



Town of Brookline Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
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Patrick J. Ward, Clerk

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zurroff
Christopher Hussey

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2018 AUG 31 1 59 PM

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0045
EMILY WOODS & GREG WOODS
145 SARGENT ROAD, BROOKLINE, MA

Petitioners, Emily and Greg Woods, applied to the Building Commissioner for permission to renovate the existing structure and construct an addition to the 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 August 23, 2018 at 7:01 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 August 9, 2018 and August 16, 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:

145 SARGENT ROAD, BROOKLINE, MA 02445 - Renovation of existing structure and garage addition. in a(n) S-40 SINGLE-FAMILY on 08/23/2018 at 7:00 PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Ethan Platt) 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:

§5.20 - FLOOR AREA RATIO

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.70 - REAR YARD REQUIREMENTS

§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: 08/09/2018 & 08/16/2018

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 Randolph Meiklejohn. Also present at the hearing was Zoning Coordinator and Planner, Ashley Clark.

The case was presented by Robert L. Allen, Jr., Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts. Also in attendance were the Petitioners, Emily and Greg Woods and the architects for the project, Dell Mitchell and Thomas Race.

Chairman Geller called the hearing to order at 7:01 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioners seek relief to construct a two-story rear garage addition and other small additions, adding a total of 1,568 s.f. to the home. He noted that most of the additional square footage would be in the garage. Attorney Allen explained that the addition would add a third garage bay with living space above and that other small additions would improve the home's entrances. He added that the Preservation Commission imposed a stay on the home in October 2017 at which time the former owner intended to demolish the entire structure. He noted that the Petitioners intend to get a demolition permit when the stay expires in October 2018 to complete the proposed addition. Attorney Allen added that the applicants have five letters of support from neighbors in the Sargent Estates and the verbal support of one immediate abutter. He noted that the Petitioner had also emailed and spoken to the other immediate abutter who had opposed the project at the Planning Board hearing but who has since emailed regarding his support. In his presentation, Attorney Allen stated that the applicants and architects worked hard to develop a footprint that did not require setback relief noting the difficulties presented by the pie-shape of the lot. Furthermore, Attorney Allen noted that the Planning Board unanimously supported these plans.

Dell Mitchell, Dell Mitchell Architects, 20 Newbury St #5, Boston MA, then presented pictures and plans to the Board and those in attendance. Board Member Meiklejohn asked clarifying questions regarding the plans and the location of the lot.

Attorney Allen then stated that the Petitioners seek a special permit for relief from Section 5.20 for floor area ratio and from Section 8.02.2 pursuant to Section 9.05 to alter or extend a nonconforming use or structure.

Attorney Allen stated that under M.G.L. ch. 40A, Sec. 6, the Board of Appeals may allow for an extension of an existing non-conformity if they find that there is no additional non-conformity and if they find that the extension is not substantially detrimental to the neighborhood. Attorney Allen argued that the best way to analyze substantial detriment to the neighborhood is to look at the lack of opposition and to the special permit requirements under Section 9.05. He noted again that the Petitioner spoke to the neighbors who had no issues and the Petitioner worked to meet with the abutter who originally opposed the project.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed additional square footage of the home, which will continue to be used as a single-family dwelling because the addition is situated at the rear of the home, more than 37 feet away from the nearest lot line; 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, and the size is consistent with surrounding homes in the Sargent Estates; the applicant will maintain the home's integrity and character with the materials used; there will be no nuisance or serious hazard to vehicles or pedestrians because the property's on-site circulation will not change and the extended driveway will have adequate turn around space and a large amount of additional open space will be landscaped; 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.

Chairman Geller then asked whether anyone was present to speak in favor of the proposal. Jason

Savage, 75 Sargent Road, Brookline, Massachusetts spoke in favor of the proposal. Mr. Savage had listened to the architect’s presentation of the plans and stated that he was supportive of the addition to the home.

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 5.20 – Floor Area Ratio

Dimensional Requirements	Allowed	Existing	Proposed	Relief
Floor Area Ratio (%)	.15 (100%)	.17 (113%)	.20 (133%)	Special Permit*
Floor Area	7,082 s.f.	8,108 s.f.	9,676 s.f.	

**Under Deadrick, the Board of Appeals may allow an extension of an existing non-conformity if it finds there is no substantial detriment to the neighborhood.*

Section 8.02.2 – Alteration or Extension

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

PLANNING BOARD COMMENTS

The Planning Board supports this proposed addition. The Board believes that the addition was designed in a sensitive and modest way, particularly considering the unique triangular-shaped lot that requires larger setbacks than abutting properties. The Board expressed that it would like to see less impervious surface overall and recommended modifications to the proposed driveway. Due to concerns from the abutters to the right, the Masons, the Board also highly recommended that the applicants meet to show them the plans.

Therefore, the Planning Board recommends approval of the site plan by Robert Gemma, dated 5/25/18 and the floor plans and elevations by Dell Mitchell Architects dated 6/25/18 subject to the following conditions:

1. Prior to issuance of a building permit, a final site plan, elevations and floor plans shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a landscaping and fencing plan shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: a) a final site plan, stamped and signed by registered engineer or land surveyor; b) final elevations and floor plans, stamped and signed by a registered architect; and c) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairman Geller then called upon Ashley Clark to deliver the comments of the Building Department. Ms. Clark stated that the Building Department has no objection 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 under M.G.L. Ch. 40A, Section 6 and the Deadrick case for a special permit from Section 5.20 for floor area ratio 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 because the home will remain a single-family home.
- b. The use as developed will not adversely affect the neighborhood because the lot is surrounded by large homes in the Sargent Estates.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians because there will be no change to on site circulation.
- 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.

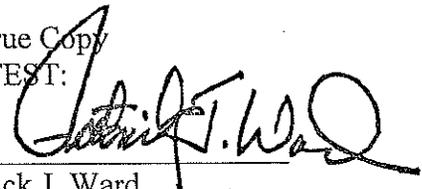
Accordingly, the Board voted unanimously to grant the requested special permit relief subject to the following conditions:

1. Prior to issuance of a building permit, a final site plan, elevations and floor plans shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a landscaping and fencing plan shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: a) a final site plan, stamped and signed by registered engineer or land surveyor; b) final elevations and floor plans, stamped and signed by a registered architect; and c) evidence 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: 8/31/12

A True Copy
ATTEST:

Patrick J. Ward
Clerk, Board of Appeals