



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline Massachusetts

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2016-00289
OWNER: CHARLES & MYRIEME CHURCHILL
27 BEACONSFIELD ROAD, BROOKLINE, MA

Petitioners, Charles and Myrieme Churchill, applied to the Building Commissioner to construct a detached garage in the rear yard and install a rear facing bay at 27 Beaconsfield Road. 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed June 2, 2016 at 7:00 p.m. in Town Hall 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 May 19, 2016 and May 26, 2016 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:

27 BEACONSFIELD RD – CONSTRUCT A DETACHED SINGLE-CAR GARAGE AND A REAR ADDITION, in a T-6, Two-Family and Attached Single-Family, residential district, on

June 2, 2016, at 7:15 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: CHURCHILL CHARLES E & MYRIEME) Precinct 12

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

- 1. Section 5.09.2.j: Design Review**
- 2. Section 5.22.3.c: Exceptions to Floor Area Ratio For Residential Units**
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.63: Accessory Structures in the Side Yard**
- 5. Section 5.70 Rear Yard Requirements**
- 6. Section 5.72: Accessory Structure in the Rear Yard**
- 7. Section 8.02.2: Extension or Alteration**
- 8. Any additional relief the board finds necessary**

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

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Board Chairman Jonathan Book and Board Members Mark Zuroff and

Christopher Hussey. Property owner Charles Churchill, of 27 Beaconsfield Road, Brookline, MA, waived the reading of public notice for and informed the Board that he brought forth an identical proposal to this Board in 2014 and received unanimous support in the grant of a special permit. Mr. Churchill further stated that he did not initiate construction work associated with this previously granted zoning relief therefore the special permit lapsed in October of 2014. Mr.

Churchill requested that the Board reconsider his proposal and “re-issue” special permits necessary to modify his property.

Mr. Churchill described the proposal before the Board as a detached single-car garage and the construction of a two-story exterior addition to serve as a bay that would extend from the existing primary structure. The garage would be located at the end of the existing driveway on a portion of the property that presents a steep uphill change in grade. Mr. Churchill stated that the garage would be built into this slope and would also include a modest roof deck. The garage would be constructed of concrete, wood frame, and clapboard. Mr. Churchill confirmed that the garage is situated approximately 2.3 feet from the side lot line and 4.3 feet from the rear lot line, requiring special permit relief for noncompliant yard setbacks.

Mr. Churchill further described the rear bay addition as a two-story wood frame and clapboard construction with wood post supports. This addition would expand a study located on the second floor and a bathroom located at the third floor. The wood post supports at the first floor level would remain open as a design feature. Mr. Churchill confirmed that this rear addition would increase the pre-existing nonconforming floor area ratio (FAR) from .87 to .89. The addition also requires relief from rear yard setback requirements because it would be located 26.6 feet from the rear lot line.

Board Chairman Jonathan Book reminded the Board that this request for zoning relief must be evaluated as an entirely new proposal despite the case history detailed by Mr. Churchill. Mr. Book also requested addition details regarding proposed counterbalancing amenities for requested relief from yard setback requirements.

Mr. Churchill stated that he intends to install shrubs along the northwestern side lot line to visually screen portions of the proposed garage from the immediately adjacent property located at 31 Beaconsfield Road. Additionally, Mr. Churchill stated that he intends to install several small trees along the slope of the rear yard to mitigate glare from vehicle headlights along a private alleyway located immediately to the north.

Board Chairman Book noted for the record that two written letters were submitted to the Board indicating support for this proposal. Mr. Book requested additional information as to where these residents in support of the proposal live in relation to the subject property. Mr. Churchill stated that one support letter was submitted by the property owner of 31 Beaconsfield Road, which is located directly to the northwest of the subject property, and the other support letter was submitted by the property owner of 250 Tappan Street, which is located directly to the north of the subject property.

Board Member Christopher Hussey requested additional detail regarding the purpose of the rear bay, particularly the expanded bathroom located at the second floor. Mr. Churchill stated that the current bathroom configuration is narrow and does not currently function well as a space to wash and dry clothing. Mr. Churchill explained the modest additional floor area would significantly improve the functionality of this space as a bathroom and laundry room.

Board Chairman Book called for public comment in favor of, or in opposition to, the Petitioner's proposal. No members of the public commented.

Board Chairman Book requested that Zoning Coordinator Jay Rosa review the findings of the Planning Board and the Building Department.

FINDINGS

Section 5.09.2.j – Design Review:

Any structure that exceeds the allowed FAR and is requesting a special permit to exceed is 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:

Preservation of Trees and Landscape: The construction of the garage will result in the removal of some trees in the rear of the property. The removal of trees will be somewhat minimal, and can be addressed through the applicant's proposed counterbalancing amenity of additional landscaping, required for a special permit to grant setback relief.

Relation of Buildings to Environment: The proposed changes to the structure are in harmony with the surrounding landscape. The proposal is not expected to have a negative relation to the environment.

