



# Town of Brookline Massachusetts

BOARD OF APPEALS  
Jesse Geller, Chairman  
Mark G. Zuroff

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

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TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2019-0005  
JEFFREY CONSIDINE & JINYOON CHUNG  
51 SALISBURY ROAD, BROOKLINE, MA

Petitioners, Jeffrey Considine and Jinyoon Chung, 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 March 14, 2019 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 Robert L. Allen, Jr., their attorney 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 February 28, 2019 and March 7, 2019 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:

**51 SALISBURY ROAD, BROOKLINE, MA 02445 - Remove a portion of the rear of the existing dwelling and construct a new two-story addition, including a new garage with an extended**

**driveway in a(n) S-7 SINGLE-FAMILY on March 14, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Jeffrey Considine) 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**

**§6.04.5.C.2 – 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](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 the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at [chaynes@brooklinema.gov](mailto:chaynes@brooklinema.gov).*

*Jesse Geller, Chair  
Mark G. Zuroff*

**Publish: February 28 & March 7**

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 Kate Poverman and Lark Palermo. Also present at the hearing was Planner, Karen Martin.

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 the

Petitioner, Jeffrey Considine, and the architect for the project, Vu Alexander of Sousa Design Architects.

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 proposal stating that the Petitioner proposes to widen the existing driveway. He noted that the home is located in the S-7 Zoning District. Attorney Allen added that the immediate abutter with the lot line against the driveway, Janet Lefko, of 29 Williston Road, is supportive of the proposal and provided a support letter which the Petitioners submitted with their application. He added that the driveway is right next to a street tree and the Petitioner has worked with an arborist to ensure that the tree will survive.

Board Member Poverman asked what alternatives were looked at and whether turn radii were reviewed. Attorney Allen noted that the Petitioners' options were limited because of the street tree and the tree at the rear of their property. He then showed the plans as presented to the Planning Board and showed that the revised set before the Board provides a portion of the driveway would remain at the pre-existing non-conforming setback and maintain the existing landscaping buffer.

Attorney Allen then stated that the Petitioners seek a special permit for relief from Section 6.04.5.c.2 under Section 5.43 and pursuant to Section 9.05 for the driveway setback in the side yard.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed widening of the driveway, as the driveway will remain in the existing location using the existing curb cut; the use will not adversely affect the neighborhood because the home will continue to be used as a single-family dwelling and the most impacted abutter is in support of the proposal; additionally, the applicants will provide additional landscaping as a counterbalancing amenity for dimensional relief and maintain a portion of the existing landscaped

buffer; there will be no nuisance or serious hazard to vehicles or pedestrians, as widening the driveway will create a clearer site line and a better pedestrian experience; 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 asked whether there would be bollards or curbing to prevent driving over the landscaping. Attorney Allen noted that the existing railroad ties would remain.

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

	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Side Yard (Driveway)</b>	5 feet	~ 5 feet	.4 to 4.2 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 did not support this applicant’s proposal to widen their driveway. The Board found it unnecessary and believed that there were other options to achieve the turning area needed to access the new garage without reducing all of the landscaped green space near the property line. The Board agreed to approve the proposal only on the condition that the applicant put back in the green buffer and only widen the driveway past the point of the garage.

Therefore, the Planning Board recommends approval of the site plan prepared by Peter Nolan, dated 5/18/2018, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a revised site plan showing the maintained landscape buffer up to 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.

Ms. Martin indicated that the revised site plan as presented was dated March 7, 2019.

Chairman Zuroff then called upon Karen Martin to deliver the comments of the Building Department. Ms. Martin stated that Planning Department would work with the Deputy Building Commissioner and the Petitioner to ensure compliance with the conditions of this decision.

In reliance on the above referenced revised plans, the Board then determined, by unanimous vote that the requirements for relief from Section 6.04.5.c.2 under Section 5.43 and pursuant to Section 9.05 for the driveway setback in the side yard, 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 driveway will remain in the existing location and utilize the existing curb cut.
- b. The use as developed will not adversely affect the neighborhood because the most impacted abutter is in support of the proposal and the Petitioners will maintain a portion of the existing landscaped buffer.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians as widening the driveway will create a clearer site line and a better pedestrian experience.
- d. Adequate and appropriate facilities will be provided for the proper operation of a single-family dwelling.

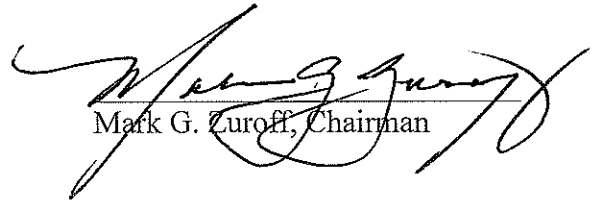
- e. Development will have no effect on the supply of housing available for low- and moderate-income people.

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

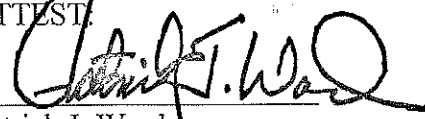
1. Prior to the issuance of a building permit, the applicant shall submit a revised site plan showing the maintained landscape buffer up to the garage subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating railroad ties or similar curbing between the driveway and the landscape buffer 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: 04/01/19

  
Mark G. Zuroff, Chairman

A True Copy  
ATTEST

  
Patrick J. Ward  
Clerk, Board of Appeals