



BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Christopher Hussey

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Town of Brookline

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Town Hall, 1st Floor
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Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-00023
JENNY RICHLIN
15 ALBERTA ROAD, BROOKLINE, MA

Petitioner, Jenny Richlin, applied to the Building Commissioner for permission to construct a one-story addition at the rear of the home and to construct two attached single-car garages. 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 7, 2018 at 7:10 PM., 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 Petitioners, 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 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:

15 ALBERTA ROAD, BROOKLINE, MA 02467 - Construct addition and garage in a(n) S-10 SINGLE-FAMILY on 06/07/2018 at 7:10PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Robert L. Allen, Jr.) 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:

§5.09.2.J – DESIGN REVIEW

§5.22.3.B.1.B – EXCEPTIONS TO FLOOR AREA RATIO (FAR) FOR RESIDENTIAL UNITS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.50 - FRONT YARD REQUIREMENTS

§6.04.5.C.2 – DESIGN OF ALL OFF-STREET PARKING FACILITIES

§8.02.2 – ALTERATION AND EXTENSION

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 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.

*Jesse Geller, Chair
Christopher Hussey
Mark Zuroff*

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Jesse Geller and Board Members Kate Poverman and Randolph Meiklejohn. Also

present at the hearing were Zoning Planner & Coordinator, Ashley Clark and Deputy Building Commissioner, Michael Yanovitch.

The case was presented by Robert L. Allen, Jr., Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance were the petitioner, Jenny Richlin and the architect for the project, Catherine Truman.

Chairman Geller called the hearing to order at 7:10 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioner proposes to construct a one-story addition at the rear and two attached single-car garages. Attorney Allen explained that the proposed garages would be located where there is currently a single-story shed and will utilize the existing driveway. He added that the driveway would be widened to accommodate the width of the two garages. Attorney Allen stated that the one-story addition of living space at the rear of the home would contain a living room and accommodate full reconfiguration of the first floor including a new master suite. A portion of the basement would also be finished as a TV room. Furthermore, Attorney Allen noted that both the Planning Board and the Preservation Commission approved these plans. Catherine Truman, the architect for the project, spoke to the Board regarding minor changes that were made as a result of the Planning Board Meeting.

Attorney Allen then stated that the Petitioner seeks a special permit for relief from Section 5.09.2.J for design review, Section 5.22.3.b.1.b for floor area ratio, from Section 5.50 and Section 6.04.5.c.2 under Section 5.43 for front yard setback on both Alberta Road and Goodnough Road and the driveway and from Section 8.02.2 pursuant to Section 9.05 to alter or extend a nonconforming use or structure.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed expansion of the home, which will continue to be used as a

single-family dwelling; the additions are moderate and historically sensitive; the use will not adversely affect the neighborhood because the home will continue to be used as a single-family dwelling, which is consistent with the surrounding neighborhood; the applicant found a way to maximize garage space while maintaining the integrity of the home; there will be no nuisance or serious hazard to vehicles or pedestrians because the home will continue to use the existing driveway's curb cut, the properties on-site circulation will not change, except that the garages will now house two cars that would have otherwise been parked in the driveway; adequate and appropriate facilities will be provided for the proper operation of a single-family dwelling; and there will be no effect on the supply on housing available for low and moderate income people. With respect to **Section 5.50**, Attorney Allen noted that the proposed setback on the Alberta Road front is 17.9 feet, which makes a pre-existing non-conformity slightly better and the proposed setback on the Goodnough Road front is 15.6, which is pre-existing non-conforming and not changing. In regards to **Section 6.04.5.c.2**, Attorney Allen stated that there is no change to the existing non-conforming 0-foot setback. Attorney Allen suggested that special permit relief may be granted for **Section 5.22.3.b.1.b** because the proposed FAR is .36, which is one hundred twenty percent of the allowed FAR (.3).

Chairman Geller then asked whether anyone was present to speak in favor of the proposal. No one spoke in favor of the proposal.

Chairman Geller then asked whether anyone was present to speak in opposition to the proposal. No one spoke in opposition to the proposal.

Chairman Geller then called upon Ashley Clark, Zoning Planner & Coordinator, to deliver the findings of the Planning Board. Ms. Clark noted the following:

FINDINGS

Section 5.09.2.j – Design Review: Any exterior addition for which a special permit is requested pursuant to *Section 5.22 (Exceptions to Maximum Floor Area Ratio Regulations)* requires a special

permit 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 were described by applicant (*see end of memo*).

Section 5.22.3.b.1.b – Exceptions to Maximum FAR Regulations For Residential Units

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.30 (100%)	.27 (90%)	.36 (120%)	Special Permit*/ Variance
Floor Area (s.f.)	2,503	2,252	3,003	

** Under Section 5.22.3.b.1.b, a house in an S or SC district may be granted a special permit for an exterior addition that is less than or equal to 20% of the permitted gross floor area.*

Section 5.43 – Exceptions to Yard and Setback Requirements:

Section 5.50 – Front Yard Requirements

Section 6.04.5.c.2 – Design of Off-Street Parking

Setback Requirements	Required	Existing	Proposed	Finding
Front Yard (Alberta Road)	20 feet	17.3 feet	17.9 feet	Special Permit*
Front Yard (Goodnough Road)	20 feet	15.6 feet	15.6 feet	Special Permit*
Driveway	5 feet	0 feet	0 feet	Special Permit*

** Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. Right now, everything is overgrown and some of the fencing is falling down, we will provide a new landscaping plan, and we also feel the preservation of such a historic home is in of itself a counter balancing amenity.*

Section 8.02.2 – Alteration or Extension

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

PLANNING BOARD RECOMMENDATION

The Planning Board was very supportive of this proposal and found the additions to be well designed, modest, and in keeping with the historic character of the home. The Board offered minor suggestions for modifying the intersection point of the two garage roofs to improve the appearance.

Therefore, the Planning Board recommends approval of the site plan by Dennis O'Brien dated 2/23/2018 and the floor plans and elevations Catherine Truman dated 5/3/2018 subject to the following conditions:

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

Chairman Geller then called upon Michael Yanovitch to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no opposition to this request and, should relief be granted, the Building Department will work with the Petitioner to ensure compliance with the Building Code.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for a special permit from **Section 5.09.2.J** for design review, **Section 5.22.b.1.b** for FAR **Section 5.50** for front yard setback and **Section 6.04.5.c.2** for design of off-street parking under **Section 5.43** and from **Section 8.02.2** pursuant to **Section 9.05** of the Zoning By-Law, respectively, were met, finding specifically under said **Section 9.05**:

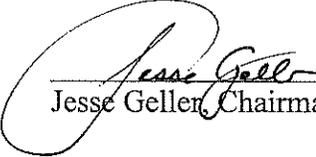
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the 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 special permit relief subject to the following conditions:

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

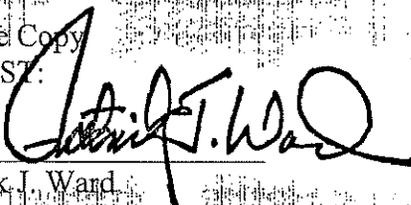
Unanimous Decision of
The Board of Appeals



Jesse Geller, Chairman

Filing Date: July 6, 2018

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals