



BOARD OF APPEALS  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

# *Town of Brookline*

## *Massachusetts*

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2016-0071  
40 SARGENT CROSSWAY

Petitioner, 40 Crossway LLC, applied to the Building Commissioner for a building permit to expand an existing garage at 40 Sargent Crossway from two to three vehicles. 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 December 15, 2016 at 7:00 p.m., in the 6th Floor 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 its 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 December 1, 2016 and December 8, 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:

**40 Sargent Crossway to expand existing garage from two to three vehicles and attach to existing house in an S-40 (Single-Family) Residence District, on December 15, 2016 at 7:00 PM in the 6<sup>th</sup> Floor Selectmen's Hearing Room (Petitioner/Owner: 40 Crossway LLC) Precinct 5**

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 5.43: Exceptions to Yard and Setback Regulation**
- 2. Section 5.70: Rear Yard Requirements**
- 3. Any Additional Relief the Board May Find 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 programs and services of the Town of Brookline are invited to make their needs known to Lloyd Gellineau, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone (617) 730-2328; TDD (617) 730-2327; or e-mail at [llgellineau@brooklinema.gov](mailto:llgellineau@brooklinema.gov)*

***Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book***

**Publish:** December 1, 2016 and December 8, 2016

The public hearing was held on December 15, 2016.

Present at the hearing was Chairman Jesse Geller and Board Members Jonathan Book and Christopher Hussey.

Attorney Jeffrey Allen, attorney for the Petitioner, waived a reading of the public hearing notice and presented the case for the requested relief on behalf of the Petitioner.

Mr. Allen noted that the Planning Board voted unanimously in favor of the proposed project. Mr. Allen explained that the Petitioner has a two-car garage on the property and is

turning it into a three-car garage by making two changes: 1) increasing the size of the garage by eight feet; and 2) reducing the existing bays from 12' 3" to 9'. Mr. Allen explained that a combination of these changes will allow for a three-bay garage with three garage doors. Mr. Allen stated that the Zoning By-Law requires a 50' rear yard setback; the existing setback is 45.8'; and the proposed setback after the garage expansion will be 38.75'. Mr. Allen commented, as provided in the Planning Board Report, this will really have no impact on any of the neighbors because of how the houses are situated. Mr. Allen explained that the Petitioner's lot and the abutting lots are very large. Mr. Allen noted that this is an attached garage and, if it were instead a detached garage, the Petitioner would not need zoning relief because it would be an accessory use. Mr. Allen stated that this is a very simple project, the Petitioner has worked with the Planning Department and the Petitioner has agreed to provide landscaping as the required counterbalancing amenity.

Board Chairman Geller called for public comment in favor of, or in opposition to, the Petitioner's proposal. There was no public comment.

Board Chairman Geller called upon Zoning Coordinator Ashley Clark from the Planning Department to review the findings of the Planning Board. Ms. Clark stated that the Planning Board is supportive of this proposal for a garage expansion. The Planning Board notes that the proposed addition to the garage will extend into an area currently occupied by the driveway. The Planning Board observed that the closest abutter is at the rear of the property and their home is located on the opposite side of that lot. The proposed garage will house a vehicle that currently is not shielded from view. The Planning Board believes there will not be any adverse impacts on the neighborhood due to

the large lot sizes. Finally, the Planning Board acknowledges that similar style and size garages can be found throughout the surrounding neighborhood.

**Therefore, the Planning Board recommends approval of the architectural plans by Sharkey Design Company, dated 8/3/2016 and the site plan by Kenneth Anderson, dated 8/11/2016, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit final site plan, floor plans and elevations 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 landscape plan indicating all counterbalancing amenities 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 floor plans and elevations stamped and signed by a registered architect or engineer; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Chairman Geller requested that Deputy Building Commissioner Michael Yanovitch review the findings of the Building Department. Mr. Yanovitch stated that the Building Department had no objection to the relief requested and, if the Board finds that the proposal meets the criteria for the grant of a special permit, the Building Department will work with the Petitioner to ensure compliance.

### ***Board Deliberation***

Board Member Hussey stated that he felt the proposal would be more attractive and voted in support. Board Member Jonathan Book also voted in support. Board Chairman Geller voted in support and stated that the proposal meets the criteria for a grant of a special permit under the Zoning By-Law.

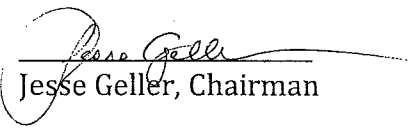
**Accordingly, the Board voted unanimously to grant special permit relief, and approve the architectural plans by Sharkey Design Company, dated 8/3/2016 and**

**the site plan by Kenneth Anderson, dated 8/11/2016, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit final site plan, floor plans and elevations 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 landscape plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
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Unanimous Decision of  
The Board of Appeals

Filing Date: 1/5/17

  
Jesse Geller, Chairman

A True Copy

ATTEST:

Patrick J. Ward  
Clerk, Board of Appeals

