



BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0021
2 PERRIN ROAD
BERZ, JONATHAN

Petitioner, Jonathan Berz, applied to the Building Commissioner for permission to demolish an existing garage and construct a new 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 May 11, 2017 at 7:00 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 April 27, 2017 and May 4, 2017 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:

2 PERRIN ROAD to DEMOLISH PORTION OF EXISTING GARAGE AND EXTEND TWO FEET in a S- (Single-Family) Residence District, on MAY 11, 2017 at 7:00 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: Jonathan Berz) 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 Regulations**
2. **Section 5.72: Accessory Structures in the Rear Yard**
3. **Section 5.60: Side Yard Requirements**
4. **Section 8.02.2: Alteration or Extension**
5. **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.

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

Jesse Geller, Chair

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Jonathan Book

Publish: April 27, 2017 & May 4, 2017

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller and Board Members Christopher Hussey and Mark Zuroff.

The case was presented by Edward Hovsepian, EH Construction Company, 25 Pond Brook Circle, Weston, Massachusetts 02493. Also in attendance was the homeowner Jonathan Berz.

Chairman Geller called the hearing to order at 7:00 p.m. Edward Hovsepian waived a reading of the public notice.

Mr. Hovsepian provided to the Board a background of the Petitioner's proposal, stating that the garage at 2 Perrin Road is partially built into an embankment. Mr. Hovsepian further stated that the existing rear foundation wall was determined to be structurally unsound. In order to stabilize the structure, Mr. Hovsepian continued, they are proposing to construct a new 12" concrete wall on the

interior which, he noted, will be a viable solution to mitigate the run off of water. Mr. Hovsepian stated that the petitioner is requesting to extend the length of the new garage by two feet and that the design and materials have been reviewed and approved by the Preservation Commission.

Mr. Hovsepian argued for relief from application of the provisions of Sections 5.63 and 5.72 of the Zoning By-Law. Mr. Hovsepian stated that zoning relief is available under Section 5.43 of the Zoning By-Law, whereby the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. Mr. Hovsepian stated that the Petitioner proposes to add landscaping to the property and will develop a landscaping plan for review by and approval of the Assistant Director of Regulatory Planning.

Mr. Hovsepian confirmed that the petitioner has reached out to neighbors regarding the proposal and submitted letters of support for the record. Mr. Hovsepian stated that the Petitioner is unaware of any opposition to the proposal.

Mr. Hovsepian reviewed Section 9.05 of the Zoning By-Law and argued that the project and the relief requested meet the requirements thereunder.

Zoning Board of Appeals Chairman Geller confirmed with Mr. Hovsepian that the expansion of the garage is not encroaching further into the side yard setback.

Zoning Board of Appeals Chairman Geller asked whether anyone wished to speak in favor of the application. No one spoke in favor of the proposal.

Mr. Geller asked whether anyone wished to speak in opposition to the application. No one spoke in opposition to the proposal.

Ashley Clark, Zoning Coordinator for the Town of Brookline, delivered the findings of the Planning Board:

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.63 – Accessory Buildings or Structures in the Side Yard

Section 5.72 – Accessory Buildings or Structures in the Rear Yard

Dimensional Requirements	Required	Existing	Proposed	Relief
Garage - Side Yard Setback	6'	2.0'	2.0'	Special Permit*
Garage – Rear Yard Setback	6'	2.3'	2.3'	N/A – not changing

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

Section 8.02.2 – Alteration or Extension

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

Ms. Clark stated that the Planning Board is supportive of this proposal. She further stated that the Preservation Commission reviewed and approved these plans and feels that the design for the proposed expanded garage is appropriate. Mr. Clark continued that the increase in size is minimal and will have no impact on abutting properties since there are no abutters close to the property lines; the new garage details will be an improvement aesthetically and will increase the functionality of the garage for the homeowners. Ms. Clark concluded that the applicant will need to propose counterbalancing amenities in the form of a landscape plan.

Therefore, Ms. Clark Stated, the Planning Board recommends approval of the site plan by Brendan Sullivan dated 1/11/2017 and the architectural plans by Abeles & Associates dated 1/17/17, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor and roof plans and elevations of the garage, 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 final 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 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.

Deputy Building Commissioner Michael Yanovitch delivered the comments 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.

The Board deliberated on the merits of the proposal. Board Member Hussey stated that he is supportive of the proposal. Board Member Zuroff expressed his agreement with Board Member Hussey. Chairman Geller stated that the proposal meets the requirements for the requested relief by special permit under Sections 5.43 and 9.05 of the Zoning By-Law.

The Board then determined that the requirements for relief by special permit from the application of the provisions of Sections 5.63, and 5.72 of the Zoning By-Law pursuant to Sections, 5.43, and 9.05 of the Zoning By-Law as requested by the Petitioners were met. 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.
- e. Development will have no effect on the supply of housing available for low and moderate income people.

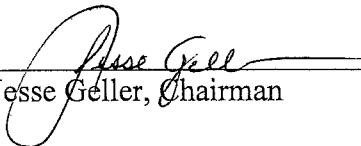
Accordingly, the Board voted unanimously to grant the requested relief subject to the following revised conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor and

roof plans and elevations of the garage, 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 final 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 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.

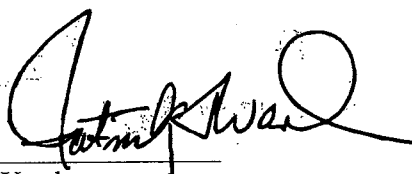
Unanimous Decision of
The Board of Appeals



Jesse Geller, Chairman

Filing Date: 6-9-17

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

