



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

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. 2015-0024
OWNER: ROBERT BRAUNS & VALERIE BALL

Petitioners, Robert Brauns and Valerie Ball, applied to the Building Commissioner for permission to construct a rear deck and front yard parking space for a single-family home at 58 Brook Street. The application was denied and 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 May 14, 2015 at 7:15 p.m. in the Selectmen's Hearing Room as the time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 April 30, 2015 and May 7, 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:

58 BROOK ST – CONSTRUCT REAR DECK AND FRONT YARD PARKING SPACE in an T-5, Two-Family and Attached Single-Family, residential district, on May 14, 2015, at 7:15 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: Valerie Ball & Robert Brauns) Precinct 4

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

- 1. Section 5.60: Side Yard Requirements**
- 2. Section 5.70: Rear Yard Requirements**
- 3. Section 6.04.5.1 and 2: Design of All Off-Street Parking Facilities**
- 4. Section 6.04.12: Design of All Off-Street Parking Facilities**
- 4. Section 5.91: Usable Open Space**
- 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.

*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 Sneider**, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneider@brooklinema.gov.*

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

Publish: April 30, 2015 & May 7, 2015

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Board Chairman Mark Zuroff. Mr. Zuroff notified the public that the Board did not reach a quorum; therefore the case would not be heard. Mr. Zuroff stated for the record that this case would be continued to June 18, 2015 at 7:00 p.m.

At the time and place specified by the Chairman, this Board held a public hearing. Present at the hearing was Board Chairman Jonathan Book, and Board Members Johanna Schneider and

Christopher Hussey. Project Architect Eric Smoczynski, of Michael Kim Associates (1 Holden Street, Brookline, MA), presented project details to the Board on the applicant's behalf. Mr. Smoczynski stated that the proposal is composed of two design elements: a tiered porch at the rear and a single front yard parking space. A similar proposal submitted by previous property owners was partially approved in 2012. That work was never completed.

Mr. Smoczynski stated that the subject lot is just shy of 4,000 square feet in area and is a pre-existing non-conformity. There is an elevation change from the first floor of the home to the rear yard so the tiered porch is intended to improve comfort and functionality. An existing rear-yard fence will remain and additional plantings will be installed to screen the area. Several neighboring properties present garages and sheds facing this location, and one abutting resident to the rear spoke in favor of the project at the Planning Board meeting. Other area neighbors were also made aware of the proposal and no opposition has emerged.

A nearly identical front-yard parking space was previously supported by the Board, but ultimately never constructed. An existing driveway at the east is very narrow so it is difficult to fit cars "side-by-side" with the adjacent property. The proposed parking space at the west will provide more parking width and is in close proximity to the kitchen. The Planning Board suggested the use of pavers for this parking space as opposed to blacktop and the applicant is agreeable to that suggestion. Mr. Smoczynski also provided color pictures of the property to the Board.

Board Member Schneider requested further information regarding proposed curb cut dimensions. Mr. Smoczynski stated that the proposed surface parking space is 8.5 feet wide, the

new curb cut will be 13 feet wide, and, when extended from the existing curb cut providing access the adjacent property, the total width is approximately 26 feet. Ms. Schneider also requested further detail of visual screening measures, aside from the existing fence at the rear of the property. Mr. Smoczynski described arborvitae along the fence and planter boxes on the lower portion of the deck.

Board Member Hussey noted that surrounding garages effectively reduce visibility of the proposed rear deck. Board Members agreed that the upper portion of the deck essentially serves as a large landing so active use of that particular area does not result in a privacy issue for abutting residents.

Chairman Book called for public comment in favor of, or in opposition to the applicant's proposal.

No members of the public commented.

Chairman Book requested that Zoning Coordinator Jay Rosa deliver the findings of the Planning Board:

FINDINGS

Section 5.60 – Side Yard Setback

Section 5.70 – Rear Yard Setback

Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities: The front yard setback of parking facilities is the same as the building setback.

