5.72; Accessory Buildings or Structures in Rear Yards, variance required.**
4. **8.02.2; Alteration or Extension, special permit required.**

Of the Zoning By-Law to Construct a new garage requiring BOA relief
at **22 Thorndike Street.**

Said premise located in a **T-5 (Two-Family and Attached Single Family)** residence district.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

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.

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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 Jonathan Book and Mark Zuroff.

Attorney Jacob Walters, having a business address at 27 Harvard Street, Brookline, Massachusetts, presented the case for the petitioners.

Mr. Walters described the property at 22 Thorndike Street as a three-story single family house that was constructed in 1892. The home has a gambrel roof with side dormers and is clad in wood shingles. The property has an existing double curb cut and a rather wide driveway that leads to the existing garage. Due to the position of the house and the width of the driveway, the entire front façade of the garage is visible to the street. The surrounding uses are primarily single family residences.

Attorney Walters said his clients are proposing to demolish their existing garage and construct a marginally larger garage in its footprint. The new garage will have a gabled roof, an overhead “carriage style” door, and a half moon window above the door on the front facade. There will also be a pedestrian door and window on the side of the garage [interior to the property]. The garage will be clad with Azek trim and noncombustible siding.

Mr. Walters said that his client’s existing garage is a pre-existing, non-conforming structure and the new garage would be 2 inches closer to the lot line. He said the garage is screened on the side of the abutter most affected by it. He said that the Board could grant relief under **Section 8.02.2** of the Zoning By-Law for these non-conformities. He said the new garage also requires side and rear relief and the Board could grant relief under **Section 5.43** of the Zoning By-Law provided counterbalancing amenities are undertaken. He said that his client is proposing to provide additional landscaping to fulfill the requirements of this Section and a site plan has been provided to the Planning Department detailing the proposed landscaping.

Chairman Geller asked if the petitioner had support from the abutters. Attorney Walters said the petitioners notified all of their abutters and have one letter of support from Jonathan Raisz of 26 Thorndike St. He is not aware of any opposition.

The Chairman then asked if anyone in attendance wished to speak in support of or in opposition to the petitioner's proposal. No one was present to speak. It was noted by Chairman Geller that there was one letter of concern regarding noise during construction.

Lara Curtis Hayes, Planner, delivered the findings of the Planning Department.

Section 5.63 – Accessory Structures in Side Yards

Section 5.72 – Accessory Structures in Rear Yards

Dimensional Requirements	Required	Existing	Proposed	Relief
Garage Side Yard Setback	6'	Est. 2.5'	2.3'	Special Permit*
Garage Rear Yard Setback	6'	2.3'	2.3'	Special Permit*

* Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant is proposing to provide additional landscaping as a counterbalancing amenity.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure or use.

Ms. Hayes said the Planning Board is supportive of this proposal. The new garage is not substantially larger than the existing garage. Although new, the garage will be slightly closer to the side lot line; that side of the property is screened by dense vegetation and it is not anticipated that the additional encroachment will be noticeable to the neighboring property. The Planning Board is supportive of the detailing on the garage but notes the applicant should take care to ensure the new light fixture on the side of the garage will not project light into neighboring properties.

Therefore, the Planning Board recommends approval of the survey by Boston Survey Inc. and plans by Lynn Osborn, dated 1/20/12 and 1/10/2012 respectively, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final 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 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 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.

The Chairman then called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no issue with the request for relief. The new structure appears to be a significant improvement over the existing structure and probably will be more functional as well. The structure is designed well and if the Board grants relief the Building Department will ensure compliance with the Building Code.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits and that the petitioner has satisfied the

requirements necessary for relief under Sections 5.43, 8.02.2, and 9.05 of the Zoning By-Law and made the following specific findings pursuant to Section 9.05 of the Zoning By-Law:

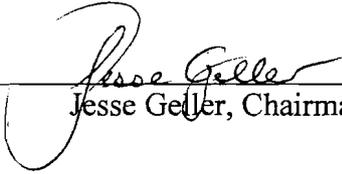
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

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

1. Prior to the issuance of a building permit, the applicant shall submit final 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 indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
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Unanimous Decision of

The Board of Appeals



Jesse Geller, Chairman

Filing Date: June 25, 2012

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Patrick J. Ward
Clerk, Board of Appeals