



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. 2015-0009
JESSE & GEORGIA FELDMAN
16 MONMOUTH STREET, BROOKLINE, MA

Petitioners, Jesse and Georgia Feldman, applied to the Building Commissioner for permission to construct a four-car garage. 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 April 9, 2015 at 7:30 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 March 19, 2015 and March 26, 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:

16 MONMOUTH ST – CONSTRUCT A DETACHED FOUR-CAR GARAGE in an S-10, Single-Family, residential district, on April 9, 2015, at 7:30 PM in the 6th Floor Selectmen's Hearing

**Room (Petitioner: Jesse and Georgia Feldman; Owner: BARKLEY DEVELOPMENT LLC)
Precinct 1**

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

- 1. Section 4.07: Table of Use Regulations, Use #55**
- 2. Section 5.01: Table of Use Regulations, Footnote 1**
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.53: Accessory Structures in Front Yard**
- 5. Section 5.62: Fences and Terraces in Front Yard**
- 5. Section 5.63: Accessory Structures in Side Yard**
- 6. Section 6.04.5.c.2: Design of All Off-Street Parking Facilities**
- 7. Section 6.04.12: Design of All Off-Street Parking Facilities**
- 8. 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
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 Jonathan Book and Board Members Christopher Hussey and Avi Liss. The case was presented by the attorney for the Petitioners, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was Petitioner, Jesse Feldman, and the Petitioners' architect, Colin Smith, Colin Smith Architecture, 1666 Massachusetts Avenue, Lexington, MA 02420.

Chairman Book called the hearing to order at 7:30 p.m. Attorney Allen stated that the Petitioners propose to construct a four-car garage located on the rear lot line with two tandem cars at ground level and two car lifts directly above the tandem spaces.

Attorney Allen presented to the Board a background of the Petitioners and the property, stating the following: 16 Monmouth Street was built in 1932 and the Petitioners have completed significant interior/exterior renovations since purchasing the property in 2013. Mr. Allen stated that the property is located directly across the street from Wheelock College. He noted that the Petitioners seek relief to construct a 1.5 story garage located to the rear of the lot near a public alley way.

Colin Smith, 1666 Massachusetts Avenue, Lexington, MA 02420, stated that the existing home is located at the center of the lot and constructed of brick and slate (Georgian Style). Mr. Smith stated that the proposed garage is free standing and will match the materials and character of the existing home. He noted that the proposal includes two car lifts, which will increase the parking capacity and maintain a small footprint. He noted that freestanding garages are common in this neighborhood and the proposed garage is comparable in height to the garage located at 4 Monmouth Street. Mr. Smith stated that the property is unique because there will be a garage entry point from Monmouth Street as well as the rear public alley. He stated that the dual entry/egress will minimize back-out time and shuffling of family vehicles and improve driveway safety. Finally, Mr. Smith stated that the garage will be located 3.8 feet from the side lot line at the closest point.

Mr. Book questioned where the Petitioners currently park. Mr. Allen stated that Petitioners park on the existing driveway located to the west of the home. Mr. Book requested additional detail regarding the paved parking area located to the northeast of the lot triggering **Section 4.01, Use No. 55** of the Zoning By-Law. Mr. Allen stated that an affirmative easement executed in 1982 granted the Paren

Corporation two parking spaces in perpetuity, which the Petitioners do not have a legal right to use. He stated that a fence separates the property from the parking spaces granted by the easement.

Mr. Liss questioned the anticipated use of the garage. Mr. Allen stated that the lifted cars will likely be used for seasonal vehicles, storage, or long-term guest parking, and the ground floor spaces will be for everyday use.

Attorney Allen noted that **Section 2.12.8** of the Zoning By-Law states that the rear public alley way is considered a street, thus 16 Monmouth Street has two front yards. He continued that the Petitioners' request special permit relief pursuant to Town of Brookline Zoning By-Law **Section 4.07, Use No. 55** because there will be a total of six parking spaces located on the lot, **Section 5.01, Footnote 1** and **Section 5.53** because the garage is less than 20 feet from the lot line, **Sections 5.62** for the dimensional relief from the existing fence; **Section 5.63** for the garage located within 10 feet of the side lot line; and **Sections 6.04.5.c.2** and **6.04.12** for design of the off-street parking spaces, and **Section 8.02.2** to alter the pre-existing non-conforming front and side yard setbacks.

Attorney Allen discussed special permit relief under **Section 9.05** of the Zoning By-Law arguing: (1) the specific site is an appropriate location where the use will remain the same, the footprint of the garage is limited to two vehicles with lifts above, and vehicles will be removed from the streetscape; (2) there will be no adverse effect on the neighborhood where Wheelock College has a parking lot with 20-30 spaces, there is a two-car garage located at 4 Monmouth Street and a six-car garage located at 26 Beech Street; (3) no nuisance or serious hazard to vehicles or pedestrians will be created where the Petitioners agreed to a construction management plan designed to limit parking permits during construction; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) development will not have a significant adverse effect on the supply on housing available for low and moderate income people.

Mr. Hussey suggested that the Petitioners consider design strategies to allow for vehicles to turn around on the property rather than backing down the driveway on to Monmouth Street. He noted that if the turnaround surface is angled toward the existing home then zoning relief would not be required. Mr. Hussey also questioned whether adequate screening is provided for the proposed trash/recycling area. Mr. Allen stated that the Petitioners would review the feasibility of Mr. Hussey's suggestion and may include an area for vehicles to turn around if no further zoning relief is required to do so. Mr. Smith stated that an existing wall and fence will screen the area designated for trash and the construction plans aim to minimize impact on abutters and trees.

Zoning Board of Appeals Chairman Book asked if there was anyone present who wished to speak in favor of this application. Lifei Guo, 26 Monmouth Street, stated full support for the proposal. Mr. Guo noted that three adjacent single-family homes have similar detached garages. Furthermore, he stated that abutter concern about construction related vehicles may be overstated because parking along Monmouth Street is adequate.

Robert Schram, 47 Monmouth Street, stated that the garage project and prior restoration of the home are wonderful, the garage design is attractive, and the neighbors have developed an appropriate construction management plan. Mr. Schram stated that the neighborhood is "parking starved" and past construction projects in the area have had an adverse impact on the neighborhood as a result of construction vehicle parking.

John Brownstein, 55 Monmouth Street, stated support for the proposal. Mr. Brownstein agreed that prior neighborhood projects did have a negative impact on street parking availability.

Bianca Peskin, 59 Monmouth Street, stated support for the Petitioners' proposal and supported any measures that would allow construction to be completed as quickly as possible.

Zoning Board of Appeals Chairman Book asked if there was anyone present who wished to speak in opposition to the application. No one spoke in opposition to the proposal.

Jay Rosa, Zoning Coordinator for the Town of Brookline, delivered the findings of the Planning Board and the Building Department:

FINDINGS:

1. Section 4.07 – Table of Use Regulations, Use #55 (more than four cars)
2. Section 5.01 – Table of Use Regulations, Footnote 1
3. Section 5.43 – Exceptions to Yard and Setback Regulations
4. Section 5.53 – Accessory Structures in Front Yard
5. Section 5.62 – Fences and Terraces in Front Yard
6. Section 5.63 – Accessory Structures in Side Yard
7. Section 6.04.5.c.2 – Design of All Off-Street Parking
8. Section 6.04.12 – Design of All Off-Street Parking

Dimensional Requirements	Required	Existing	Proposed	Relief
Front Yard Setback (garage from alley)	20 feet+	n/a	9.8 feet	Special Permit*
Side Yard Setback (garage)	10 feet+	n/a	3.3 feet	Special Permit*

* Under Section 5.43, setback requirements for a structure can be waived by special permit if counterbalancing amenities are provided.

* Under Section 6.04.12, the setback requirements for parking can be waived to provide parking for existing buildings.

+Because the garage is over 15' in height and is not at least 75' from the street line, it does not qualify for the reduced side yard setback requirement for accessory buildings under Section 5.63, which would allow a garage under 15' tall to be located 6' from a side lot line. An alley is considered a "street" under the Zoning By-law.

9. Section 8.02.2 – Alteration or Extension

Mr. Rosa stated that the Planning Board unanimously supported the proposed garage. He noted that the location of the garage requires setback relief and the removal of an existing tree, but the location is intended to preserve rear-yard open space as an amenity. He stated that the garage design is attractive and complements the existing house. He recognized abutter concern regarding construction vehicle activity on adjacent roads and the alleyway has been alleviated by the establishment of proposed special permit condition #3. Therefore, the Planning Board recommends approval of the proposed site plan by

Boston Survey, dated 11/5/14, and plans by Colin Smith Architecture, dated 11/11/14 and last revised 11/20/2014, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, indicating all landscaping and fencing, 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 final elevations for the garage, indicating all materials and dimensions, subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to issuance of a building permit, the applicant shall submit a construction management plan subject to the review and approval of the Director of Transportation and Engineering, the Building Commissioner, and the Assistant Director of Regulatory Planning. The plan shall include the following provisions:
 - a. Contact Number - The applicant will provide the name and telephone number of the contractor and/or project manager.
 - b. Hours of Construction - Consistent with Article 8.15 of Town of Brookline Noise Control By-Law.
 - c. Delivery Times - Contractor will make every effort to schedule deliveries during normal working hours.
 - d. Worker Access and Parking - The subject property shall include at all times an area for construction vehicles, including workers' vehicles. Unless otherwise directed by the Transportation Board, no more than two commercial parking permits for construction related vehicles may be in force at any one time, and these will be restricted to Monmouth Street, between Carlton Street and Hawes Street, from Monday through Friday. If at any point there are more workers' vehicles than can be accommodated on-site and with two parking permits, the contractor will submit a plan to the Director of Transportation for accommodating the excess, which may include the use of metered parking, shuttling workers from an off-site location, and reliance on the MBTA.
 - e. Cleaning - Contractor shall monitor and clean sidewalks and roadways of any material deposited as a result of construction.
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.

Mr. Hussey suggested that sidewalk cleaning should be conducted daily. This would put the onus on the construction team to maintain safe and clean areas for pedestrians. Mr. Liss questioned if two

parking permits was a sufficient number to meet construction needs. Mr. Allen stated that the applicant and abutters have agreed to these construction management terms.

Mr. Rosa next delivered the findings of Mike Yanovitch, Interim Chief Building Inspector. He stated that the Building Department had no objection to the requested relief. He stated that typically accessory building setback relief is not applicable due to the garage height and distance from front lot lines, but relief under **Section 5.43** of the Zoning By-Law is available if counterbalancing amenities are provided. Finally, he stated that if the Board of Appeals finds that the standards for special permit relief under **Section 9.05** of the Zoning By-Law have been met, the Building Department will work with the Petitioners to ensure compliance with all building codes.

In deliberation, Zoning Board of Appeals Member Christopher Hussey recommended approval of the proposal and all required zoning relief. Mr. Hussey stated that garage design is attractive and meets the requirements for special permit relief. In addition, Mr. Hussey commended the applicant for working closely with abutters to minimize construction impact. Mr. Liss concurred and stated that this is a great project in a unique Brookline neighborhood. Mr. Book concurred, and stated that the project is worthy of relief under **Section 9.05** of the Zoning By-Law. Mr. Book was in favor of the requested relief and supported revisions to the conditional language pertaining to sidewalk cleaning and counterbalancing amenities.

The Board then determined, by unanimous vote that the requirements for a special permit for **Sections 4.07, Use No. 55, 5.01, Footnote 1, 5.53, 5.62, 5.63, 6.04.5.c.2, 6.04.12, and Section 8.02.2** of the Zoning By-Law pursuant to **Sections 4.07, 5.01, 5.43, and Section 6.04** of the Zoning By-Law were. 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.

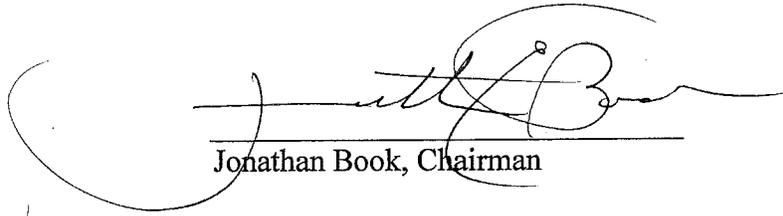
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

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 a final site plan, indicating all landscaping and fencing counterbalancing amenities, 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 final elevations for the garage, indicating all materials and dimensions, subject to the review and approval of the Assistant Director of Regulatory Planning.**
3. **Prior to issuance of a building permit, the applicant shall submit a construction management plan subject to the review and approval of the Director of Transportation and Engineering, the Building Commissioner, and the Assistant Director of Regulatory Planning. The plan shall include the following provisions:**
 - a. **Contact Number - The applicant will provide the name and telephone number of the contractor and/or project manager.**
 - b. **Hours of Construction - Consistent with Article 8.15 of Town of Brookline Noise Control By-Law.**
 - c. **Delivery Times - Contractor will make every effort to schedule deliveries during normal working hours.**
 - d. **Worker Access and Parking - The subject property shall include at all times an area for construction vehicles, including workers' vehicles. Unless otherwise directed by the Transportation Board, no more than two commercial parking permits for construction related vehicles may be in force at any one time, and these will be restricted to Monmouth Street, between Carlton Street and Hawes Street, from Monday through Friday. If at any point there are more workers' vehicles than can be accommodated on-site and with two parking permits, the contractor will submit a plan to the Director of Transportation for accommodating the excess, which may include the use of metered parking, shuttling workers from an off-site location, and reliance on the MBTA.**
 - e. **Cleaning - Contractor shall monitor and clean sidewalks and roadways of any material deposited as a result of construction on a daily basis.**
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.**

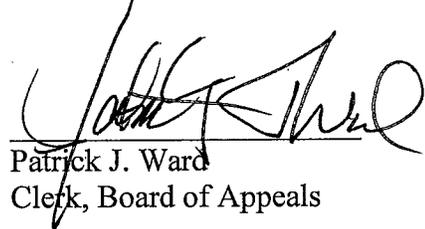
Unanimous Decision of
The Board of Appeals

Filing Date: 6/17/15



Jonathan Book, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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