



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

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 080048

Petitioners, Kris and Georgia Lagadinos, applied to the Building Commissioner for permission to convert an existing two family home to a three family. As part of his application, Mr. Lagadinos requested parking relief. The application was denied and an appeal was taken to this Board.

On 9 October 2008, 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 4 December 2008, at 7:00 p.m. on the 2nd floor of the Main Library as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to his 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 13 and 20 November 2008 in the Brookline Tab, a newspaper published in Brookline. 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: **KRIS and GEORGIA LAGADINOS**
Location of Premises: **62 CENTER STREET**
Date of Hearing: **12/04/2008**

Time of Hearing: **7:15 p.m.**

Place of Hearing: **Main Library, 2nd. floor**

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

6.01.2.a; General Regulations Applying to Off-Street Parking Facilities, Special Permit Required.

8.02.2; Alteration or Extension, Special Permit Required of the Zoning By-Law to convert the existing two family home to a three family home at **62 CENTER STREET BRKL.**

Said Premise located in a **F-1.0** (Three Family) 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, Christina Wolfe and Jonathan Book. Georgia Lagadinos presented the case before the Board.

Mrs. Lagadinos described her home at 62 Center St. as a large 2.5 story structure. The property was recently downzoned from an M-2.0 to an F-1.0 district. She said that the home, which had been in her family since 1954, is on the corner of Center and Wellman Streets, about a block from Coolidge Corner. Most of the neighborhood is residential with both turn of the century homes and more recent multifamily housing. She said that they are proposing to convert their large two-family home into a three-family home, requiring relief for parking. She said that the intention was to provide a unit for themselves as

well as a unit each for their two children. There are currently four pre-existing parking spaces on site in a driveway off Wellman Street. In the interest of preserving open space and an attractive site, she said that they do not desire to increase the number of parking spaces. The parking spaces are configured as two side-by-side tandem spaces and cars must back out onto the street to exit. However, because Wellman Street is a quiet one-way street it is not anticipated this configuration will be problematic. The four parking spaces all measure 10'x 20.9'. Mrs. Lagadinos said that they had originally proposed seven spaces, with the existing four spaces in the driveway, and an additional three spaces in front of the house visible from Centre Street. The original seven space configuration was problematic due to the spaces being too close to a corner, within the front yard setback, and creating an insufficiency of usable open space on the lot. When the zoning amendment allowing up to half the required parking spaces was approved, she said that they resubmitted the proposal with only the four existing parking spaces. Mrs. Lagadinos went on to say that they had historically parked up to six cars on the existing space and she requested that the Board consider increasing the parking spaces from four to six.

The Chairman asked whether anyone wished to speak in favor or against the proposal. No one spoke in favor or against the petition.

The Chairman asked the Board whether they had any questions. Ms. Wolfe inquired whether the petitioner had rented any of the parking spaces on her property to third parties (other than occupants of the locus). Mrs. Lagadinos replied that the spaces were only for the two families that inhabited the home. Mr. Book inquired about the parking space layout. The petitioner responded that they wished to keep the parking space as delineated on the plan in order to reserve the right to park up to six cars within the driveway. Christina Wolfe responded that more cars would increase the likelihood of accidents, either backing over the sidewalk or crossing the walkway in the neighbor's side yard. Chairman Geller explained that one of the conditions of special permit relief is that "there will be no

nuisance or serious hazard to vehicles or pedestrians”. Mr. Book said that while up to six cars may be able to be physically accommodated on the site, that they probably could not do so without blocking or encroaching into a portion of the sidewalk.

Lara Curtis, Planner, delivered the findings of the planning department.

Section 6.01.2.a – Off Street Parking Facilities

	Required	Proposed	Relief
Parking Spaces	7	4	Special Permit*

* The Board of Appeals by special permit may waive up to ½ the number of required parking spaces in F districts for conversions.

Section 8.02.2 – Alteration or Extension – A special permit is required for alterations to a pre-existing non-conforming structure or use.

Ms. Curtis, said that due to a scheduling misunderstanding, the petitioner was not present for the Planning Board hearing, therefore, the Planning Board decided to forward this case to the Board of Appeals without comment. Ms. Curtis commented that the staff is supportive of this proposal. The applicant’s four space configuration is a vast improvement over the seven space configuration. The property has excellent access to trolley and bus stops, and the proposed configuration allows for at least one car per unit while retaining the open space in front of the home. The staff believes there is sufficient access to transportation, and the unique configuration of the corner lot justifies a reduction in required parking. Further, this property was downzoned from M-2.0 to an F district last year, and the staff finds this conversion meets the intent of an F district. The home is rather large and works nicely as a three family home without any alterations to the footprint. The applicants are encouraged to consider revising the parking plans for the existing spaces by moving the parking spaces further into the driveway so they are outside the front yard setback area. The Planning Board said that if the Board of Appeals approves of the plans by VTP Associates dated May 19, 2008, the following are possible conditions:

1. **Prior to the issuance of a building permit, a revised site plan showing no parking spaces within the front yard setback shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
2. **No more than four vehicles shall be parked in the driveway on a permanent basis.**
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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

Michael Shepard, Building Commissioner delivered the comments of the Building Department. He said that when the petitioner first approached the Building Department in May of 2008, they were advised that given the bedroom count that they would have to provide 7 parking spaces under the Zoning By-Law. They were also advised that there was a proposal before Town Meeting to allow the Board of Appeals to waive up to ½ the required parking spaces for conversions in the F zoning district similar to that allowed in the L, M or G districts. Town meeting passed the provision and it was subsequently approved by the Attorney General. Mr. Shepard reported that the petitioners are doing with their house that which Town Meeting had envisioned in downzoning. They are restoring the exterior without expanding the footprint and are using historically accurate materials. He said that the seven parking spaces required by the By-Law impaired open space, provided parking in the front yard and posed significant visibility and safety concerns given their proximity to the corner. He said that the four parking space configuration is pre-existing, non-conforming. He said that several neighbors appeared at the Planning Board hearing and expressed concern about the safety issues imposed by the three parking spaces on the corner. Mr. Shepard stated that he and Courtney Starling, planner, spent time with the neighbors explaining that the petitioners did not want to provide the three additional spaces. He said that the Building Department supports the conversion and the parking layout delineated on the 19 May 2008 plan.

During deliberations, Chairman Geller reiterated his concern relative to the safety of the parking. He opined that two additional spaces would create a greater safety hazard to pedestrians and vehicles and increase the risk of parked vehicles encroaching into the sidewalk. He asked whether some safety measures could be taken in the current configuration that would serve to protect pedestrians as well as vehicles in the road from anyone backing out of the driveway. He said that the six parking space configuration intensifies the underlying concerns of the Zoning By-Law with so-called tandem parking, notwithstanding that it may be allowed under the Zoning By-Law. He also said that if the Board were to consider parking relief for this site, that the parking should be appurtenant to the use by the tenants of the locus dwelling structure. Jonathan Book stated that he was concerned that in waiving the additional spaces that the remaining spaces would have to be dimensionally compliant. He inquired of the petitioner whether they had worked with their surveyor to see whether the four space configuration could be maintained entirely outside the required front set-back. Mrs. Lagadinos responded that it was possible to move the spaces further into the lot. Christina Wolfe opined in the converse that if the cars were parked in the front set-back, pedestrians would be better able to observe the cars when backing-up. She said that she too was concerned that there would be the potential for parking by more than four cars. The Building Commissioner offered in response to Ms. Wolfe's concern that a site plan could be required for submittal to the Assistant Director for Regulatory Planning showing a curb, fence, bollards or plantings as a barrier at the top of the driveway adjacent to the brick-paver walkway, thereby preventing cars from pulling further forward and the accommodation of more than four vehicles.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that the requirements of Section 9.05, Section 6.01.2.a and Section 8.02.2 of the Zoning By-Law having been satisfied and it being desirable to grant a Special Permit in accordance with **the relief requested**, including waiver of up to ½ the required parking spaces for conversions in the F Zoning

District. The Board makes 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.
- e. 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 the requested relief subject to the following conditions:

- 1. **Prior to the issuance of a building permit, a revised site plan showing some type of visible barrier/delineation at the top of the driveway adjacent to the proposed brick-paver walkway to prevent vehicles from pulling forward shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 2. **No more than four vehicles shall be parked in the driveway and the four spaces are for the use of the occupants of the subject building only.**
- 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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

Unanimous Decision of

The Board of Appeals

Filing Date: January 12, 2009

A True Copy
ATTEST

Patrick J. Ward
Patrick J. Ward
Clerk, Board of Appeals

Jesse Geller
Jesse Geller, Chairman

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TOWN CLERK
JAN 12 P 4:33