Relation of Buildings to the Form of the Streetscape and Neighborhood: The proposed garage will be constructed in the rear of the dwelling and will not be very visible from the street. The two-story addition will also be constructed to the rear and will not be visible from the street. The proposal is not expected to negatively impact the streetscape or neighborhood.

Open Space: The subject property has a good amount of open space that will be affected by this proposal. However, a large portion of the proposed garage will be built into the existing retaining wall, which will minimize the amount of affected open space.

Circulation: There would be no change in the existing parking facilities for this proposal. The proposed garage will create one additional parking space on the property.

Section 5.22.3.c – Exceptions to Floor Area Ratio For Residential Units

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.63 – Accessory Structures in the Side Yard

Section 5.70 – Rear Yard Requirements

Section 5.72 – Accessory Structures in the Rear Yard

Dimensional Requirements	Allowed	Existing	Proposed	Relief
Floor Area Ratio	.75	.87	.89	Special Permit*
FAR Percentage	100%	116%	118%	
Floor Area (sf)	4,354	5,056	5,184	
Side Yard Setback (Garage)	6'	N/A	2.3'	Special Permit**
Rear Yard Setback (Garage)	6'	N/A	4.3'	Special Permit**
Rear Yard Setback (principle Structure)	30'	31.6'	26.6'	Special Permit**

* Under **Section 5.22.3.c**, the Board of Appeals may grant a special permit for an addition that is less than or equal to 350 square feet, provided that the resulting floor area of the building is not more than 150% of the allowed floor area.

** Under **Section 5.43**, the Board of Appeals may waive setback requirements if a counterbalancing amenity is provided.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a non-conforming structure.

Mr. Rosa stated that The Planning Board unanimously supported the proposed detached garage and rear addition. This portion of the rear yard is not easily usable due to the slope of the lot and the incorporated retaining wall serves to disperse water runoff in this area in a more effective manner. Mr. Rosa agreed that the rear addition itself would match the existing structure and is intended to improve the interior functionality of the home. Mr. Rosa further stated that the requested FAR relief would permit the extension of a pre-existing nonconformity. Mr. Rosa agreed that the installation of shrubs along the side lot line in question could satisfy requirements for counterbalancing amenities however the applicant should be required to submit a final landscaping plan to specifically detail planting types and locations.

Therefore, the Planning Board recommends approval of the site plan by Joseph Porter, dated 5/1/14, and plans by Peter Sachs Architect, last dated 7/14/14, subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit final floor plans and elevations, indicating all proposed materials for the garage and addition, subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan and a final landscaping plan including all counterbalancing amenities, subject to the review and approval of the Assistant Director for 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 floor plans and 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. Rosa stated that the Building Department also has no objection to the relief as requested. This is a de novo case that was heard and approved by the Board at a prior public hearing but the statutory requirement that permitted work be initiated within one year of the grant of special permit relief was not satisfied. Mr. Rosa confirmed that the proposal currently before the Board does not differ from the previously approved project and several abutting residents have formally expressed support for the project. Mr. Rosa indicated that the Building Department would work with the Petitioner to ensure compliance with state building code and any imposed conditions if the Board finds that the requirements for the grant of a special permit are satisfied.

The Board deliberated on the merits of special permit relief as requested. Board Member Mark Zuroff stated that this proposal is worthy of special permit relief and he concurred with the Planning Board recommendation that final landscaping details must be submitted and approved prior to the issuance of a building permit.

Board Member Hussey concurred with Mr. Zuroff's comments and supported the grant of zoning relief as requested.

Board Chairman Book stated that the current proposal before the Board satisfies the requirements for the grant of a special permit in accordance with Zoning By-Law Sections 9.05 and 5.43. Mr. Book also supported the finding of the Planning Board that pertinent design review standards applicable for the exterior addition are met. Mr. Book did not believe that this proposal would result in adverse impact on abutting residents and Mr. Churchill has proposed adequate counterbalancing amenities for requested setback relief in the form of landscaped screening.

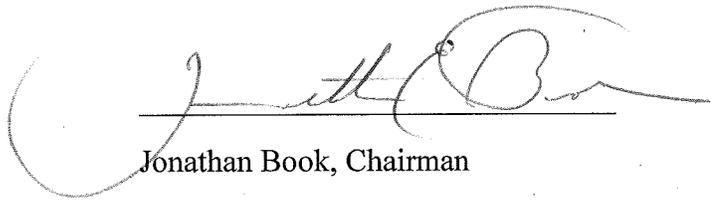
The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 5.43, 5.09.2.7, and 9.05 of the Zoning By-Law, granting relief from the provisions of Sections 5.22.3.c, 5.63, 5.70, 5.72, and 8.02.2. The Board made the following specific findings pursuant 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.
- The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

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

1. Prior to issuance of a building permit, the applicant shall submit final floor plans and elevations, indicating all proposed materials for the garage and addition, subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan and a final landscaping plan including all counterbalancing amenities, subject to the review and approval of the Assistant Director for 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 floor plans and 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**



Jonathan Book, Chairman

Filing Date: _____

A True Copy

ATTEST:

Patrick J. Ward

Clerk, Board of Appeals