



# TOWN OF BROOKLINE

## *Massachusetts*

### BOARD OF APPEALS

DIANE R. GORDON, Co-Chair  
HARRY MILLER, Co-Chair  
BAILEY S. SILBERT

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Brookline, MA 02445  
617-730-2010  
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PATRICK J. WARD, Secretary

### TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. 060027

Petitioner, Robert Alpert, trustee of 323 St. Paul Trust, applied to the Building Commissioner for permission to renovate an existing basement into a separate dwelling unit, thereby converting the premises located at 323 St. Paul Street from a three unit to a four unit residential building. No exterior changes to the existing structure were proposed. The application was denied and an appeal was taken to this Board.

On May 11, 2006, 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 June 15, 2006, at 7:45 p.m., as the time and place of a hearing on the appeal in the Selectmen's Hearing Room on the sixth floor of the Town Hall. Notice of the scheduled 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 scheduled hearing was published June 1, 2006 and June 8, 2006, in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

**TOWN OF BROOKLINE  
MASSACHUSETTS  
BOARD OF APPEALS  
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: 323 St. Paul Trust, Robert Alpert, Trustee  
Location of Premises: **323 ST. PAUL ST BRKL**  
Date of Hearing: **06/15/2006**  
Time of Hearing: **7:45 p.m.**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup>. Floor**

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

- 1) 5.05; Conversions; Special Permit Required**
- 2) 5.50; Front Yard Requirements; Variance Required**
- 3) 5.60; Side Yard Requirements; Variance Required**
- 4) 5.90; Minimum Landscaped Open Space; Variance Required**
- 5) 5.91; Minimum Usable Open Space; Variance Required**
- 6) 6.01.2.a; General Regulations Applying to Required Off-Street Parking Facilities; Special Permit Required**
- 7) 6.02.1; Table of Off-Street Parking Space Requirements; Variance Required**
- 8) 8.02.2; Alternation or Extension; Special Permit Required**

of the Zoning By-Law to install a basement apartment thereby converting the premises from a three unit to a four unit residential building per plans

at **323 ST PAUL ST BRKL.**

Said Premise located in an **M-1.5** district.

*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.*

**Diane R. Gordon  
Harry S. Miller  
Bailey Silbert**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Board members Lawrence E. Kaplan, Bailey S. Silbert and Harry S. Miller. Petitioner was represented at the hearing by Attorney Jeffrey P. Allen of Seegel, Lipshutz & Wilchins, P.C.

At the hearing, Tim Greenhill, Planner of the Planning Department distributed the Planning Board Report dated June 8, 2006. Mr. Allen then described the factual background for the petition as follows:

323 Saint Paul Street is a three story brick rowhouse, midblock between Thatcher and Egmont Streets. The basement is situated partly above grade so that one need climb only a few steps to reach grade. The units on the property include one 2-bedroom unit on the ground floor and two 3-bedroom units on the second and third floors. There is vehicular access to the rear by means of a common passageway parallel to St. Paul Street. The rear yard, having been paved-over, can park up to eight (8) cars. The neighborhood is made up primarily of multi-family structures, the largest being the Dexter Park apartments across the street, but most are in the category of low-rise.

The Petitioner, Robert Alpert, proposes to convert the basement of this property into a separate two bedroom unit. The Petitioner is proposing to install a new stairway from the front foyer of the ground floor unit. The ground floor unit will lose some floor space as a result of this change. The basement is also accessible from the internal stairwell. There will be no external changes to the property as no window wells or additional exterior changes are proposed.

An easement runs the length of the rear of the property providing access and parking for all of the buildings fronting this section of St. Paul Street. The rear of the

property has capacity for 8 parking spaces. A small landscaping strip separates this parking area from the properties to the rear.

Mr. Allen reviewed the zoning relief necessary for this project to go forward. The zoning relief required is as follows:

**Section 5.05 – Conversions**

**Section 5.50 – Front Yard Requirements**

**Section 5.60 – Side Yard Requirements**

**Section 5.90 – Minimum Landscaped Open Space**

**Section 6.04.2.d – Design of All Off-Street Parking Facilities**

**Section 6.04.4.b – Design of All Off-Street Parking Facilities**

**Section 6.04.5.b – Design of All Off-Street Parking Facilities**

	<b><u>Required/Allowed</u></b>	<b><u>Existing</u></b>	<b><u>Proposed</u></b>	<b><u>Finding</u></b>
Front Yard Setback	15'	10.9'	10.9'	Special Permit*/Variance
Side Yard Setback	13.6'	0'	0'	Special Permit*/Variance
Landscaped Open Space	10% (505.4 s.f.)	10% (507 s.f.)	10% (507 s.f.)	Complies
Usable Open Space	15% (758 s.f.)	0% (0 s.f.)	0% (0 s.f.)	Special Permit*/Variance
Parking Spaces	9	8	8	Special Permit**/Variance

\* Under **Sections 5.05 and 8.02.2**, the Board of Appeals may waive by special permit any dimensional requirement, except minimum lot size, provided no existing non-conformity related to those requirements is increased. Additionally, the Board of Appeals may waive dimensional requirements for pre-existing buildings as long as they do not extend the non-conformity.

\*\* Under **Section 6.01.2.a**, the Board of Appeals may waive by special permit up to half the required parking spaces where an existing structure is converted for one or more additional units. In this case 1 space is proposed to be waived.

**Section 8.02.2 – Alteration or Extension**

A special permit is required for alterations to a pre-existing non-conforming structure.

The Chairperson, Mr. Miller, asked if any of the members of the public wished to speak in support or in opposition of the project. No member of the public asked to be heard.

Tim Greenhill, on behalf of the Planning Board, gave the following report:

The Planning Board recommends approval of the proposal to convert a basement into a separate unit increasing the number of units on

site from three to four units on the property at 323 St. Paul Street. The property is located within walking distance of the T Station on Commonwealth Avenue, and the Board feels that adequate transportation options are available in the immediate vicinity of this property and recommends that the required parking spaces be reduced from 9 to 8 spaces. The proposal includes no exterior changes to the building. Therefore, the Planning Board recommends approval of the plans entitled "Renovations: 323 St. Paul Street, Condominium" prepared by TBA Architects Inc and dated March 10, 2006 subject to conditions.

Frank Hitchcock, Senior Building Inspector, spoke on behalf of the Building Commissioner. He restated the various sections of the Zoning By-Law under which relief is needed. The Building Department has no objections to the petition and will ensure that all State Code provisions are satisfied.

The Board having deliberated on this matter and considered the foregoing testimony concludes that it is desirable to grant all relief required by this project, subject to certain conditions.

The Board considered the visual relationships of the proposed alterations to the use, scale, and architecture of the existing building and surrounding community. The Board further finds that the proposed alterations will not be more detrimental to the neighborhood than the existing conditions. The proposed design is adequate and appropriate for the neighborhood. The proposed use as designed will not have any significant effect on the traffic nor will it cause a nuisance or serious hazard to vehicles or pedestrians. The building, driveways, walkways and open space are functional and are proper for the proposed use. The Board finds that the proposed use will not remove any existing low or moderate-income housing in the Town.

Accordingly, the Board makes the following findings pursuant to Sections 5.09 and 9.05:

1. The location, topography, vicinity and natural features of the site make it particularly suitable for a basement dwelling unit.
2. The use as proposed by the Petitioner will not adversely affect the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The basement dwelling unit, as proposed, will not have a significant adverse affect on the supply of housing available for low and moderate income people.

Accordingly, the Board grants special permits pursuant to Sections 5.05, 6.01.2.a, and 8.02.2. The foregoing grants are made subject to the following conditions:

1. Prior to obtaining a building permit, the Petitioner shall submit to the Chief Planner, a final parking layout plan including striping, for review and approval.
2. Prior to obtaining a building permit, the Petitioner shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan showing dimensions stamped and signed by a registered architect or land surveyor, and 2) a recorded copy of the Board of Appeals decision.

3. The Petitioner may construct window wells without the necessity for further zoning relief from the Board of Appeals provided the Petitioner first submits plans to the Chief Planner for review and approval.

Unanimous Decision of  
The Board of Appeals

  
\_\_\_\_\_  
Harry S. Miller

Twenty days have elapsed  
and no appeal has been filed.

A True Copy:

ATTEST:

  
\_\_\_\_\_  
Patrick J. Ward  
Town Clerk

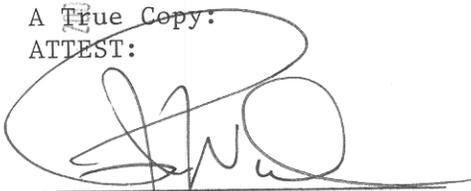
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Filing Date: July 19, 2006

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\_\_\_\_\_  
Patrick J. Ward  
Board of Appeals

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