



BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town of Brookline

Massachusetts

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. 2014-0057
69 COOLIDGE STREET LLC

Petitioner, 69 Coolidge Street, LLC, applied to the Building Commissioner for permission to construct a single-car garage in the rear yard. 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 certified by the Board of Assessors of the Town of Brookline and fixed September 23, 2014 at 7:15 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 September 4, 2014 and September 11, 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:

69 COOLIDGE ST – CONSTRUCT ONE CAR GARAGE IN REAR YARD in a T-5, Two-Family and Attached Single-Family, residential district, on

September 23, 2014, at 7:15 PM in Room 408 of Brookline Town Hall (Petitioner: ROBERT ALLEN; Owner: ELMORE RICHARD F OLSON KIRSTEN)

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 5.72: Accessory Structures in the Rear Yard**
 - less than 6 feet from the side yard
 - less than 6 feet from the rear yard
 - less than 6 feet from the principal building
- 3. 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.

*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.***

**Jesse Geller, Chair
Jonathan Book
Christopher Hussey**

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 Christopher Hussey and Mark Zuroff. The case was presented by the attorney for the Petitioner, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was Belinda Hunsinger, Manager of 69 Coolidge Street LLC and architect Robert Del Savio, 319 A. Street, Boston, MA 02210.

Chairman Jesse Geller called the hearing to order at 7:15 p.m. Attorney Allen stated that the Petitioner proposes to construct a single-car garage in the rear yard.

Attorney Allen presented to the Board a background of the Petitioner and the proposal, stating the following: 69 Coolidge Street is a single-family home located near the intersection of Harvard Street in a T-5 zoning district. Mr. Allen stated that the Petitioner proposes to construct a detached single-car garage at the end of the existing driveway. Attorney Allen further stated that the existing parking is located within the front yard setback on overgrown grass and that the Petitioner requests relief enabling the Petitioner to extend the driveway and relocate the parking to the side rear yard. Mr. Allen specified that the new driveway will increase 20 inches in width and connect the rear yard to the garage with large cement patio pavers. Attorney Allen stated that the Petitioner also plans to mount three exterior lights and install a metal gate between the garage and the rear yard.

Robert Del Savio, the Petitioner's architect having a business address at 319 A. Street, Boston, MA 02210, presented the design and landscaping for the proposal and also identified the location of the garage within the side and rear yards and its relationship to the abutters.

Board of Appeals Member Christopher Hussey inquired about the location of the garage with regard to the assessor's map. Attorney Allen stated that the assessor's database shows a mirror image of the property. Mr. Allen stated that the Petitioner is willing to provide a site plan correctly showing the driveway in the right front yard setback as a condition for approval.

Attorney Allen then noted that the Planning Board voted unanimously in support of the proposal to construct a detached single-car garage in the rear yard setback.

Attorney Allen stated that the required side yard setback is 6 ft., existing side yard setback is 0 ft., and proposed side yard setback is 2 ft. Mr. Allen stated that the required rear yard setback is 6 ft., existing rear yard setback is 0 ft., and proposed rear yard setback is 1.08 ft. He noted that the proposal is therefore more conforming than the existing conditions.

In reviewing the applicable provisions of the Zoning By-Law, Attorney Allen stated that under **Section 5.43** of the Zoning By-Law, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided. He stated that for the counterbalancing amenities, the Petitioner proposes to construct a rear yard, lattice-style fence in place of the existing fence at 69 Coolidge Street, which would formalize a request by rear abutter, Nitish Nahata, 68 Fuller Street, and provide additional landscaping in accordance with an approved landscaping plan.

