



BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town of Brookline

Massachusetts

Town Hall, 1st Floor
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Brookline, MA 02445-6899
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2014-0051
Owner: Tama and Mark Zorn

Petitioners, Tama and Mark Zorn, applied to the Building Commissioner for permission to construct a garage structure in the front yard of 676 Washington Street. The application was denied and an appeal was taken to this Board.

The Board met and 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 11, 2014 at 7:30 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 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:

676 WASHINGTON ST – TWO-CAR GARAGE IN FRONT YARD REQUIRING BOA RELIEF in an M-1.0, Apartment House, residential district, on September 11, 2014, at 7:30 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner: ZORN MARK & TAMA; Owner: ZORN MARK & TAMA)

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

- 1. Section 5.01: Table of Dimensional Requirements-Footer 1**
- 2. Section 5.09.2.a: Design Review**
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.50: Front Yard Requirements**
- 5. Section 5.53: Accessory Buildings in Front Yards**
- 6. Section 5.60: Side Yard requirements**
- 7. Section 6.04.12: Design of All Off-Street Parking Facilities**

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
Christopher Hussey
Jonathan Book*

Publish: September 4, 2014 and September 11, 2014

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 Mark Zuroff and Johanna Schneider. Petitioner, Architect, Jonathan Raisz, presented the case for the petitioner.

Mr. Raisz noted that on November 30, 2012 Case #2012-0043, the Board of Appeals approved plans to construct a two-car garage and elevator addition. The applicant did not act on the proposal and the approval expired. On July 26, 2012 the Planning Board reviewed and approved revised plans for the location of the garage, which was moved away from the side lot line to prevent damage to a street tree.

Mr. Raisz said 676 Washington Street is a two-and-a-half story single-family dwelling on the south side of Washington Street. Although it is a single-family dwelling, the interior was modified in 2009 for two kitchens to allow for two related families to share the dwelling, with a covenant recorded at the Registry of Deeds restricting the use of the building to single-family use. There is a steep rise in grade from the street to the rear lot line, and there is no parking on site. A tall rock retaining wall runs along the front lot line, with stairs leading up to the center entrance. Surrounding properties are primarily multi-family dwellings or attached single-families, with the commercial properties in Washington Square nearby.

The applicants, Tama and Mark Zorn, wish to construct a two-car garage and elevator addition to the single-family dwelling. There is no relief needed for the elevator. The garage would be a single-story 24' by 22'4" addition at the dwelling's basement level. The roof of the garage would be used as a deck, accessed by a new pathway at the rear; a railing with planter boxes would run along the roof's exterior perimeter. The garage would be connected to the home via a rear vestibule, elevator machine room and elevator, 11'4" by 10'8", enabling interior access between the garage and the home. The elevator shaft, 4' by 5', would rise and provide access to

all levels, from basement to third floor. A small gable dormer would be constructed to connect the elevator shaft at the third floor. Mr. Raisz said the Board had previously granted relief for the proposal and he believes the case still qualifies for the special permits requested.

The Chairman asked if anyone wished to speak in favor of or in opposition to the proposal. No one spoke in favor of or in opposition to the requested relief.

The Chairman called upon Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the findings of the Planning Board:

FINDINGS

Section 5.01 – Table of Dimensional Requirements, Footnote #1: If the entrance to a garage faces toward the street to which its driveway has access, said entrance shall be at least 20 feet from the street lot line.

Section 5.09.2.a – Design Review: Any exterior addition to a structure that fronts on Washington Street in an M District requires a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. All the conditions have been met, and the most relevant sections of the design review standards are described below:

- a. **Preservation of Trees and Landscape** – The new garage is proposed where there is extensive vegetation, and will require the removal of at least one tree.
- b. **Relation of Buildings to Environment** – The proposed addition is not expected to cause any shadows on neighboring buildings or the streetscape, but is expected to require excavation of the hillside.
- c. **Relation of Buildings to the Form of the Streetscape and Neighborhood** – Several other buildings along Washington Street, particularly the abutting attached single-families to the right,

already have front-yard garages, similar to what is being proposed with this application. The current retaining wall along the front lot line is quite high.

d. Open Space – This proposal would remove a significant amount of landscaped space from the front yard, although it is currently overgrown, as well as the removal of at least one tree; usable open space would remain largely the same since front yard space in M Districts cannot be counted toward usable open space. A deck at the rear of the building provides recreational space for the dwelling, and the proposed deck on the garage roof would add to this recreational space.

e. Circulation – This proposal would create a new access point for vehicles where there is now none, in an area with relatively high pedestrian and vehicular traffic. However, the proposed width of the curb cut is typical of most two-car garages.

f. Utility Service – The proposal would create new impervious surface on the property, and therefore more storm water runoff than before. All runoff should be appropriately addressed in accordance with Engineering Department regulations.

Section 5.31 – Exceptions to Maximum Height Regulations

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.50 – Front Yard Setback

Section 5.53 – Accessory Buildings to Front Yards

Section 5.54 – Exceptions for Existing Alignment

Section 5.60 – Side Yard Setback

Section 5.63 – Accessory Buildings or Structures in Side Yards

Dimensional Requirements / Garage & Elevator	Required	Proposed	Relief

Front Yard Setback	20 feet	0 feet	Special Permit*/Variance
Side Yard Setback	7.5	0 feet	Special Permit*/Variance
Height	35 feet	33'9"	Complies**

* Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided. The applicants are considering proposing landscaping as a counterbalancing amenity, as well as working to resolve a drainage issue with the abutter at 672-674 Washington Street.

** Under *Section 5.31*, maximum height regulations do not apply to structures (such as cupolas, domes, chimneys, elevator penthouses, etc.) that are built above the roof and not devoted to human occupancy if they are erected to such heights and of such areas as are necessary to accomplish their purposes.

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

Section 6.04.5.c.2 – Design of All Off-Street Parking Facilities

Section 6.04.12 – Design of All Off-Street Parking Facilities

Parking/Driveway	Required	Proposed	Relief
Front Yard Setback	10 feet	0 feet	Special Permit ^a
Side Yard Setback	5 feet	0 feet	Special Permit ^a

^aUnder *Section 6.04.12*, the Board of Appeals may waive the dimensional requirements for parking facilities being installed to serve existing structures and land uses.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure or use. This dwelling is non-conforming as to height.

Ms. Selkoe said the Planning Board supported this proposal previously to construct a new attached garage and elevator addition to this single-family dwelling. The applicant did not act on the special permit within the allowed timeframe and has returned to this Board. Although the Board does not typically support front yard parking proposals, in this case, the property has no on-site parking, already has a very high retaining wall along the front lot line, and is next to a series of buildings with similar front yard garages. The new garage with deck above would provide articulation and dimension to the pedestrian area, an improvement over the existing wall, and the new deck would create recreational open space in an area that's largely overgrown with landscaping. The applicants have also indicated they would work with their neighbor at 672-674 Washington St. to resolve a drainage issue on the property line. The elevator would allow for an accessible entrance to the dwelling, as well as provide access to all floors. Details for materials to be used for the exterior of the garage and elevator addition and the third floor dormer should be submitted with the final plans, as well as a detailed landscaping plan, which will serve as the required counterbalancing amenity. Additionally, although the Planning Board believes the proposed tactile warning strips on either side of the garage are helpful, the applicant should check with the Department of Public Works about such installations on public sidewalks to ensure the proposal meets their standards.

Therefore, the Planning Board recommends approval of the plans by Jonathan Raisz, dated 8/8/2013, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations, indicating all salient dimensions, materials, and railing and lighting details, subject to the review and approval of the Planning Board.

2. Prior to the issuance of a building permit, the applicant shall submit a final site plan 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 a final landscape plan indicating all counterbalancing amenities subject to the review and approval of the Planning Board.
4. 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 stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Ms. Selkoe, speaking on behalf of the Building Department, said that the Building Department had no objection to the request.

The Board deliberated on the merits of special permit relief as requested, commenting on the need to insure that the drainage issues are addressed. The Board then voted unanimously that the requirements have been met for the issuance of special permits from the application of Sections 5.09, 5.50, 5.53 and 6.06 of the Zoning By-Law pursuant to Sections, 5.43, 5.54, 6.04.5.b, 8.02.2 and 9.05 of the Zoning By-Law. The Board made the following specific findings pursuant to said Section 9.05 of the of the Zoning By-Law:

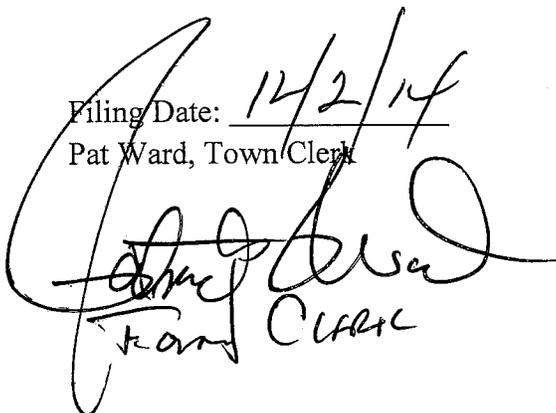
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

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

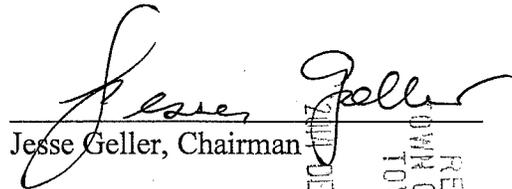
1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations, indicating all salient dimensions, materials, and railing and lighting details, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan 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 a final landscape plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
4. Prior to the issuance of a building permit, the applicant shall submit a final drainage plan subject to the review and approval of the Director of the Town Engineering Division.
5. 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 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: 11/2/14
Pat Ward, Town Clerk



Pat Ward
Town Clerk



Jesse Geller, Chairman

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TOWN CLERK

DEC - 2 A 9:27