



BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Johanna Schneider

Town of Brookline *Massachusetts*

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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. 2020-0001
695 HEATH STREET, BROOKLINE, MA

Petitioner, Heath Street Realty 695 LLC, applied to the Building Commissioner for permission to construct a new two car garage. 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 February 6, 2020 at 7:00 PM., in the Select Board'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 January 23, 2020 and January 30, 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:

695 HEATH STREET, BROOKLINE, MA 02467 - Plans and elevations for denial to build a 2 unit Townhouse and 20x20 garage at 695 Heath Street by special permit. in a(n) T-5 TWO-FAMILY & ATTACHED SINGLE-FAMILY on at in the 6th Floor Select Board's Hearing Room on February 6, 2020 at 7:10 pm (Petitioner/Owner: Denis Cronin) *Precinct 15*

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 #05

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.63 - ACCESSORY BUILDINGS OR STRUCTURES IN SIDE YARDS

§5.72 - ACCESSORY BUILDINGS OR STRUCTURES IN REAR YARDS

§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.

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
Johanna Schneider
Mark Zuroff***

Publish: 1/23 & 1/30

On February 6, 2020, at the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chair Johanna Schneider and Board Members Mark Zuroff and Randolph Meiklejohn. Also present at the hearing were Victor Panak, Planner, Monique Baldwin, Zoning Coordinator/Planner and Joe Braga, Deputy Building Commissioner.

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 present at the hearing was the Petitioner, Denis Cronin, of Heath Street Realty 695 LLC.

Chair Schneider called the hearing to order at 7:10 p.m. Attorney Allen waived the reading of the public notice.

Attorney Allen introduced the proposal and noted that the Petitioner was seeking to construct a two-car garage and for a special permit to construct the interior of the proposed structure as two attached town houses. Mr. Allen noted that the property is in a T-5 District and the original proposal was granted a building permit to be constructed by right as a two family with five surface parking spaces. He added that the property is on the corner of Heath Street and Glenland Road. Neighbors approached the

Petitioner about the existing garage and mentioned the support for a new garage. He then explained that because the new garage proposal required relief, the applicant wanted to seek a special permit for the use as attached Town houses. Attorney Allen informed the Board that in May 2018, the Preservation Commission found the house significant, a stay was imposed and expired in May of 2019, at which point the structure was demolished. He further noted that the garage was found not significant by preservation and will soon be demolished and replaced should this Board grant the requested relief. He further noted that the Planning Board was unanimously in support of the proposal and the immediate abutters provided letters of support.

Attorney Allen then stated that the Petitioner seeks relief by special permit from **Sections 5.63** and **5.72** for accessory structure in the side and rear yard and from **Section 6.04.5.C.2** under **5.43** for a parking setback, all pursuant to **Section 9.05**. The applicant also requires relief from **Table 4.07, use 5** for use as town houses, which is allowed by special permit in the T-5 district. Mr. Allen noted that counterbalancing amenities would be landscaping and screening, which plan has been drawn up by Verdant and is supported by the neighbors. Attorney Allen noted for the record the support of the neighbors and the lack of opposition regardless of the fact that the site is under construction currently.

Attorney Allen described the standards under **Section 9.05** of the Zoning By-Law stating: the location is appropriate for the proposed use as a two attached town houses, the lot is within a T-5 zoning district and the surrounding neighborhood consists of many other two-family dwellings and town houses; the proposed garage is allowed in the rear and side yards by special permit; the use will not adversely affect the neighborhood because the proposed garage will improve the existing conditions and allow for the parking of two cars out; there will be no nuisance or serious hazard to vehicles or pedestrians as the driveway entrance will remain with an entrance on Glenland Road; adequate and appropriate facilities will be provided for the proper operation of two town houses with a two car

garage; and there will be no effect on the supply on housing available for low and moderate income people.

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

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

Chair Schneider then called upon Victor Panak, Planner, to deliver the findings of the Planning Board. Mr. Panak noted the following:

FINDINGS

- Section 4.07, Use #5 – Attached Dwellings**
- Section 5.43 – Exceptions to Yard and Setback Regulations**
- Section 5.63 – Accessory Buildings in Side Yards**
- Section 5.72 – Accessory Buildings in Rear Yards**
- Section 6.04.5.C.2 - Design of All Off-Street Parking**

Garage	Required	Existing	Proposed	Finding
Side Yard Setback	6 feet	1 foot	3 feet	Special Permit*
Rear Yard Setback	6 feet	1.3 feet	3 feet	Special Permit*

Parking Area for Three Cars	Required	Proposed	Finding
Front Yard Setback	15 feet	9 feet	Special Permit*
Side Yard Setback	5 feet	3 feet	Special Permit*

** Under Section 5.43, the Board of Appeals may waive by special permit yard and/or setback requirements, if a counterbalancing amenity is provided.*

PLANNING BOARD RECOMMENDATION

The Planning Board is supportive of the proposal and only briefly discussed the interior floor plans for clarification purposes.

Therefore, the Planning Board recommends approval of the plans by Kent Duckham, dated 12/18/19, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect or engineer and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape plan that shows proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for their review and approval 1) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director of Regulatory Planning; and 2) 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.

Chair Schneider then called upon 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.

During deliberation, Board Member Meiklejohn noted support for the proposal and no issue with the requested relief. Board Member Zuroff and Chair Schneider agreed.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for relief from 5.63 and 5.72 for the accessory structure in the side and rear yard and the setbacks for parking under 6.04.5.C.2 under 5.43 and a special permit under 4.07, use 5, all pursuant to Section 9.05 of the Zoning By-Law 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 use as two townhouses is allowed in the T-5 district.
- b. The use as developed will not adversely affect the neighborhood because the proposed garage will be a significant improvement to the existing conditions, more landscaping and adequate fencing will be provided, and the neighbors are supportive of the proposal.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians because the parking will remain on Glenland Road, as currently exists, and the streetscape will be improved.

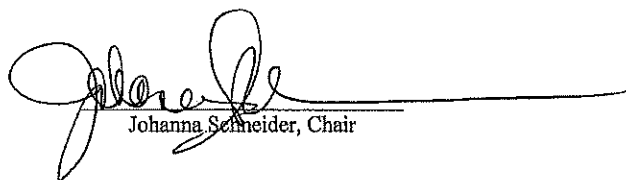
- d. Adequate and appropriate facilities will be provided for the proper operation the proposed use as two townhouses with a two car garage.
- e. Development will have no effect on the supply of housing available for low and moderate income people.

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 electronically submit final floor plans and elevations, stamped and signed by a registered architect or engineer and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape plan that shows proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for their review and approval 1) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director of Regulatory Planning; and 2) 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.

Unanimous Decision of

The Board of Appeals



Johanna Schneider, Chair

Filing Date: 2/25/2020

A True Copy
ATTEST:

The Board of Appeals



Jesse Geller, Chair

Filing Date: _____

A True Copy
ATTEST:

Patrick J. Ward
Clerk, Board of Appeals