



RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2018 JUL 23

Jesse Geller, Chair  
Christopher Hussey  
Mark Zurroff

# Town of Brookline Massachusetts

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

TOWN OF BROOKLINE  
BOARD OF APPEALS  
1736 BEACON STREET  
CASE NO. 2018-0021

Petitioners Marcel and Daniel Sander applied to the Building Commissioner for permission to convert an existing three unit dwelling into a four unit dwelling by converting existing basement space into an additional unit. The building permit 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 7, 2018, at 7:15p.m. in the Selectmen's Hearing Room on the 6<sup>th</sup> floor of Brookline Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, 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 May 24, 2018 and May 31, 2018, 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:

**1736 BEACON STREET, BROOKLINE, MA 02445 - Convert a 3 family to a 4 family in a(n) M-2.5 APARTMENT HOUSE on 06/07/2018 at 7:15PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Jacob Walters) Precinct 13**

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:

**§5.05 - CONVERSIONS**

**§5.09.2.D – DESIGN REVIEW**

**§5.50 - FRONT YARD REQUIREMENTS**

**§5.90 - MINIMUM LANDSCAPED OPEN SPACE**

**§5.91 - MINIMUM USABLE OPEN SPACE**

**§6.02, Paragraph 1 - TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS**

**§6.04.5.B – DESIGN OF ALL OFF-STREET PARKING FACILITIES**

**§8.02.2 – ALTERATION AND EXTENSION**

**§9.04 - PROCEDURES FOR APPLICATION AND REVIEW OF SPECIAL PERMITS**

**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 in its programs or activities on the basis of disability or handicap or any other characteristic protected under applicable federal, state or local law. Individuals who are in need of auxiliary aids for effective communication in Town programs or activities may make their needs known by contacting the Town's ADA Compliance Officer. Assistive Listening Devices are available at the Public Safety Building for public use at Town of Brookline meetings and events. Those who need effective communication services should dial 711 and ask the operator to dial the Town's ADA Compliance Officer.*

*If you have any questions regarding this Notice or the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at [chaynes@brooklinema.gov](mailto:chaynes@brooklinema.gov).*

*Jesse Geller, Chair  
Christopher Hussey  
Mark Zuroff*

**Publish: 05/24/2018 & 05/31/2018**

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 Randolph Meiklejohn and Kate Poverman. Attorney Jacob Walters, of Walters, Shannon & Jensen of 27 Harvard Street, Brookline, Massachusetts presented the case for the petitioners.

Mr. Walters stated that all the relief needed could be accomplished by four (4) Special Permits, specifically under Section 5.05 Conversions, Section 5.09.2.d, Design Review, Section 6.01.2.a, Off Street Parking Facilities and the last from Section 8.02.2, Alteration or Extension pursuant to Section 9.05 of the Zoning By-Law. Mr. Walters added that after the initial Planning Board hearing the applicants made a number of changes to the submitted plan and the project to address the issues raised by the Planning Board. Mr. Walters continued that the revised design was unanimously approved by the Planning Board. He stated that the Special Permit needed pursuant to Section 5.05 would not increase any existing nonconformity.

Relief under Section 5.09.2.d was recommended by the Planning Board as that body determined the design review standards as set forth in Section 5.09.2.d – (a-m) were met by the applicants' proposal, the most relevant being the Relation of Buildings to the Form of the Streetscape and neighborhood and Circulation of vehicle traffic to the site or neighborhood. Mr. Walters pointed out that the exterior at the front of the dwelling would not change and mentioned that several other similar conversions have taken place in the neighborhood with no detrimental effect.

As to the parking relief required pursuant to Section 6.01.2.a, Mr. Walters commented that there are currently four (4) off street parking spaces at the rear of the premises and the requirement under the Zoning By-Law is for six (6) off street parking spaces, thus a waiver of two such spaces is being sought. Mr. Walters added that Beacon Street is a logical place to

waive parking given the proximity to public transportation from the premises and the fact that some residents in Brookline do not have a motor vehicle and rely on the T or busses.

The final Special Permit is required under said **Section 8.02**, alternation or extension. Special Permit relief under this Section is needed because the preexisting non-conforming dwelling is being altered.

Mr. Walters continued by stating that the requested Special Permits conformed with the requirements of **Section 9.05** of the Zoning By-Law in that the location of the additional unit was appropriate, no nuisance would be created, traffic would in no way be affected and the supply of housing in Brookline would not be diminished or harmed. Mr. Walters concluded his remarks by saying that there were no objections from any of the abutters and that the applicants' had no issues with the proposed conditions suggested by the Planning Board.

The Chairman then asked if anyone in attendance wished to speak in support of or in opposition to the petitioner's proposal. No one asked to be heard.

Ashley Clark delivered the findings of the Planning Department. Ms. Clark stated that the Planning Board is supportive of this proposal. She noted that the Planning Board felt the changes made by the applicants and their attorney adequately addressed the Board's concerns.

Therefore, Ms. Clark stated, the Planning Board recommended approval of the site plan by professional land surveyor Dennis O'Brien dated 3/20/18, and the architectural plans by registered architect Jonathan Raisz, dated 5/8/18, 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 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 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.

The Chairman then called upon Michael Yanovitch, representing the Building Department, to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no objections to the request for relief. He concluded by stating that the Building Department will work with the applicant to ensure compliance with the Building Code.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that the petitioner has satisfied the requirements necessary for relief from Sections 5.05, 5.09.2.d, 6.01.2.a, and 8.02.2 of the Zoning By-Law, pursuant to Section 9.05 of the Zoning By-Law and made the following specific findings pursuant to said Section 9.05 of the Zoning By-Law:

- 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.

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

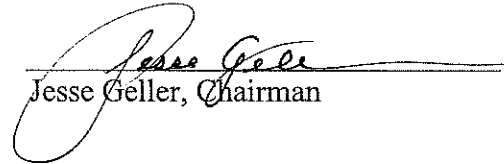
- 1 Prior to the issuance of a building permit, the applicant shall submit final site plan, floor plans and elevations subject to the review and approval of the Assistant Director of Regulatory Planning.

2. Prior to the issuance of a building permit, the applicant shall submit 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 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

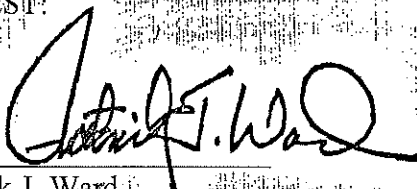
The Board of Appeals

Filing Date: July 6, 2018

  
Jesse Geller, Chairman

A True Copy

ATTEST:

  
Patrick J. Ward,  
Clerk, Board of Appeals