



BOARD OF APPEALS
Jesse Geller
Mark Zuroff
Johanna Schneider

Town of Brookline *Massachusetts*

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TOWN CLERK

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0075
Owner: Susan Z. Zwerling

Petitioner, Scott Ford, on behalf of owner, Susan Z. Zwerling, applied to the Building Commissioner for permission to establish and operate a home occupation (personal training) out of the existing residential building at 1117 Boylston Street. The application was denied and an appeal was taken to this Board.

The Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed January 23, 2020 at 7:00 p.m. in the 6th Floor Hearing Room at Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to 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 January 9, 2020 and January 16, 2020 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:

1117 BOYLSTON STREET, BROOKLINE, MA 02467 - Special permit for personal fitness studio (use #60) in a(n) S-10 SINGLE-FAMILY on 1/23/20 in the 6th Floor Select Board's Hearing Room at 7 pm (Petitioner/Owner: Scott Ford) 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:

§4.07 – TABLE OF USE REGULATIONS, USE #60

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
Johanna Schneider*

Publish: 1/9/2020 & 1/16/2020

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chair Jesse Geller and Board Members Mark Zuroff and Randolph Meiklejohn. Also present at the hearing were Planner Victor Panak, Zoning Coordinator Monique Baldwin, and Deputy Building Commissioner Joseph Braga.

The case was presented by Scott Ford, Law Office of Scott Ford, 265 Franklin Street Suite 1702, Boston MA. Also in attendance was the petitioner, Suzan Zwerling. Mr. Ford waived the reading of the public notice and described the scope of the proposed home occupation, as well as the requested zoning relief.

Board Member Zuroff noted that the home occupation was described as serving one client at a time, and so wondered why six parking spaces were needed. Mr. Ford confirmed that the practice would be limited to one client at a time and that the six parking spaces are an existing condition.

Board Member Zuroff asked if the applicant had any objections to a time limit on the Special Permit. Mr. Ford stated there was no objection on the applicant's part, provided that renewal would be permitted and/or a change to a permanent Special Permit could be sought.

Board Members briefly discussed the question of whether the decision should specify the type of home occupation being conducted. They decided that it should.

Chair Geller asked whether anyone was present to speak in favor of the proposal. No one spoke in favor of the proposal.

Chair Geller asked whether anyone was present to speak in opposition to the proposal. No one spoke in opposition to the proposal.

Chair Geller called on Victor Panak, Planner, to deliver the findings of the Planning Board. Mr. Panak noted the following:

FINDINGS

Section 4.07, Use 60

"Customary home occupation for gain. Special Permit required if customers or pupils come to the house for business or instruction."

The applicant has submitted documentation explaining the operation of their home occupation, which demonstrates, in staff's opinion, that the impacts on the surrounding neighborhood will be very minimal.

PLANNING BOARD RECOMMENDATION

The Planning Board had no objections to the proposed use but thought that the applicant should submit more information on how parking and circulation would function on the property. The Board also briefly discussed imposing a time limit on the Special Permit but decided to leave that determination up to the Zoning Board of Appeals.

Therefore, the Planning Board recommends approval of the proposal based on architectural plans by Leonardi Aray Architects, dated July 5, 2019, based on "Supplemental Application Information" provided by Scott D. Ford in support of the application, and subject to the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall 1) electronically submit evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.**
- 2. Prior to the issuance of a building permit, the applicant shall revise the plans to show the location of parking on the site and associated circulation.**

Chair Geller noted that the Zoning Board of Appeals had received a parking plan, dated January 22, 2020 and entered it into the record as Exhibit A.

Chair Geller called on Joseph Braga, Deputy Building Commissioner, to deliver the comments of the Building Department. Mr. Braga stated that the Building Department had no objections to the relief requested.

Board Member Zuroff indicated that he was supportive of the request but wanted to add a time limit and/or specify the type of home occupation as part of the conditions of approval. Board Member Zuroff suggested a time limit of 2 years and a condition specifying that the home occupation must be for a personal training studio.

Chair Geller and Board Member Meikljohn agreed and Board Member Meiklejohn added that the criteria of Section 9.05 of the Zoning By-Law were, in his view, satisfied.

In reliance on the above referenced plans, the Board determined, by unanimous vote that the requirements for a Special Permit under Section 4.07, Use 60 of the Zoning By-Law based upon the requirements of Section 9.05 of the Zoning By-Law were met, finding specifically under Section 9.05:

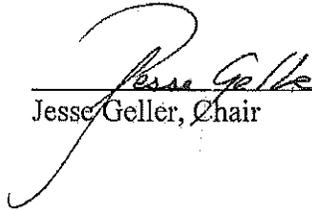
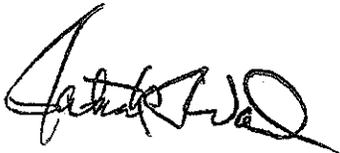
- a. The specific site is an appropriate location for such an accessory use.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The use as proposed will not have a significant adverse 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 1) electronically submit evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.
2. The permitted accessory home occupation pursuant to this Decision shall be for a personal training studio only.
3. The Special Permit granted hereby shall expire 2 years after the date of filing with the Town Clerk, subject to extension by the Zoning Board of Appeals at its discretion upon application and following a hearing therefor.

Unanimous decision of the
Board of Appeals

Filing Date: 2/24/20
Patrick J. Ward, Town Clerk



Jesse Geller, Chair