



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

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. 2014-0079
11 HOLDEN LLC

Petitioner, 11 Holden LLC, applied to the Building Commissioner for permission to construct an addition on the existing two-family dwelling and convert the carriage house to a third dwelling unit with parking. 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 January 22, 2015 at 7:15 pm, 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 January 1, 2015 and January 8, 2015 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:

11 HOLDEN ST – ADDITION TO EXISTING TWO-FAMILY DWELLING; CONVERT CARRIAGE HOUSE TO A RESIDENTIAL UNIT AND INSTALL PARKING in a G-2.0, General Business Zoning District, on January 22, 2015, at 7:15 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner: 11 HOLDEN LLC c/o Lisa Sousa; Owner: COFFIN ANN) Precinct 6

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

- 1. Section 5.04.1 and 2: Residential Buildings on Rear of a Lot**
- 2. Section 5.05: Conversion**
- 3. Section 5.09.2.a: Design Review**
- 4. Section 5.43: Exceptions to Yard and Setback Regulations**
- 5. Section 5.50: Front Yard Requirements**
- 6. Section 5.60: Side Yard Requirements**
- 7. Section 5.70: Rear Yard Requirements**
- 8. Section 6.01.2.a: General Regulations Applying to Required Off-Street Parking Facilities**
- 9. Section 6.02, Paragraph 1, Table of Off-Street Parking Requirements**
- 10. 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, Chairman
Christopher Hussey
Jonathan Book*

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 Christopher Hussey and Jonathan Book. 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 were the property manager Lisa Berman and the architect Stephen Sousa, 81 Boylston Street, Brookline, MA 02445.

Chairman Zuroff called the hearing to order at 7:15pm. Attorney Allen stated that the Petitioner proposes to restore the existing two-family dwelling and extend the structure to the rear, convert the carriage house to a 1,400s.f. unit, and connect the structures with a covered breezeway. Mr. Allen stated that some parking will be relocated to the side yard setback.

Attorney Allen presented to the Board a background of the property, stating the following: 11 Holden Street was built in 1910 as a two-family dwelling with a carriage house in the rear yard. Mr. Allen stated that the property is located directly across the street from Brookline Town Hall in a mixed use neighborhood, near the intersections of Washington Street and Harvard Street in Brookline Village. Mr. Allen stated that the Preservation Commission unanimously supported the demolition of the carriage house due to its structural condition and embraced the design elements of the proposed plans. Mr. Allen stated that the total proposed floor area will be 6,280s.f, well below the allowable floor area ratio.

Stephen Sousa, the Petitioner's architect having a business address at 81 Boylston Street, Brookline, MA 02445, presented the proposed site plan, discussed the design review process and the impact of the proposed floor area ratio, and identified the location of the parking in the side yard setback and the location of the rear lot line with respect to the existing footprint of the garage.

Zoning Board of Appeals Member Christopher Hussey inquired about the design of the breezeway and the open space in the rear yard. Mr. Sousa stated that the breezeway requires a covered roof rather than a pergola-style to maintain a connection. Mr. Sousa noted that the existing concrete slab in the rear will be converted to usable open space. Mr. Hussey asked whether the new parking layout requires the vehicles to reverse onto Holden Street. Mr. Sousa stated that the proposed driveway requires

vehicles to reverse onto Holden Street, but the landscaping elements in the front and side yard will improve the visibility for vehicles and pedestrians.

Mr. Allen noted that the Planning Board voted unanimously in support of the proposal and commented that the design was thoughtful and the proposed floor area is well below the allowable floor area in the G-2.0 (Business) District.

Attorney Allen stated that Sections 5.04.1 and 2 of the Zoning By-Law are inapplicable because the carriage house located to the rear of the lot (Unit #3) is attached to the main dwelling by the breezeway. According to the Zoning By-Law, the proposal is considered one dwelling structure and does not require special permit relief to construct a residential building on the rear lot. Mr. Allen stated that Section 5.05 of the Zoning By-Law does not require special permit relief because the proposed use is permitted in the G-District.

Next, Mr. Allen stated Section 5.07 of the Zoning By-Law requires a residential dwelling in the business district to comply with minimum usable open space, side, and rear yard requirements in the M-2.0 District pursuant to Sections 5.60 and 5.70 of the Zoning By-Law. Mr. Allen stated that the Board of Appeals may waive the dimensional requirements by special permit if the proposal demonstrates reasonableness and compatibility with adjacent buildings and the surrounding area. Attorney Allen reasoned that 11 Holden Street is located directly next to multi-family dwellings and the proposal is fifty percent below the allowable floor area ratio permitted in the G-2.0 District; therefore the property is compatible with the existing streetscape.

Furthermore, Mr. Allen stated that the required front yard setback is 15 ft., existing front yard setback is 11 ft. 2.5in., and proposed front yard setback is 11 ft. 2.5in. Mr. Allen stated that the required rear yard setback is 30 ft., existing rear yard setback is 0 ft., and the proposed rear yard setback is 0 ft. Finally, Mr. Allen stated that the required side yard setback is 18.2 ft, existing rear yard is 1.75ft., and

the proposed rear yard setback is 1.75ft. Mr. Allen noted that the front and side yard setbacks will remain unchanged and the rear yard setback will be corrected because the existing garage will be moved away from the rear property line.

Attorney Allen next stated that **Section 6.02, Paragraph 1** of the Zoning By-Law requires each unit with more than two bedrooms to provide 2.3 parking spaces per dwelling unit. Mr. Allen stated that this proposal requires 7 parking spaces. Mr. Allen stated that the Petitioner proposed 5 on-site parking spaces and requested special permit relief to waive the remaining 2 parking spaces.

Finally, Attorney Allen discussed relief under **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. As for **Section 9.05**, Mr. Allen argued: (1) the specific site is an appropriate location because the neighborhood consists of a two-family and three-family dwelling and the Petitioner's proposal does not take advantage of the 2.0 FAR allowed in the G-2.0 District; (2) there will be no adverse effect on the neighborhood where the Petitioner plans to restore the home, replace the existing fence, and landscape the front and side yard setbacks; (3) no nuisance or serious hazard to vehicles or pedestrians will occur because the driveway will be widened, screened from the street, and the proposed landscaping plan will increase visibility for vehicles exiting the driveway; (4) adequate and appropriate facilities will be provided for the proper operation; and (5) development will increase the supply of housing and create housing in this neighborhood.

Zoning Board of Appeals Member Christopher Hussey questioned the structural integrity of the proposed carriage house. Mr. Sousa stated that due to the elevation of the lot and the condition of the retaining wall, the carriage house will require a full foundation to ensure safety and relieve stress from the existing retaining wall.

Zoning Board of Appeals Chairman Zuroff asked if anyone wished to speak in favor of this application. No one spoke in favor.

Zoning Board of Appeals Chairman Zuroff asked if anyone wished to speak in opposition to this application. No one spoke in opposition.

Jay Rosa, Coordinator for the Town of Brookline, delivered the findings of the Planning Board:

FINDINGS:

1. **Section 5.04.1 and 2 – Residential Buildings on Rear of a Lot**
2. **Section 5.05 – Conversion**
3. **Section 5.07 – Dwellings in Business and Industrial Districts**
4. **Section 5.09.2.a – Design Review**: 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 additions for the proposal, including the large addition at the rear, are largely located where there is either existing building area or paved surface, minimizing the removal of landscaping. There are not any large trees on the property. However, new parking spaces would be created in a landscaped area in the side yard that is currently grass.
 - b. **Relation of Buildings to Environment** – The proposal may result in some shadowing on the northernmost neighbor’s parking area, as the additions will increase the height of the rear of the building. The large addition at the rear for the third unit would impact primarily only parking areas for commercial buildings on Washington and Harvard Streets.
 - c. **Relation of Buildings to the Form of the Streetscape and Neighborhood** – The proposed additions are consistent with the main building’s existing architectural style, and retain the structure’s existing setbacks. The additions will not exceed the dwelling’s current height of just under 31 feet, aside from the decorative cupola on the large rear addition with the same footprint as the current garage.
 - d. **Open Space** – The proposed usable open space is at the rear corner of the property, furthest from the street, and landscaped space will be located throughout the lot, particularly in the front yard and screening the parking area.
 - e. **Circulation** – The proposal makes use of the existing driveway, and creates new parking spaces to facilitate parking on-site.
 - k. **Heritage** – The applicant is seeking to restore the existing building’s architectural character and detail, and is keeping changes to the main building minimal with a small dormer to provide sufficient head clearance for a stairway. The Preservation Commission determined the detached garage that is to be demolished with this application non-significant.
5. **Section 5.43 – Exceptions to Yard and Setback Regulations**

Floor Area	Allowed	Existing	Proposed	Finding
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Floor Area Ratio (% of allowed)	2.0 100%	.53 26%	1.02 51%	Complies
Floor Area (s.f.)	12,180	3,202	6,242	

6. Section 5.50 – Front Yard Setback
7. Section 5.60 – Side Yard Setback
8. Section 5.70 – Rear Yard Setback

Dimensional Requirements*	Required	Existing	Proposed	Relief
Front Yard Setback	15'	11' 2.5"	11' 2.5"	Special Permit**
Side Yard Setback	18.2' (10 + L/10)	1' 0.75" (north) 0' (south)	1' 0.75" (north) 0' (south)	Special Permit**
Rear Yard Setback	30'	0' (encroaches on rear abutter)	0'	Special Permit**

* The dimensional requirements of the M-2.0 district apply (**Section 5.07**).

** Under **Section 5.07**, the Board of Appeals may waive the minimum usable open space, side yard, and rear yard setback requirements for dwellings in business districts to promote reasonable development of the site. Additionally, under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided.

9. Section 6.01.2.a – General Regulations Applying to Required Off-Street Parking Facilities
10. Section 6.02, Paragraph 1, Table of Off-Street Parking Requirements

Parking	Required	Existing	Proposed	Relief
Parking Spaces	7	4	5	Special Permit†

11. Section 8.02.2 – Alteration or Extension

Mr. Rosa stated that the Planning Board is supportive of this proposal to construct an addition to the existing two-family and convert the carriage house into an additional unit. Mr. Rosa stated that the proposal was designed to coordinate well with the existing architectural style of the main dwelling, and the proposal will restore the character of the property. Mr. Rosa also stated that the property will remain well below the allowed FAR on site. Mr. Rosa stated that five parking spaces should be sufficient for three units where there is access to public transit. Therefore, the Planning Board recommends approval of the plans by Sousa Design Architects dated 12/22/14 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations,

indicating all dimensions and materials, 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 new fencing and screening landscaping along the south side property line, 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 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.

The Chairman then called upon Mike Yanovitch, Interim Building Commissioner, 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. Mr. Yanovitch stated that if the Board grants special permit relief, the Building Department will work with the Petitioner to ensure the proposal is built in accordance with the Building Code.

In deliberation, Zoning Board of Appeals Member Christopher Hussey stated support for the conversion where the proposal required minimal special permit relief. Zoning Board of Appeals Member Jonathan Book agreed and stated that the proposal was well designed. Zoning Board of Appeals Chairman Mark G. Zuroff echoed support for the conversion and stated his appreciation for the Petitioner's intention to maintain the character of the home and to minimize the visual and physical impact on the surrounding properties.

The Board then determined, by unanimous vote that the requirements for relief by special permit from the application of the provisions of **Sections 5.09.2.j, 5.50, 5.60, 5.70, 6.02, Paragraph 1** and **Section 8.02** of the Zoning By-Law pursuant to **Sections 5.43, 5.09, 6.01.2.a** and **9.05** of the Zoning By-Law. 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.

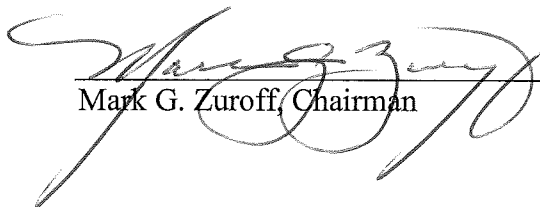
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

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

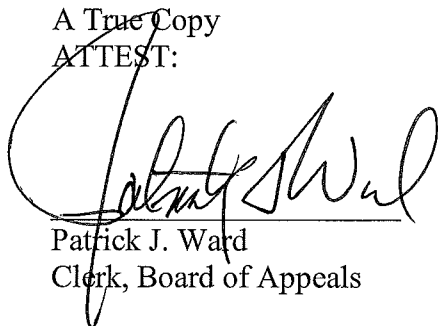
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Unanimous Decision of
The Board of Appeals

Filing Date: 2/17/15


Mark G. Zuroff, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

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