



Town of Brookline

Massachusetts

6 BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

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. 2010-0041

Petitioner, Jeffrey Feuerman, applied to the Building Commissioner for permission to renovate and construct an addition to an existing two-family dwelling at 59 Green Street. The application was denied and an appeal was taken to this Board.

On 10, June 2010, 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 16, September 2010, at 7:15p.m. in the Selectmen's Hearing Room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to his 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 29, July and 5, August 2010, 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: **JEFFREY FEUREMAN**
Owner: **Brookline Development Corp. LLC**
Location of Premises: **59 Green Street**
Date of Hearing: **September 16, 2010**
Time of Hearing: **7:15 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th. floor**

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

1. **5.05; Conversions, special permit required.**
2. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
3. **5.60; Side Yard Requirements, variance required.**
4. **5.70; Rear Yard Requirements, variance required.**
5. **5.91; Usable Open Space, variance required.**
6. **6.04.5.c.2; Design of All Off-Street Parking Facilities (setback) variance required.**
7. **6.04.12, New Parking for Existing Structures, special permit required.**
8. **8.02.2; Alteration or Extension, special permit required.**

Of the Zoning By-Law to **CONSTRUCTION OF ADDITIONAL DWELLING REQUIRING ZONING RELIEF** at **59 GREEN STREET BRKL.**

Said premise located in a **F-1.0 (multi-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.

**Enid Starr
Jesse Geller
Robert De Vries**

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 Lisa Serafin and Robert DeVries. The

petitioner was represented by Attorney Robert Allen, 300 Washington Street, Brookline, MA 02445.

Mr. Allen described the subject property at 59 Green Street, as a two-and-a-half-story, two-family dwelling with a two-bay detached garage in the far rear corner. The dwelling and garage were both built in 1923 by architect Robert L. Stevenson, who also designed the house and garage next door at 55 Green Street. Both the dwelling and garage are finished with stucco, and the dwelling has a tile roof with jerkinhead front and rear gables.

This dwelling is one of five similarly-scaled residences located along the south side of Green Street, which were downzoned in November 2007 from M to F-1.0. The other side of Green Street has both multi-family and religious uses, and the neighborhood is located just two blocks from the heart of Coolidge Corner.

Mr. Allen informed the Board that the Preservation Commission reviewed the petitioner's application for demolition of the dwelling and detached garage at 59 Green Street. The Commission voted to uphold the staff's initial determination of significance for both the dwelling and the garage and imposed a one-year stay of demolition. The petitioner, Jeffrey Feuerman, began a dialogue with the neighborhood to find a way to preserve the home. As a result of these conversations, the petitioner proposes constructing a large rear addition to the structure and maintain two units on the property. A small portion of the existing dwelling and the rear garage would be removed to allow for the new construction. The addition would measure 31 feet 2 inches wide by 54 feet 6 inches deep and be located nearly entirely behind the existing dwelling. The ground floor of the addition would provide four garage parking spaces, two for each unit; while the upper levels would provide living space for one four-bedroom

dwelling unit. The existing house would be converted into a single dwelling unit. The rear dwelling unit would have a separate walkway and exterior entrance facing Green Street.

Mr. Allen made the Board aware that the petitioner had three meetings with the Planning Board, July 15th, July 29 and August 11th. The Planning Board made numerous comments on the design and requested revisions to the setbacks and overall massing. The proposal was amended in order to comply with all zoning requirements except for the rear yard set back – which was minimized – and the driveway setback – which is a pre-existing non conforming condition. The massing of the rear yard and the upper portion of the addition complies with the rear yard setback; only the garage and deck wall needs five feet of rear yard setback relief.

Mr. Allen stated that he believed his clients needed relief under **Section 5.43**, which allows the Board of Appeals to waive by special permit dimensional requirements for yards and setbacks if counterbalancing amenities are provided. Mr. Allen noted that the counterbalancing amenities include the preservation of the structure and existing streetscape, which was an important factor to the Preservation Commission; creating landscaping along the property line and in the rear yard, and; removing a serious hazard to vehicle and pedestrians by allowing the vehicles to exit the property front-facing rather than the past practice of backing out of a long obstructed driveway.

Chairman Geller asked whether anyone in attendance wished to speak in favor or against the proposal. No one rose to speak.

Lara Curtis-Hayes delivered the findings of the Planning Board.

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.60 – Side Yard Requirements

Section 5.70 – Rear Yard Requirements

Section 5.91 – Usable Open Space

Section 6.04.5.c.2 – Design of All Off-Street Parking Facilities: The side yard setback requirement for driveways is five feet or one-third the driveway width, whichever is greater.

Section 6.04.12 – New Parking for Existing Structures: When new parking facilities are being installed to serve existing structures and land uses, the Board of Appeals may allow by special permit the substitution of other dimensions for the parking requirements.

Section 8.02.2 – Alteration or Extension: This structure is currently non-conforming with respect to side yard setback, and to alter and extend this non-conformity requires a special permit.

	Required	Existing	Proposed	Planning
Side Yard Setback	10 feet	Right: 8' Left: 11'3"	Right: 6'10" Revised: 10' Left: 11'3"	Special Permit* Revised Plan: Complies
Rear Yard Setback	30 feet	72' (estimate)	21'3" Revised: 25'	Special Permit*
Usable Open Space	30% of gross floor area	Unknown	2,228 s.f. (30%) Rev: 2,417 s.f. (34%)	Complies
Floor Area Ratio	1.0 / 9,890 s.f.	Unknown	.74 / 7,426 s.f. Rev: .72 / 7,105 s.f.	Complies
Driveway Setback	5 feet	0-1' (estimate)	same	Pre-existing, non-conforming
Parking Spaces	5 spaces	4 (2 in garage, 2 tandem)	5	Complies

*Under Section 5.43, the Board of Appeals may waive by special permit dimensional requirements for yards and setbacks if counterbalancing amenities are provided.

Ms. Curtis said that the Planning Board was not opposed to this proposal to construct a large addition and maintain the dwelling as a two-family, as it has been revised to reduce the building's overall massing, while it still preserves the existing structure and maintains the distinct streetscape along Green Street. The roofline of the addition has been broken up by adding a dormer on each side, and the rear elevation has been modified with more detail, including a deck rather than finished floor area above the rear of the garage. The applicant revised the plans again to ensure the addition meets the side yard setback, and the upper portion of the addition complies with the rear yard setback; only the garage and deck wall needs five feet of rear yard setback relief. While the addition is still very large, the revised proposal is a

compromise that maintains the existing dwelling and streetscape character. The addition is located entirely behind the structure. When initially considering a demolition permit for this property, the Preservation Commission and the neighborhood had indicated concerns about maintaining the streetscape and character of this block, as it is one in a series of similarly-sized and designed dwellings. This proposal largely respects these concerns. The primary relief needed for this proposal is now only rear yard setback relief. The rear abutter is a large multi-story apartment building owned by the Brookline Housing Authority. The needed driveway setback relief maintains an existing driveway condition. An appropriate landscaping treatment along the side and rear of the building should be developed and installed to soften and screen the addition's massing. Otherwise, the addition is well under the allowed floor area, the total number of dwelling units is not changing, and the main dwelling and current streetscape is being preserved. Therefore, the Planning Board recommended approval of the proposal and the submitted plans, prepared by David O'Sullivan and last dated 8/19/2010, subject to the following conditions:

1. Prior to issuance of a building permit, final building elevations, indicating all materials, colors and rooftop details, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a final site and landscaping plan, indicating all counterbalancing amenities, utility locations and screening, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, a construction management plan, including details regarding the delivery of materials and the contact information of contractors, shall be submitted to the Building Commissioner for review and approval.
4. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval to ensure conformance with the Board of Appeals decision: 1) final elevations, stamped and signed by a registered architect; 2) a final site

plan, stamped and signed by a registered land surveyor or engineer; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard opined that the zoning relief process in this case had worked very well. He said that he had attended at least two Planning Board meetings regarding this proposal during which there was significant neighborhood concern/input. The fact that there was no one in attendance from the neighborhood regarding the petition, in his opinion lent credibility to the process. Mr. Shepard stated that the addition appeared well designed and that the Building Department was supportive of the proposal as well as the conditions proposed by the Planning Board. He stated that his Department will enforce the provisions of the State 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.

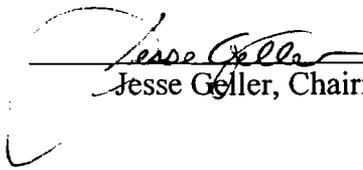
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to issuance of a building permit, final building elevations, indicating all materials, colors and rooftop details, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a final site and landscaping plan, indicating all counterbalancing amenities, utility locations and screening, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, a construction management plan, including details regarding the delivery of materials and the contact information of contractors, shall be submitted to the Building Commissioner for review and approval.
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 TOWN OF BROOKLINE
 TOWN CLERK

2010 OCT - 8 AM 9:37

unanimous Decision of
 Board of Appeals
 Date: October 8, 2010



 Jesse Geller, Chairman

A True Copy
 ATTEST:



Patrick J. Ward
 Clerk, Board of Appeals