Section 6.04.5.c.2 – Design of All Off-Street Parking Facilities: The side yard setback of parking facilities is 5 feet or one-third the driveway width, whichever is greater.

Section 5.91 – Usable Open Space

Dimensional Requirements	Required	Proposed	Relief
Side Yard Setback (deck)	6'	3.5'	Special Permit*
Rear Yard Setback (deck)	15'	3.5'	Special Permit*
Front Yard Setback (parking)	15'	0'	Special Permit
Side Yard Setback (parking)	5'	1'	Special Permit
Usable Open Space	945.6 s.f.	1061 s.f.	Complies

* Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant is proposing screening landscaping around the deck as a counterbalancing amenity.

** Setback relief for the parking space can be granted under either Section 5.43, as described above, or under **Section 6.04.12**, for installing parking facilities for existing buildings.

Section 8.02.2 – Alteration or Extension

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

Mr. Rosa stated that the Planning Board unanimously supported the proposed rear deck and front yard parking space. Board members felt that landscaped screening and overall aesthetic improvements were appropriate counterbalancing amenities for the rear deck setback relief. The Board was not as enthusiastic about the front-yard parking space but did acknowledge that an identical 2011 proposal was approved and similar front yard parking is common along Brook Street. The Board did suggest the use of decorative and/or permeable pavers for the front parking space. Therefore, the Planning Board recommended approval of the site plan by Christopher Charlton, dated 1/8/15, and the plans prepared by Michael Kim Associates, dated 3/25/15, subject to the following conditions:

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

Chairman Book requested that Mr. Rosa deliver the findings of the Building Department. Mr. Rosa stated that the Building Department also had no objection to the requested relief. By-law sections 5.43 and 6.04.12 both provide for the necessary special permit relief. Typical front-yard parking concerns regarding streetscape consistency and vehicular safety are not as worry some for this particular location because, as stated, parallel driveways are located on a majority of properties along Brook Street and the immediate area. Also there is adequate front yard space for the proposed parking so driver sight lines will be maintained. If the Board does find that the standards for special permit relief are met, the Building Department will work with the applicant to ensure compliance with all imposed conditions and building codes.

The Board deliberated on the merits of special permit relief as requested. Board Members were satisfied that both existing and proposed visual screening provides appropriate counterbalancing amenity for requested setback relief, particularly for the rear deck. Board Members noted that the deck design represents an aesthetic improvement to the rear yard and the most impacted abutter on Bowker Street provided formal support for the project. In general, the Board expressed hesitation in granting setback relief for front yard parking that requires vehicle back out and curb cut alteration. However, this parking layout is consistent with the surrounding neighborhood and presents less vehicular and pedestrian safety issues than the existing parking configuration on the property. The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 9.05, 5.43 and 6.04.12 of the Zoning By-Law,

granting relief from the application of the provisions of Sections 5.60, 5.70, 6.04.5.c.1, and 6.04.5.c.2 of the Zoning By-Law. The Board made the following specific findings pursuant to Section 9.05 of the Zoning By-Law:

- The specific site is an appropriate location for such a use, structure, or condition.
- The use as developed will not adversely affect the neighborhood.
- There will be no nuisance or serious hazard to vehicles or pedestrians.
- 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 plans and elevations of the rear deck shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, a final site and landscaping plan, indicating all counterbalancing amenities and hardscape details, including for the new parking space, shall be submitted 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 elevations of the deck stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

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TOWN CLERK

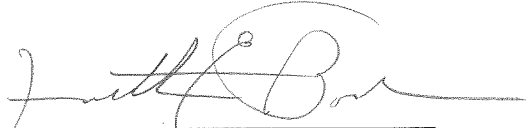
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Unanimous decision of the

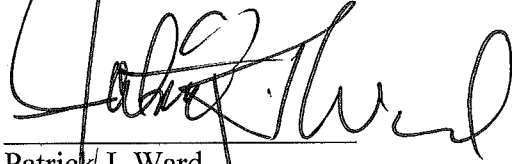
Board of Appeals

Filing Date:

7/1/15


Jonathan Book, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals