

# *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  
CASE NO. 2018-0055  
JAMES LADGE  
125 TAPPAN STREET, BROOKLINE, MA

Petitioner, James Ladge, applied to the Building Commissioner for permission to widen the existing driveway. 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 20, 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 September 6, 2018 and September 13, 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:

**125 TAPPAN STREET, BROOKLINE, MA 02445 - Widen driveway in a(n) S-7 SINGLE-FAMILY on 09/20/2018 at 7:05 PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: James Ladge) Precinct 12**

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:

**§6.04.4.C – DESIGN OF ALL OFF-STREET PARKING FACILITIES**

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

**§6.04.5.C.2 – 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](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: 09/06/2018 & 09/13/2018**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Mark G. Zuroff and Board Members Steve Chiumenti and Lark Palermo. Also present at the hearing were Planner, Karen Martin 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. Also in attendance was the Petitioner, Jim Ladge.

Chairman Zuroff called the hearing to order at 7:05 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioner seeks relief to widen the existing driveway by adding an additional parking area on the right side of the property. He noted that the home was located at a dangerous intersection and could be recognized in the winter as having the largest snow pile. Attorney Allen explained that the Planning Board was supportive of the proposal but suggested a condition requiring the driveway width to be 20 feet, which would not require a variance. Attorney Allen argued that Petitioner could seek relief for the proposed 24-foot driveway via special permit under Section 6.04.12 of the Zoning By-Law. He showed images of the current conditions and noted that the proposal would provide a safer entrance and exit and provide a pull-out area for the cars and a place to add trash receptacles. Furthermore, Attorney Allen noted that immediate abutter most impacted by the proposal, Ian Sklaver of 36 Blake Road provided a letter of support for the proposal.

Attorney Allen then stated that the Petitioner seeks a special permit for relief from Section 6.04.4.c under Section 6.04.12 for driveway width and from Section 6.04.5.c.1 and 2 under Section 5.43 for front and side yard parking area, all pursuant to Section 9.05.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed widened driveway and expanded curb cut which will drastically increase the safety of those leaving and coming to the property and those traveling on the street; 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 neighborhood will be positively impacted by the change in this driveway and increase in safety; there will be no nuisance or serious hazard to vehicles or pedestrians because the property's on-site circulation will change to improve visibility and the general improvements to the driveway and the site's landscaping will improve

the pedestrian environment; 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 Zuroff then asked whether anyone was present to speak in favor of the proposal. No one spoke in favor of the proposal.

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

Chairman Zuroff then called upon Karen Martin, Planner, to deliver the findings of the Planning Board. Ms. Martin noted the following:

**FINDINGS**

**Section 5.43 – Exceptions to Yard and Setback Regulations**

**Section 6.04.4.c – Design of All Off-Street Parking Facilities**

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

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

	Required	Existing	Proposed	Finding
Driveway Width	<20 feet	~15 feet	24 feet	Variance
Front Yard (Parking Area)	30 feet	~3 feet	~3 feet	Special Permit*
Side Yard (Parking Area)	5 feet	~ 20 feet	3.7 feet	Special Permit*

\* Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided.

### **PLANNING BOARD COMMENTS**

The Planning Board was sympathetic to the applicants' desire to make safer driveway conditions at this difficult intersection. The Board raised numerous concerns about the steep slope of the parking area and questioned whether a 24-foot-wide driveway, which would require a variance, was necessary to achieve the desired results. The Board recommended approval of the condition that the slope of the driveway be reduced to less than 8% for the portion that is beyond the face of the garage and that the driveway width be reduced down to 20 feet.

**Therefore, the Planning Board recommends denial of the site plan prepared by Verne Porter, dated 4/24/2018 subject to the following conditions:**

- 1) Prior to the issuance of a building permit, the applicant shall submit a stamped and surveyed site plan including existing and proposed conditions showing the slope of the driveway reduced to less than 8% for the portion that is beyond the face of the garage and the driveway width reduced to 20 feet 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: a) a final site plan, stamped and signed by a registered engineer or land surveyor; and b) evidence the decision has been recorded at the Registry of Deeds.

Chairman Zuroff 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, should relief be granted, the Building Department will work with the Petitioner to ensure compliance with the Building Code. He opined that the proposed conditions are better than existing conditions.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for relief from **Section 6.04.4.c** under **Section 6.04.12** and from **Section 6.04.5.c.1 and 2** under **Section 5.43** 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 widened driveway will drastically increase the safety of those using and surrounding the property.

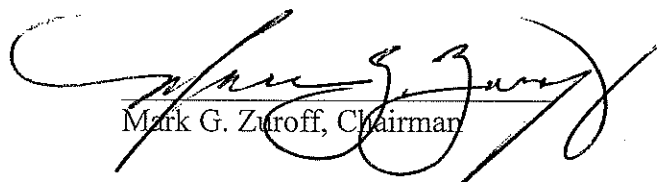
- b. The use as developed will not adversely affect the neighborhood because the home will continue to be used as a single-family dwelling and the neighborhood will be positively impacted by the increase in safety.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians because on site circulation will be improved.
- 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 stamped and surveyed site plan including existing and proposed conditions showing the slope of the driveway reduced to less than 8% for the portion that is beyond the face of the garage 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: a) a final site plan, stamped and signed by a registered engineer or land surveyor; and b) evidence the decision has been recorded at the Registry of Deeds.

Unanimous Decision of  
The Board of Appeals

Filing Date: 9/28/18

  
Mark G. Zurroff, Chairman

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals