



BOARD OF APPEALS
 Jesse Geller, Chair
 Mark Zuroff
 Johanna Schneider

Town of Brookline Massachusetts

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

TOWN OF BROOKLINE
 BOARD OF APPEALS
 CASE NO. 2021-000033
 76 VERNDAL STREET
 BROOKLINE, MA

Petitioner, Daniel Shen applied to the Building Commissioner to construct a shed on the left side of the home at 76 Verndale Street. 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed January 13, 2022, at 7:00 p.m. virtually as the time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 December 30, 2021, and January 6, 2022, 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 the following petition:

Address: **76 Verndale Street**
 Petitioner: **76 Verndale, LLC**
 Zoning District: **T-5 (Two-Family & Attached Single-Family)**
 Precinct: **9**
 Description: **Construct a shed on the left side**

Date, time, and location of the public hearing are as follows:

Date: 1/13/22
Time: 7:00 pm
Location: Virtual Meeting (see below)

Register for this virtual hearing:

<https://bit.ly/3EhOxTt>

After registering you will receive a confirmation email containing information about joining the hearing.

Our Virtual Meeting Guide for Applicants and the Public can be found here:

<https://bit.ly/30wRoY3>

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

§5.63 – ACCESSORY BUILDINGS OR STRUCTURES IN SIDE YARDS

QUESTIONS, PUBLIC COMMENT FILES, PDFs OR PRESENTATIONS:

*Advanced submissions of files and presentations are strongly encouraged. In an effort to ensure the Board has adequate time to review materials we ask that any additional documents such as written comment letters, photos, files, or presentations or questions be sent before the hearing to **Monique Baldwin** (mbaldwin@brooklinema.gov).*

*All plans and submissions may be found at: <https://aca-prod.accela.com/Brookline/Default.aspx>. An account is **NOT REQUIRED** to access materials. Public testimony will be taken during the hearing as normal.*

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters by mail or in the papers. Questions about hearing schedules may be directed to the Planning and Community Development Department at vpanak@brooklinema.gov, 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 **Assistive Listening Devices**, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.*

Jesse Geller, Chair
Mark Zuroff

Johanna Schneider

Publish: 12/30/2021 & 1/6/2022

On January 13, 2022, at 7:00 pm, the Brookline Zoning Board of Appeals held a public hearing. Present at the hearing were Zoning Board Chair Johanna Schneider and Board Members Mark Zuroff and Neil Wishinsky. The applicant, Daniel Shen, waived a reading of the public hearing notice for the record.

Mr. Shen provided an overview of the proposal, stating that he would like to place a 6' x 8' bike shed at the end of the driveway on the left side at 76 Verndale Street. Mr. Shen added that the site plan provided shows a 9' x 11' shed to allow for some flexibility regarding the proposed location. Mr. Shen also stated that since the proposed shed would be at the end of the driveway, there would be enough access for cars to maneuver. He noted that he reached out to abutters and that they are generally supportive of the proposal.

Mr. Shen added that minimal zoning relief is needed to allow the proposed accessory structure. Under **Section 5.43** of the Zoning By-law, a special permit for the side yard setback may be granted if counterbalancing amenities are provided. Mr. Shen stated he would plant an emerald green arborvitae the side yard to screen the shed from the public way.

Chair Schneider asked about an existing shed located on the left side in the rear of the lot. Mr. Shen stated that he did not know which abutter owned the shed but that he would not be demolishing the structure.

Board Member Zuroff asked if the shed will be built on foundation. Mr. Shen stated he is proposing a prefabricated shed and that it will not be permanently fixed.

Chair Schneider then called for public comments in favor of the proposal. No comments were submitted in support of the proposal.

Chair Schneider then called for public comments in opposition to the proposal. No comments were submitted and no one spoke in opposition.

Chair Schneider then called upon Monique Baldwin, Planner and Zoning Coordinator, to deliver the reports of the Planning Department and Board:

PLANNING DEPARTMENT COMMENTS

Ms. Baldwin stated that the Planning Department is supportive of this proposal. The Department would recommend that the applicant provide new landscaping as the counterbalancing amenity.

PLANNING BOARD RECOMMENDATION

The Planning Board has no issues with this proposal. Board members wondered whether a shed with no permanent foundation shouldn't be considered a temporary structure that isn't subject to zoning relief. The Board discussed the fact that the actual proposed shed is slightly smaller than the space shown on the plan requested by the applicant. The applicant stated that the request was made that way to allow for some flexibility in the placement of the shed.

The Planning Board recommends approval of the site plan by Boston Survey Inc., dated 8/31/21, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval. The site plan shall show a 6'x8' shed and its exact location on the site.
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. The counterbalancing amenities must be executed in accordance with the approved plan.
3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) 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 Deputy Building Commissioner, Paul Campbell, to deliver the opinion of the Building Department. Mr. Campbell stated that the Building Department has no objection to the relief requested.

Board Member Wishinsky asked why this project required zoning relief if the prefabricated shed is a temporary structure. Mr. Campbell stated that in the definition of an accessory structure, the Town's Zoning By-Law does not differentiate between a permanent or temporary structure. Therefore, the prefabricated shed does classify as an accessory structure.

The Board then deliberated on the merits of the application. Chair Schneider stated that the special permit standards under **Section 9.05** were met. She stated that special permit relief may be granted as requested as a sufficient counterbalancing amenity is provided and acknowledged the applicant's proposal to plant the green arborvitae that will provide screening from the street. Ms. Schneider noted that the project encourages biking, providing a variety of health and environmental benefits. Board Member Zuroff concurred and noted that it was a modest project. Board Member Wishinsky also concurred.

The Board voted unanimously to grant a special permit waiving the provisions of **Section 5.63** pursuant to **Sections 5.43** and **9.05** of the Zoning By-law.

The Board made the following specific findings pursuant to **Section 9.05** of the Zoning By-Law:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- 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 development 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 special permit relief, subject to the following revised conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval. The site plan shall show a 6'x8' shed and its exact location on the site.
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. The counterbalancing amenities must be executed in accordance with the approved plan.
3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) evidence

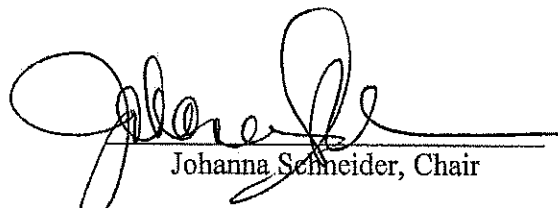
Unanimous decision of the

Board of Appeals

Filing Date: _____

FEB 08 2022

A True Copy
ATTEST:



Johanna Schneider, Chair



Benjamin Kaufman
Clerk, Board of Appeals