



Town of Brookline

BOARD OF APPEALS
Jesse Geller, Chairman
Paul Bell
Randolph Meiklejohn

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0083
Owner: BOSTON LZ DEVELOPMENT, LLC

Petitioner(s), Boston LZ Development, LLC applied to the Building Commissioner for permission to demolish the existing structures and construct a new single-family home at 100 Cottage Street, Brookline, Norfolk County, Massachusetts. 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 March 12, 2020 at 7:00 p.m. in the Selectboards's Conference Room, Sixth Floor, Brookline Town Hall, 333 Washington Street, Brookline, Massachusetts 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 2/27/2020 and 3/5/2020 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 on **March 12, 2020** at **7:00PM** at Town Hall, 333 Washington Street, Brookline, on a proposal at:

100 COTTAGE STREET, BROOKLINE, MA 02445 – Construct a single family dwelling requiring design review in a(n) S-40 SINGLE- FAMILY on 3/12/20 in the 6th Floor Select Board’s Hearing Room at 7pm (Petitioner/Owner: Paul Apkarian) Precinct 5

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:

§5.09.2.n: Design Review

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: 2/27/2020 & 3/5/2020

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller, and Board Members Paul Bell and Randolph Meiklejohn. Kenneth M. Goldstein, Esquire, attorney for the petitioner, Boston LZ Development, LLC, presented the case on behalf of Boston LZ Development, LLC.

The existing structures at 100 Cottage Street are a single-family house with a detached carport and a small shed on a 46,953-sf lot. The current floor area is 2,448-sf. The house is sided with painted clapboards, has an asphalt roof and painted wood trim. The property is located near the intersection of Goddard Ave. and is in a neighborhood predominantly of large single-family dwellings on large lots. It is in an S-40 Zoning District. There are protected wetlands on the property.

The applicant plans to demolish the existing structures and build a single-family dwelling with a floor area of 6,767-sf. The demolition delay ordered by the Brookline Preservation Commission has expired.

The proposed structure complies with floor area ratio (FAR) and other dimensional zoning requirements. Applying the FAR maximum, the structure could, if built to the maximum allowed, have a floor area of 7,042-sf. Because the proposed structure contains basement space that could be made habitable in the future and the conversion of that space would bring the houses' FAR above the maximum allowed under the Brookline Zoning By-law, a Special Permit

is required pursuant to Section 5.09.2.n of the Brookline Zoning By-law. If the criteria for a Special Permit under Section 5.09.2.n are met, the owner of the property would, after ten years, be permitted to finish the unfinished basement space provided the resulting floor area does not exceed 130% of the maximum allowed floor area. Applying the 130% rule, the owner of the property could, in theory, finish 2,388-sf of addition space. The proposed structure has unfinished basement space of 1,870-sf and no other unfinished spaces are available for finishing.

The applicant asserted that the massing, scale, footprint and heights of the proposed structure are not substantially greater than other structures in the neighborhood. Generally, the proposed structure is in keeping with the massing, scale, footprint and height of many of the other homes in this area. The applicant presented comparisons to five other nearby properties.

The applicant asserted that the general conditions for a Special Permit under Section 9.05 of the Brookline Zoning By-law exist. The site is appropriate for the use. There is no adverse effect to this neighborhood of similarly scaled (or larger) homes. There is no hazard to vehicles and pedestrians. There is no adverse effect on affordable housing.

Architect Paul Apkarian presented the plans for the proposed structure to the Board.

The Chairman asked if anyone wished to speak in favor or in opposition of the proposal. No one was present to speak.

The Chairman called upon Monique Baldwin, Zoning Coordinator/Planner for the Regulatory Planning Division of the Brookline Planning and Community Development Department, to deliver the findings of the Planning Board:

FINDINGS

§5.09.2.n: Design Review

The Planning Department is supportive of this proposal although it would have preferred that the existing Cottage-Style house be preserved. The siting of the house will have to be approved by the Conservation Commission since there are wetlands on the site.

The Planning Board would have liked to see the existing house maintained but with the reductions to the floor area of the house is supportive of this proposal. The Board recommended that with wetlands on the property the landscape plan should be reviewed by the Conservation Administrator as well as Assistant Director of Regulatory Planning. Since neighbors were very concerned about blasting impacts on their home, the Planning Board recommended that a geotechnical study be done and that no blasting be allowed.

The Chairman called upon Joseph Braga, Chief Building Inspector, to deliver the comments of the Building Department. The Building Department had no objection to the Planning Board's recommendation.

Randolph Meikeljohn did not think the proposal or massing is out of line with the existing structures in the neighborhood. The topography creates the exposure at the basement level, therefore what they've done is appropriate.

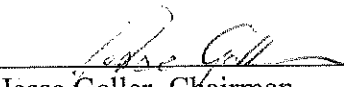
Paul Bell noted he has no objection to this proposal.

The Board deliberated on the merits of special permit relief as requested. The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 5.09.2.n of the Zoning By-Law and found that the general conditions for issuance of a special permit exist under Section 9.05.

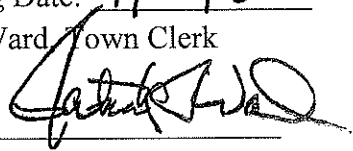
Therefore, the Planning Board recommends approval of the plans by Paul Apkarian Architects, Inc. dated February 13, 2020, and the site plan by VTP Associates, Inc. dated October 9, 2019, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit a final site plan and dimensioned floor plans and elevations, 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 electronically submit a final landscape subject to the review and approval of the Assistant Director of Regulatory Planning and Conservation Administrator.
3. Prior to the issuance of a building permit the applicant shall submit a complete geotechnical study subject to the review and approval of the Director of Engineering and if ledge removal is required it shall be accomplished by pneumatic hammer not by blasting.
4. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision 1) a final 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.

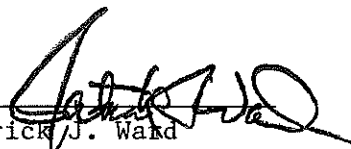
Unanimous decision of the
Board of Appeals



Jesse Geller, Chairman

Filing Date: 4/21/20
Pat Ward Town Clerk


Twenty days have elapsed and no appeal has been filed.



Patrick J. Ward
Town Clerk