

# Town of Brookline Massachusetts

BOARD OF APPEALS  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

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TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO: 2016-0034  
420 WARREN STREET

Petitioners, Michael Klepikov and Sofia Gertsberg, applied to the Building Commissioner for a building permit to connect an existing detached garage to the principal structure at 420 Warren Street. 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 June 23, 2016 at 7:00 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for 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 June 9, 2016 and June 16, 2016 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

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:

**420 WARREN ST - ATTACH EXISTING GARAGE AND CONSTRUCT THIRD FLOOR ADDITION AT THE REAR, in an S-40, Single-Family, residential district, on**

**June 23, 2016, at 7:00 PM in the 6<sup>th</sup> Floor Selectmen's Hearing Room  
(Petitioner/Owner: KLEPIKOV MICHAEL GERTSBERG SOFIA) Precinct 15**

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.b.1.b: Exceptions to Floor Area Ratio for Residential Units**
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.60: Side Yard Requirements**
- 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](http://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](mailto:rsneirson@brooklinema.gov).*

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

**Publish: June 9, 2016 & June 16, 2016**

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 Johanna Schneider. The case was presented by Attorney Jacob Walters, 27 Harvard Street, Brookline, Massachusetts 02445.

Attorney Walters waived the reading of public notice and described the application to create two small additions to attach the garage to the dwelling. Attorney Walters reviewed why the project meets the requirements for a special permit under the town's zoning bylaw. Mr. Walters argued the proposed addition would cause no detriment to the

neighborhood and have not received any negative responses. Further, Mr. Walters stated the applicant had no issues with the conditions from the Planning Board.

Board Chairman Zuroff inquired if there had been prior applications for this property to expand its FAR. Ms. Selkoe from the Planning Department as well as Attorney Walters stated there were no prior applications for FAR expansion to their knowledge.

Board Chairman Zuroff called for public comment in favor of, or in opposition to, the Petitioner's proposal.

No members of the public commented in favor of, or in opposition to, the Petitioner's proposal.

Board Chairman Zuroff called upon Assistant Director Polly Selkoe from the Planning Department to review the findings of the Planning Board.

## **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-1)*. 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 subject property, and surrounding neighborhood, presents dense vegetation, particularly along front and side lot lines. The modest rear addition requires no alteration to existing trees. The proposed mudroom would require slight alteration to the natural grade to provide a level building area because the lot slopes down toward the northeastern side lot line.

*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 immediate neighborhood along Warren Street has experienced a large amount of new construction. Single-family homes in the area include both attached and detached garages and present a variety of architectural styles. Proposed additions at 420 Warren Street are not easily visible from the public way and would be significantly screened by existing landscape features. The mudroom addition would

alter the front façade of the structure but not in a manner that is inconsistent with the surrounding streetscape.

*Open Space:* Despite the proposed floor area increase, the subject property significantly exceeds minimum requirements for both usable and landscaped open space.

*Circulation:* There would be no change in the existing parking configuration based on proposed exterior alterations. Additionally, the functionality of the existing garage would be improved in terms of resident access, particularly during inclement weather.

**Section 5.22.3.b.1.b – Exceptions to Floor Area Ratio for Residential Units**

**Section 5.43 – Exceptions to Yard and Setback Regulations**

**Section 5.60 – Side Yard Requirements**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Floor Area Ratio</b>	.15	.16	.176	Special Permit*
<b>FAR Percentage</b>	100%	107.6%	117.4%	
<b>Floor Area (sf)</b>	4,525.8	4,869.64	5,313.26	
<b>Side Yard Setback (Garage)</b>	20 feet	Principle Structure – 50' Detached Garage – 10'	10 feet	Special Permit **

\* Under *Section 5.22.3.b.1.b*, the Board of Appeals may grant a special permit for an exterior addition that is less than or equal to 20% of the permitted floor area

\*\* Under *Section 5.43*, the Board of Appeals may by special permit waive yard and/or setback requirements if counterbalancing amenity is provided.

**NOTE:** The proposed 10-foot side-yard setback would result from attaching the two-car garage to the principle structure. This garage footprint and side-yard setback would not be altered from the current condition.

**Section 8.02.2 – Alteration or Extension**

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

Ms. Selkoe stated the Planning Board was in support of this proposal and do not think there will be any adverse impact on the surrounding neighborhood. The mud room

addition does not change the setback of the garage. For those reasons the Planning Board felt special permit relief was appropriate.

Therefore, the Planning Board recommends approval of the site plan by Peter Nolan, dated 3/25/2016, and floor plans and elevations by Doreve Nicholaeff, dated 3/15/2016, subject to the following conditions:

1. Prior to the issuance of a building permit, the Applicant shall submit a final site plan, floor plans, and elevations that include final roof plans, subject to review and approval by the Assistant Director for Regulatory Planning.

2. Prior to the issuance of a building permit, the Applicant shall submit a final landscape plan indicating all counterbalancing amenities, subject to review and approval by 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.

Board Chairman Book requested that Deputy Building Commissioner Michael Yanovitch review the findings of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the relief requested as the FAR is within what is allowed by special permit. The garage is nonconforming only because it is now being attached to principle structure.

The Board deliberated on the merits of a special permit as requested. Board Member Hussey felt the proposed addition benefitted the house and met the requirements for a special permit. Board Member Schneider cited the reasons Ms. Selkoe articulated as to why this proposal is worthy of the relief sought. Chairman Zuroff was in agreement with Board Members Schneider and Hussey to grant the zoning relief as requested.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Section 5.43 and Section 8.02.2 of the Zoning By-Law, granting relief from the provisions of Section 5.22.3.b.1.b, Section 5.60, and Section 5.09.2.j.

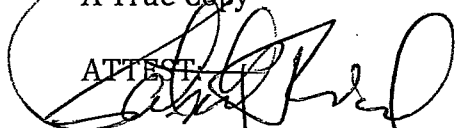
**Accordingly, the Board voted unanimously to grant special permit relief, subject to the following conditions:**

1. Prior to the issuance of a building permit, the Applicant shall submit a final site plan, floor plans, and elevations that include final roof plans, subject to review and approval by the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the Applicant shall submit a final landscape plan indicating all counterbalancing amenities, subject to review and approval by 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

Filing Date: 8/11/16

  
Mark G. Zuroff, Chairman

A True Copy  
ATTEST  
  
Patrick J. Ward  
Clerk, Board of Appeals