Finally, Mr. Allen noted that relief as required pursuant to **Section 8.02.2** of the Zoning By-Law where a special permit is required under **Section 9.05** of the Zoning By-Law to alter and/or extend a non-conforming structure. Mr. Allen then commented that the proposed relief meets the requirements of said **Section 9.05** as follows: (1) the specific site is an appropriate location where there are similar single-car detached garages located at 70, 73, 74, 78, 79, 91, and 92 Coolidge Street; (2) there will be no adverse effect on the neighborhood where the proposed construction is in line with the current use and development patterns in the neighborhood; (3) no nuisance or serious hazard to vehicles or pedestrians will occur where the driveway will stay in its current location and the extension will provide a safer pedestrian experience near the Harvard Street intersection; (4) adequate and appropriate facilities will be provided for the proper operation; and (5) development will have no effect on the supply on housing available for low and moderate income people.

Zoning Board of Appeals Chairman Geller asked if anyone present wished to speak in favor of the application. No one spoke in favor of the application.

Zoning Board of Appeals Chairman Geller asked if anyone present wished to speak in opposition to the application. No one spoke in opposition.

Timothy Richard, Planner for the Town of Brookline, delivered the findings of the Planning Board:

FINDINGS:

1. Section 5.43 – Exceptions to Yard and Setback Requirements
2. Section 5.72 – Accessory Structures in Rear Yards

The garage is approximately 4' from the dwelling and requires relief because it is closer than 6'.

Mr. Richard stated that the Planning Board is supportive of the proposal to construct a new garage in the side and rear yard of the property. Mr. Richard stated that the Planning Board feels that this type of proposal is fairly common in Brookline and the relief is minimal noting that the new garage will provide the property owner with a place to park that is shielded from inclement weather. Mr. Richard then stated that the Planning Board did not anticipate a negative impact to the neighborhood and that the Board recommended the applicant install additional landscaping as a counter balancing amenity. Mr. Richard stated therefore, the Planning Board recommends approval of the plans by Embarc Studio, dated 6/7/14, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations for the garage, 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 garage 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 had no objections to the relief sought under this application and appreciated the fact that the Petitioner addressed the rear abutters' concerns. Mr. Yanovitch noted that the proposal was nearly identical to similar relief granted at 79 Coolidge Street.

In deliberation, Zoning Board of Appeals Member Christopher Hussey stated that he was in support of the relief requested. Mr. Hussey requested that the Petitioner submit a certified plot plan. Zoning Board of Appeals Member Mark Zuroff echoed support for the relief requested and specifically commended the Petitioner's efforts to work with the rear abutter to provide an appropriate counterbalancing amenity. Zoning Board of Appeals Chairman Jesse Geller stated that he was in support of the relief requested and also applauded the Petitioner's efforts to address neighbors' concerns.

The Board then determined, by unanimous vote that the requirements for relief by special permit from the application of the provisions of Section 5.72 of the Zoning By-Law pursuant to Sections 5.43, 8.02.2 and 9.05 of the Zoning By-Law were met. The Board made the following specific findings pursuant to said Section 9.05:

- 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.

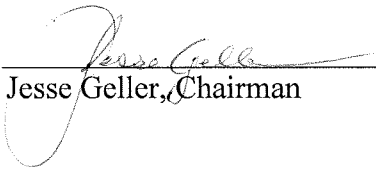
Accordingly, the Board voted unanimously to grant the requested relief subject to the following revised conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations for the garage, 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, including the removal of the existing fence on the rear property line and installation of a new fence, in approximately the same location, that matches the immediate rear abutter's fence (including lattice); the plan shall also include at a minimum 6' tall row of evergreen shrubs along the rear property line and all other landscaping provided as a counterbalancing amenity, 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 garage

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.

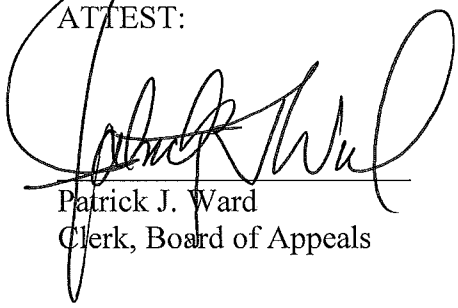
Unanimous Decision of
The Board of Appeals

Filing Date: 11/18/14



Jesse Geller, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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