



**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

# *Town of Brookline*

## *Massachusetts*

Town Hall, 1<sup>st</sup> 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. 2014-0050

**Owner: Duncan and Sandra Simester**

Petitioners, Duncan and Sandra Simester, applied to the Building Commissioner for permission to construct a two-car attached to the existing residential structure at **123 Centre Street**. The application was denied and an appeal was taken to this Board.

The Board administratively 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 September 18, 2014 at 7:15 p.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 their 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 August 28, 2014 and September 4, 2014 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:

**123 CENTRE ST – CONSTRUCT TWO CAR GARAGE in an M-1.0, Apartment House, residential district, on**

**September 18, 2014, at 7:15 PM in the 6<sup>th</sup> Floor Selectmen's Hearing Room (Petitioner: NEFFO CAPPUCCIO; Owner: SIMESTER DUNCAN & SANDRA)**

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

- 1. Section 5.43: Exceptions to Yard and Setback Regulations**
- 2. Section 5.60: Side Yard Requirements**
- 3. Section 5.70: Rear Yard Requirements**
- 4. Section 6.04.12: Design of All Off-Street Parking Facilities**
- 5. Section 8.02.2: Alteration or Extension**

*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](http://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 Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).***

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

**Publish: August 28, 2014 & September 4, 2014**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Mark G. Zuroff, and Board Members Jonathan Book and Johanna Schneider. Architect, Chris Drew, presented the case on the petitioners' behalf.

Mr. Drew described 123 Centre Street as a 2.5-story two-family detached structure built in 1896. The building is constructed with wood shingles and is distinguished by a central projecting bay, gable roof and a continuous front porch along Centre Street. The property is located in an M-1.0 district and is surrounded by a mix of single-family and multi-family residences. Immediately north of the property is the JFK Crossing commercial district.

The petitioners stated they are proposing to construct an attached two-car garage in the rear of the dwelling. The garage will be located 0.3' from the rear property line and 1.0' from the side property line. The new garage will be 17.08' in overall height, which has been revised and lowered from the originally proposed 18'. The applicant revised their proposal for the roof so the pitch is steeper. The garage will attach to the house and allow the homeowners to enter the structure from the mudroom. There will also be a door that will open to the rear yard and one garage door. The plans indicate a stair in the rear of the proposed garage that will access the second level, which will be used for storage. The exterior of the garage will be constructed using materials to match the dwelling.

The Chairman asked if anyone wished to speak in favor or in opposition of the proposal. No one present wished to do so.

The Chairman called upon Tim Richard, planner, to deliver the comments of the Planning

Board:

**FINDINGS**

**Section 5.43 – Exceptions to Yard and Setback Regulations**

**Section 5.60 – Side Yard Requirements**

**Section 5.70 – Rear Yard Requirements**

**Section 6.04.12 – Design of All Off-Street Parking Facilities**

<b>Dimensional Requirements</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Side Yard Setback</b>	10'	N/A	1.0'	Special Permit*
<b>Rear Yard Setback</b>	30'	N/A	4'	Special Permit*

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

**Section 8.02.2 – Alteration or Extension:** A special permit is required to alter a pre-existing non-conforming structure.

**Modification, as necessary, of BOA case #040028, June 3, 2004**

The Board does not feel this proposal requires a modification of this prior case, where a kitchen addition was approved.

Mr. Richard said the Planning Board is supportive of this proposal to construct a two-car garage as the petitioner has revised project plans based on Planning Board feedback. The height of the roof has been lowered by one foot and the rear yard setback has been increased from .3' to 4'.

The Board recommends that the applicant install additional landscaping as a counterbalancing amenity.

**Therefore, the Planning Board recommends approval of the plans by RCA, LLC, dated 2/25/14, and the site plan by Boston Survey, Inc., dated 2/18/14, subject to the following conditions:**

1. Prior to the issuance of a building permit, final elevations, indicating all materials, floor plans, and height for the new garage, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit, a final landscaping plan indicating all

counterbalancing amenities, shall be submitted to the Assistant Director of Regulatory Planning for review and approval.

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 and floor plans 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 called upon Timothy Richard, to deliver the comments of the Building Department. Mr. Richard said the Building Department has no objections to the request. He went on to say the proposal is very well designed and the relief is minimal and if the Board finds the proposal meets the requirements for the grant of a special permit, the Building Department will work with the petitioner to ensure compliance with the building code as well as the Town of Brookline Zoning By-Law

The Board deliberated on the merits of special permit relief as requested. The Board expressed concern that garage design elements that were supported by the Planning Board now impact height compliance. Overall garage height, combined with the close proximity to existing lot lines has a potential impact on neighbors, but the Board received no indication of resident opposition to these proposed plans. The Board agreed that the applicant's request for relief is not particularly burdensome, and voted unanimously that the requirements have been met for the issuance of a special permit under Sections: **5.43, 5.60, 5.70, 6.04.12 and 8.02.2** of the Zoning By-Law. The Board made the following specific findings pursuant to **Section 9.05 of the** of the Zoning By-Law:

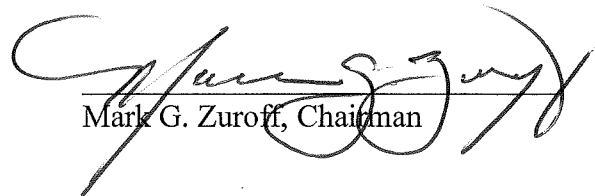
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.

- 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.

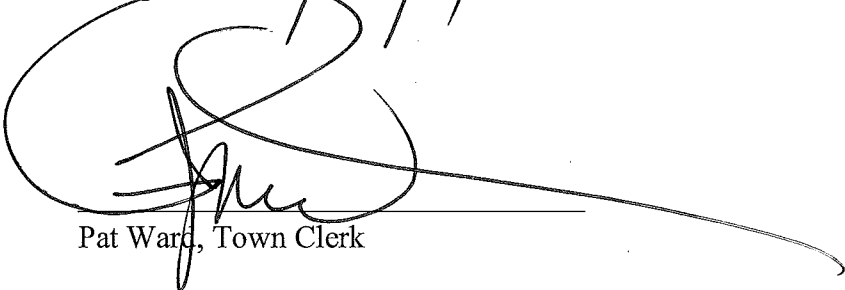
**Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:**

1. Prior to the issuance of a building permit, final elevations, indicating all materials, floor plans, and height for the new garage, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit, a final landscaping plan indicating all counterbalancing amenities, shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
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 and floor plans stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

**Unanimous decision of the  
Board of Appeals**

  
Mark G. Zuroff, Chairman

Filing Date: 11/12/14

  
Pat Ward, Town Clerk

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