



BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff

Town of Brookline

Massachusetts

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

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0012
3 GREENWAY COURT, BROOKLINE, MA

Petitioner, The Copley Group, applied to the Building Commissioner for permission to convert a six unit residential building to seven units by renovating the interior and adding a basement-level unit and a new courtyard entrance. 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 April 4, 2019 at 7:00 PM., in the Selectmen's Hearing Room as the date, time and place for the public hearing. Notice of the hearing was mailed to the Petitioners, to their attorney, Robert L. Allen, Jr., 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 March 21, 2019 and March 28, 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:

3 GREENWAY COURT, BROOKLINE, MA 02446 - Convert 6-unit residential building to 7 units by renovating interior and adding a basement-level unit and new courtyard entrance in a(n)

M-2.0 APARTMENT HOUSE on April 4, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Daniel Kane) Precinct 8

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:

§5.05 - CONVERSIONS

§6.01.2.A – GENERAL REGULATIONS APPLYING TO REQUIRED OFF-STREET PARKING FACILITIES

§6.02, Paragraph 1 - TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS

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
Mark Zuroff*

Publish: 3/21 & 3/28

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 Kate Poverman and Randolph Meiklejohn. Also present at the hearing were Planner, Karen Martin and Deputy Building Commissioner, Joseph Braga.

The case was presented by Robert L. Allen, Jr., Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, First Floor, Brookline, Massachusetts 02445. Also in attendance were the Petitioner, Dan Kane, and the architect for the Proposal, Rick Schmidt.

Chairman Geller called the hearing to order at 7:00 p.m. Attorney Allen waived the reading of the public notice.

Attorney Allen then described the proposal at 3 Greenway Court. He noted that the property is in the M-2.0 district in the heart of the residential neighborhood near Coolidge Corner. He added that the building is currently a multi-family with six units; the building is attached to another multi-family as a part of a collection of five total buildings around a central courtyard area. Attorney Allen stated that the Petitioners need relief for Section 5.05 for conversion to a seven unit building and from Section 6.02, Paragraph 1 under Section 6.01.2.a for required parking, all pursuant to Section 9.05. He noted that the Planning Board unanimously supported the proposal. Attorney Allen then introduced Rick Schmidt, the architect for the proposal to present the plans. Rick Schmidt, 78 Wolcott Road, Chestnut Hill, Massachusetts, presented the plans to the Board.

Board Member Poverman inquired as to requirements for supplemental parking. Attorney Allen opined that it was up to the Board's discretion. He noted that the Board may waive up to half of the required parking spaces in a conversion per Section 6.01.2.a of the Zoning By-Law. Mr. Schmidt noted that the Petitioner intends to promote bicycle use and provide bicycle storage in the basement.

Chairman Geller referenced Section 6.01.4 and raised concerns with whether a lease term of five years satisfies the requirements of the Section. Chairman Geller also questioned Section 6.02.2.e relating to the number of rooms in each unit and Section 6.03.1.b regarding the proximity of off-street parking facilities serving the premises, noting that per the Zoning By-Law the Board may authorize parking within 400' of the principal dwelling served.

Chairman Geller expressed his desire for the lease for parking to be for a longer term. Attorney Allen noted that the Petitioner would agree to a condition of that nature.

Board Member Poverman inquired whether the Petitioner was seeking a waiver of the requirement that parking be within 400' of the principal dwelling. Attorney Allen argued that the provision required compliance only in the instance where a new structure is being constructed. He also stated that the citation was for off-street parking space not off-street parking structure, which are two different terms in the Zoning By-Law. Karen Martin noted that under Section 6.01.2.a, in F, M, L, or G Districts, when a structure is converted for one or more additional dwelling units and the conversion results in an increased parking requirement, parking requirements for the entire structure shall be provided in accordance with the requirements of Sections 6.02 and 6.05. However, the Board of Appeals by special permit under Article IX may waive not more than one-half the number of parking spaces required under Section 6.02 and 6.05.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law for issuance of a special permit stating: the location is appropriate for the proposed use as a seven unit multi-family development, the lot is within an M-2.0 zoning district and the surrounding neighborhood is densely developed with other multi-family dwellings and nearby commercial units; the use will not adversely affect the neighborhood because the renovation of the existing building and addition of another unit and the related exterior improvements will result in a building in a better condition; there will be no nuisance or serious hazard to vehicles or pedestrians as vehicular and pedestrian site access will remain generally the same and there will be additional parking spaces leased at an off-site location; adequate and appropriate facilities will be provided for the proper operation of a multi-family dwelling; and there will be no effect on the supply on housing available for low and moderate income people. Attorney Allen suggested that

the addition of a garden level unit would provide a more affordable unit in Brookline. Board Member Poverman agreed.

Chairman Geller then asked whether anyone was present to speak in favor of the requested relief. No one spoke in favor.

Chairman Geller then asked whether anyone was present to speak in opposition to the requested relief. No one spoke in opposition.

Chairman Geller then called upon Karen Martin, Planner, to deliver the findings of the Planning Board.

Ms. Martin noted the following:

FINDINGS

Section 5.05 – Conversion

In the case of a conversion of a dwelling to create additional dwelling units in an F or M District, the structure shall conform to all dimensional requirements in Section 5.01; however, the Board of Appeals by special permit may waive any of said dimensional requirements except minimum lot size, provided that no previously existing non-conformity to such requirements is increased and provided that all other requirements of this by-law for such conversions are met.

6.02, Paragraph 1 – Table of Off- Street Parking Requirements

	Required (currently)	Required (new proposal)	Existing	Relief
Parking	12	14	9 (4 on-site, 5 off-site)	Special Permit*

** Under Section 6.01.2.a, In F, M, L, or G Districts, when a structure is converted for one or more additional dwelling units and the conversion results in an increased parking requirement, parking requirements for the entire structure shall be provided in accordance with the requirements of §6.02 and §6.05. However, the Board of Appeals by special permit under Article IX may waive not more than one-half the number of parking spaces required under §6.02 and §6.05.*

PLANNING BOARD COMMENTS

The Planning Board had no concerns for this proposal and noted that minimal zoning relief is required. The Board appreciated the well thought-out landscaping plan and suggested that the existing walkway could be made curved in order to add more green space.

Therefore, the Planning Board recommends approval of the site plan dated 9/11/2018 by Paul Foley and the floor plans and elevations dated 12/17/2018 by Rick Schmidt Architect, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a site plan, floor plans and elevations, subject to review and approval by 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 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: a) final floor plans and elevations stamped and signed by a registered architect; b) a final site plan, stamped and signed by a registered engineer or land surveyor; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairman Geller then called upon Joseph Braga, Deputy Building Commissioner, to deliver the report of the Building Department. Mr. Braga noted that he had no issues with the proposal and should the Board grant the requested relief, the Building Department would work with the Petitioner to ensure compliance with the building code and the conditions of the Board of Appeals decision.

The Board then deliberated. Board Member Poverman noted that her questions, particularly regarding satellite parking, were answered and stated that she was in support of the proposal and the requested relief. Board Member Meiklejohn agreed. Chairman Geller stated that the proposal meets the requirements of Section 9.05 of the Zoning By-Law and is worthy of relief.

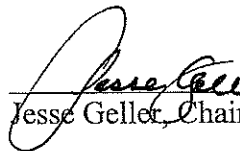
In reliance on the above referenced plans and for the reasons stated by the Petitioner's legal counsel, the Board then determined, by unanimous vote, that the special permit should be granted for Section 5.05 for conversion to a seven unit building and from Section 6.02, Paragraph 1 under Section 6.01.2.a for required parking, all pursuant to Section 9.05.

Accordingly, the Board voted unanimously to grant the zoning relief subject to the following conditions as amended and read into the record:

1. Prior to the issuance of a building permit, the applicant shall submit a site plan, floor plans and elevations, subject to review and approval by the Assistant Director of Regulatory Planning.

2. Prior to the issuance of a building permit, the applicant shall submit a valid and binding lease for five (5) parking spaces benefiting the premises for a term of at least ten years.
3. 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.
4. 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: a) final floor plans and elevations stamped and signed by a registered architect; b) a final site plan, stamped and signed by a registered engineer or land surveyor; and c) evidence that 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: _____

A True Copy
ATTEST:

Patrick J. Ward
Clerk, Board of Appeals

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2019 MAY 29 P 2:30