



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark G. 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
20 NOV - 8 P 10:52

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0068
DUNSTER CH LLC
40 DUNSTER ROAD, BROOKLINE, MA

Petitioner, Dunster CH LLC, applied to the Building Commissioner for permission to construct a garage and attached connector. 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 October 18, 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 October 4, 2018 and October 11, 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:

40 DUNSTER ROAD, BROOKLINE, MA 02467 - Construct two-story addition connecting the existing home with the existing garage and renovate the existing home and garage in a(n) S-10

**SINGLE-FAMILY on 10/18/2018 at 7:00 PM in the 6th Floor Select Board's Hearing Room
(Petitioner/Owner: Casey and Michael Buckley) Precinct 13**

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

§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 the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

*Jesse Geller, Chair
Christopher Hussey
Mark G. Zuroff*

Publish: 10/4/2018 & 10/11/2018

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 Johanna Schneider. Also present at the hearing was the Assistant Director of Regulatory Planning, Polly Selkoe.

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 Michael and Casey Buckley and Gillian Baresich of LDa Architecture.

Chairman Zuroff 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 Petitioners seek relief to construct a new garage and connector. He noted that the proposal went through four Preservation Meetings, two before the full Commission and two subcommittee meetings. Attorney Allen stated that the Petitioners ultimately received unanimous approval for certificates of appropriateness from the Preservation Commission based on the present plans. He added that the Petitioners received unanimous support of the Planning Board and seven written letters of support from neighbors including all of the abutters other than the Longyear Museum.

Attorney Allen then stated that the Petitioners seek a special permit for relief from Section 5.50 and Section 5.70 under Section 5.43 and pursuant to Section 9.05 for front and rear yard setbacks. He noted that the relief was needed for one lot line that is considered a rear in part and a front in part. He further mentioned that the existing setbacks were significantly improving, noting that the side yard setback will now be complying and the previous zero-foot rear/ front yard setbacks will be increased to nearly ten feet.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed addition because the proposed addition will allow for a more

usable garage that is further away from the abutting properties than the existing garage; 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 addition is attractively designed and respects the home's historic architectural character; there will be no nuisance or serious hazard to vehicles or pedestrians because the property's on-site circulation will remain largely the same; 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. Robert Bland, 26 Dunster Road, Brookline, Massachusetts, acknowledged his attendance in support 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 Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the findings of the Planning Board. Mrs. Selkoe noted the following:

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Requirements

Section 5.50 – Front Yard Requirements

Section 5.70 – Rear Yard Requirements

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
Front Yard Setback (Portledge Road)	20 feet	0 feet	9.81 feet	Special Permit*/Variance
Rear Yard Setback	30 feet	0 feet	9.81 feet	Special Permit*/Variance

**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 COMMENTS

The Planning Board fully supported this proposal and commended it for being modest, well-designed and fully vetted by the Preservation Commission.

Therefore, the Planning staff recommends approval of the site plan by Paul Tyrell, dated 8/20/2018 and the floor plans and elevations by LDA Architecture & Interiors, dated 8/17/2018, 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 Staff.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan, 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 Zuroff then called upon Polly Selkoe to deliver the comments of the Building Department.

Mrs. Selkoe stated that the Building Department provided no feedback indicating any issue with this proposal.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for relief from **Section 5.50** and **Section 5.70** under **Section 5.43** and 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 proposed addition will allow for a more usable garage that is further away from abutting properties than the existing garage.
- 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 addition will respect the home's historic architectural character.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians because on site circulation will largely remain the same.
- 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 Staff.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan, 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.

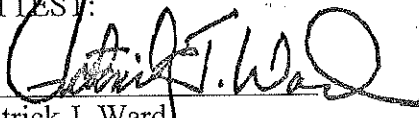
Unanimous Decision of
The Board of Appeals

Filing Date: 11/9/18



Mark G. Zuroff, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals