



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zurroff
Christopher Hussey

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

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TOWN CLERK
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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-000028
CARRIE & DAVID WORN
100 WALNUT PLACE, BROOKLINE, MA

Petitioners, Carrie and David Worn, applied to the Building Commissioner for permission to tear down an existing freestanding garage and to build a new garage and two-story connector addition to attach the garage to the home and to construct a front porch for the home. 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 14, 2018 at 7:00 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 31, 2018 and June 7, 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:

100 WALNUT PLACE, BROOKLINE, MA 02445 - Renovate existing house and construct addition including a carriage house, a connector, and a porch in a(n) S-10 SINGLE-FAMILY on 06/14/2018 at 7:00 PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: LAMONT, SARAH N) 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:

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.50 - FRONT YARD REQUIREMENTS

§5.60 - SIDE YARD REQUIREMENTS

§5.70 - REAR YARD REQUIREMENTS

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

§6.04.5.C.3 – 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*

Publish: 05/31/2018 & 06/07/2018

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 Mark Zuroff and Chris Hussey. Also present at the

hearing was Zoning Coordinator and Planner, 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 architect for the project, Michelle Ouellette and the builder for the project, Ben Fuller.

Chairman Geller called the hearing to order at 7:00 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioner proposes to tear down an existing free standing garage and to build a new garage and two-story connector addition to attach the garage to the home. Additionally, the proposal includes constructing a front porch for the home. Attorney Allen explained that the new garage will accommodate parking for two modern cars and raising the ground level under the new garage will help alleviate storm water issues on Walnut Place and Oakland Road Extension. He added that in April 2018 the Preservation Commission upheld the initial determination of significance on the house and placed an 18-month stay of demolition on the property; the applicants intend to return to the Preservation Commission in June to go through design review and work with the Commission to lift the stay. Furthermore, Attorney Allen noted that the Planning Board unanimously supported these plans suggesting that the height of the garage be lowered.

Attorney Allen then stated that the Petitioner seeks a special permit for relief from Section 5.50, Section 5.60, Section 5.70, Section 6.04.5.C.2 and Section 6.04.5.C.3 of the Zoning By-Law under Section 5.43 for front yard, side yard, rear yard, and driveway setbacks and from Section 8.02.2 pursuant to Section 9.05 to alter or extend a nonconforming use or structure. Attorney Allen noted that the rear yard setback will not change and the driveway setback will be improved. He noted that because the garage will be attached under the proposal the setback requirements differ from the required setbacks

under the existing condition. Attorney Allen also noted that the garage height had been reduced by a total of three feet one inch throughout the process of the Preservation Commission and the Planning Board meetings. Michelle Ouellette, the architect for the project, visually showed the Board the progress of these changes.

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 site is at the end of a private cul-de-sac and the location of the addition is on the far side of the house and will be well-shielded from Walnut Place abutters and from the rear abutters by extensive landscaping; the front porch is an attractive improvement to the home's overall façade; the use will not adversely affect the neighborhood because although the garage will be closer to the side yard property line, the overall driveway will be moved away from the property line and the neighborhood's water drainage issues will be lessened by the raised slab of the garage and other improvements in association with an extensive drainage plan at 100 Walnut Place; there will be no nuisance or serious hazard to vehicles or pedestrians because the property's on-site circulation will not change; and adequate and appropriate facilities will be provided for the proper operation of a single-family dwelling. Attorney Allen noted that the counterbalancing amenities for the dimensional relief would be significant landscaping and work to alleviate the water issues that have been faced by all of Walnut Place.

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. Beth Kantz of 106 Oakland Road Extension spoke in opposition to the proposal. Ms. Kantz noted that she and her husband are supportive of the overall renovation of the home but they are opposed to the

proposed garage. She provided photos of the view of the garage from the patio of her property. Chairman Geller commented that her concern appears to be more about screening.

Anne Husk of 18 Hart Street spoke in opposition, noting that water has caused flooding on her property on Hall Road.

Attorney Allen responded that there is no indication of where the water is coming from and that the applicant would be complying with the Town's regulations for the storm water management concerns and requirements.

Francis Morris of 105 Oakland Road Extension also spoke in opposition of the proposal. He brought up land use issues. Chairman Geller noted that boundary disputes were not within the scope of the Zoning Board's review and stated that this Board only reviews zoning issues rather than land use issues.

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 5.50 – Front Yard Requirements

Section 5.60 – Side Yard Requirements

Section 5.70 – Rear Yard Requirements

Section 5.43 – Exceptions to Yard and Setback Requirements

Dimensional Requirements (Structure)	Required	Existing	Proposed	Relief
Rear Yard Setback	30'	19.4' from corner: 5.2'	12.6' from corner: 5.2'	Special Permit*
Front Yard Setback	20'	2.5'	2.3'	
Side Yard Setback	10'	41.6' (to house) 5.4' (to garage)	1.9' (to attached garage)	

**Sec. 5.43 – If counterbalancing amenities are provided, the Board of Appeals may waive the required setback by special permit.*

The surfaced area of a parking lot and all entrance and exit drives shall be set back:

Section 6.04.5.C.2

- from the side lot line in the front yard and side yard shall meet the minimum distance for side yard width, except that for a driveway the distance may be reduced to 5 feet or 1/3 the driveway width, whichever is greater

Section 6.04.5.C.3

- from the side and rear lot lines in the rear yard, a minimum of five feet.

Dimensional Requirements (Driveway)	Required	Existing	Proposed	Relief
<u>Section 6.04.5.C.2</u> Front & Side	10’*	0’	4.1’	Special Permit**
<u>Section 6.04.5.C.3</u> Rear & Side	5’	0’	4.1’	

*The driveway is less than 30’ in width therefore the side yard setback required is side yard setback for S-10 under Table 5.01

**Sec. 5.43 – If counterbalancing amenities are provided, the Board of Appeals may waive the required setback by special permit.

Section 8.02.2 – Alteration or Extension

A special permit is required for alterations to a non-conforming structure.

PLANNING BOARD RECOMMENDATION

The Planning Board is supportive of this proposal and did not feel it would be detrimental to the neighborhood. The Planning Board would like to see the roof eave lowered by 2’.

Therefore, the Planning Board recommended approval of the site plan by Bruce Bradford dated 2/22/18, with revisions dated 12/14/17, floor plans and elevations by DSK Architects, dated 2/23/2018 and the East, North, West Elevations dated 3/23/2018, subject to following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, final floor plans and elevations, subject to the review and approval of the Assistant Director of Regulatory Planning and the Preservation Commission. The plans shall reflect an attempt to reduce the eave height of the garage up to 2 feet.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, subject to review and approval by 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

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.

Chairman Geller then called upon Michael Yanovitch, Deputy Building Commissioner, to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to this request and noted that a final drainage plan would be approved by the Department of Engineering. He added that 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 5.50, Section 5.60, Section 5.70, Section 6.04.5.C.2 and Section 6.04.5.C.3 under Section 5.43 for front yard, side yard, rear yard, and driveway setbacks 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 a final site plan, final floor plans and 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 final landscaping plan

indicating all counterbalancing amenities, including without limitation, screening of the garage, subject to review and approval by the Assistant Director of Regulatory Planning.

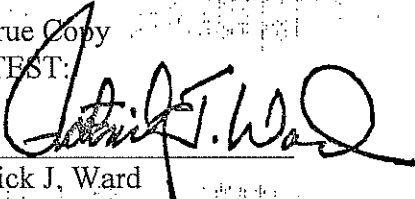
3. Prior to issuance of a building permit, the applicant shall submit a drainage plan for the review and approval of the Town's Department of Engineering.
4. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final floor plans 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


Jesse Geller, Chairman

Filing Date: 7/12/2018

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals