



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Christopher Hussey

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

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2018 SEP 17 P 1:14

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0043
JENNIFER & FRANK PERRY
50 BROOK STREET, BROOKLINE, MA

Petitioners, Jennifer and Frank Perry, applied to the Building Commissioner for permission to revise the parking arrangement and create two front yard parking spaces to be shared by the residents of 50 and 52 Brook Street. 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 September 6, 2018 at 7:05 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 23, 2018 and August 30, 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:

50 BROOK STREET, BROOKLINE, MA 02445 - Revise parking arrangement and create two paved parking spaces in the front of 52 Brook Street and current shared driveway in a(n) T-5

**TWO-FAMILY & ATTACHED SINGLE-FAMILY on 09/06/2018 at 7:05 PM in the 6th Floor
Select Board's Hearing Room (Petitioner/Owner: PERRY, FRANK D & JENNIFER C) Precinct 4**

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:

§6.04.5.C.1 – DESIGN OF ALL OFF-STREET PARKING FACILITIES

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

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: 08/23/2018 & 08/30/2018

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairperson Johanna Schneider and Board Members Lark Palermo 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 present at the hearing were

Petitioner, Frank Perry, Petitioner for 52 Brook Street, Michelle Kalowski, and neighbors in support of the proposal.

Chairperson Schneider called the hearing to order at 7:05 p.m. Attorney Allen waived the reading of the public notice. The matter was heard in conjunction with Case No. 2018-0044, 52 Brook Street, Brookline, Massachusetts.

Mr. Allen then described the background of the proposal noting that Jennifer and Frank Perry live at 50 Brook Street and Michelle Kalowski and Peter Shorett live at 52 Brook Street. He then supplied the Board with photos of the existing parking conditions. He then described the proposal stating that the Petitioners, in conjunction with the Petitioners at 52 Brook Street, propose to construct a shared two-car parking area for the use of 50 and 52 Brook Street. He added that a rear deck would be constructed to serve 50 Brook Street, similar to the rear deck at 52 Brook Street. Attorney Allen noted that the back of both homes would be extensively landscaped and the existing asphalt at the rear would be removed. He also provided photos of other properties in the neighborhood with front yard parking.

Attorney Allen then stated that the Petitioners seek a special permit for relief from **Section 6.04.5.C.1** under **Section 6.04.12** for front yard parking; **Section 6.04.5.E** for the common driveway; from **Sections 5.60** and **5.70** under **Section 5.43** for rear and side yard setbacks and **8.02.2** for alteration and extension pursuant to **Section 9.05**.

Chairperson Schneider then asked whether anyone was present to speak in favor of the proposal. Martin Rowe, 16 Bowker Street, Brookline, Massachusetts, the immediate rear abutter of 50 Brook Street spoke in support of the proposal. Mr. Rowe stated that he understands the struggles the Petitioners go through and noted that he can see the parking from his kitchen. He noted that the revised proposal is extremely more favorable than existing conditions.

Austin Derris, 55 Brook Street, Brookline, Massachusetts, also spoke in favor of the proposal. Mr.

Derris stated that he is in support of the proposal for parking, which he would see from his front yard.

Holden Hodgson, 53 Brook Street, Brookline, Massachusetts, also spoke in favor of the proposal. Mr. Hodgson, the abutter immediately across from the location of the proposed parking, stated that he supports the proposal and suggests that the revised plans are an improvement to existing conditions.

Dan Lyons, 40 Brook Street, Brookline, Massachusetts, also spoke in favor of the proposal. Mr. Lyons noted that he is familiar with the struggle the Petitioners face and that he is supportive of the proposal and particularly keen on the addition of pavers.

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

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

FINDINGS

Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities

	Setback Required	Existing	Proposed	Finding
Front Yard				
(Parking Area)	15 feet	~ 15 feet	none	Special Permit*

** Under Section 6.04.12, as the Board of Appeals may grant a special permit to waive dimensional requirements for new parking facilities to serve existing buildings.*

Section 6.04.5.e – Common Driveway

The Board of Appeals may by special permit authorize the owners of adjoining properties to establish common driveways under common easement.

PLANNING BOARD COMMENTS

The Planning Board was sympathetic to the applicants' parking issues and commended them on a well-thought out plan and gathering neighborhood support. However, the Board could not support the plan for parking spaces in the front yard due to concerns about safety and cars interfering with the sidewalk. The Board felt that this proposal was not consistent with the character of the neighborhood.

Therefore, the Planning Board recommends denial of the parking plan prepared by Bohler Engineering, dated 6/1/2018.

Chairperson Schneider 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. He noted that the Board has previously granted relief for front yard parking and thanks the applicants for going through this process to get the parking approved. He added that the Building Department has not received complaints regarding the previous front yard parking spaces that have been approved by the Board.

During deliberation, the Board Members discussed the positive neighborhood support and worked to create conditions to mitigate safety concerns with the proposal.

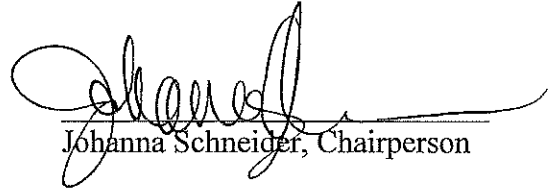
In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for a special permit from Section 6.04.5.C.1 under Section 6.04.12 for front yard parking; Section 6.04.5.E for the common driveway; from Sections 5.60 and 5.70 under Section 5.43 for rear and side yard setbacks and 8.02.2 for alteration and extension, pursuant to Section 9.05, were met.

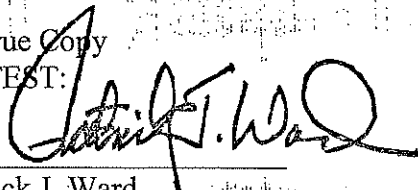
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

- 1) Prior to the issuance of a building permit, the applicant shall submit stamped and surveyed parking plan including existing and proposed conditions 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 landscaping plan subject to the review and approval of the Assistant Director of Regulatory Planning.
- 3) Prior to 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 and floor plans stamped and signed by a registered architect; and 3) evidence easements relating to the use of the common driveway and shared space and decision have been recorded at the Registry of Deeds.
- 4) The Petitioners shall back all cars into the spots in the new driveway and the cars shall not overhang onto the sidewalk.
- 5) The two spaces shall be assigned as follows: one space to 50 Brook Street and one space to 52 Brook Street.

Unanimous Decision of
The Board of Appeals

Filing Date: 9/17/18


Johanna Schneider, Chairperson

A True Copy
ATTEST:

Patrick J. Ward
Clerk, Board of Appeals