



Town of Brookline Massachusetts

TOWN CLERK'S OFFICE
DEC 21 2021 PM 4:42

BOARD OF APPEALS
Jesse Geller, Chair
Mark Zurroff
Johanna Schneider

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

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2021-000053
57 TOXTETH STREET, BROOKLINE, MA

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Petitioner, Frederic Choumert, applied to the Building Commissioner for permission to construct a shed in the side yard at 57 Toxteth Street. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the property affected was that shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed November 29, 2021, at 7:00 p.m., virtually, as the date, time, and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 November 11, 2021, and November 18, 2021, 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 **virtual** public hearing on **November 29, 2021** at **7:00PM**

Register for this hearing:
<https://bit.ly/3m0sc72>



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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>

57 TOXTETH STREET, MA 02446 – CONSTRUCT A SHED IN THE SIDE YARD. This property is in a T-5 TWO-FAMILY AND ATTACHED SINGLE FAMILY ZONE. This case is to be heard virtually on 11/29/2021 at 7pm (Petitioner: CHOUMERT, FREDERIC P & ABRON-CHOUMERT, SABRINA) Precinct 3

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

Any other relief the Board finds necessary

PUBLIC COMMENT FILES, PDFs OR PRESENTATIONS:

Advance 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 be sent before the hearing to Monique Baldwin (mbaldwin@brooklinema.gov) and Paul Campbell (pcampbell@brooklinema.gov). 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 or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at mbaldwin@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 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: 11/11/2021 & 11/18/2021

At the time and place specified in the notice, the Zoning Board of Appeals held a virtual public hearing. Present at the hearing was Chair Jesse Geller and Board Members Mark Zuroff and Randolph Meiklejohn. Also present at the hearing were Zoning Coordinator / Planner, Monique Baldwin and Deputy Building Commissioner, Paul Campbell.

Chair Geller reviewed the standard virtual hearing protocol with the Board Members and all those in attendance. Chair Geller called the hearing to order at 7:00 pm. The case was presented by the homeowner, Frederic Choumert, of 57 Toxteth Street, Brookline, Massachusetts. Mr. Choumert waived the reading of the public hearing notice.

Mr. Choumert noted that the family currently stores their bicycles in the basement due to past experience having their bikes being stolen, and therefore they are proposing a shed in the side yard for storage of the bikes. He stated that the shed would be painted the same color as the fence that was recently added and would be approximately 4.5' x 8' and no taller than seven feet. He noted the shed would not be visible from the street. Additionally, Mr. Choumert proposed planting a 10'

tree next to the shed as their counterbalancing amenity required under **Section 5.43** of the Zoning By-Law. He noted his neighbors were in support of the proposal.

Chair Geller then asked whether anyone was present to speak in favor of the proposal. Lynn Holden, an abutter, spoke in support of the project noting that her family's bicycles had also been stolen.

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

Chair Geller then called upon Monique Baldwin, Zoning Coordinator / Planner, to deliver the findings of the Planning Board:

PLANNING DEPARTMENT COMMENTS

The Planning Department is supportive of this proposal. The height of the shed is under the maximum allowed and would be obscured from the abutter and the public way by a fence that has just been installed. The Applicant newly installed this fence at the end of the driveway -- to better protect the rear yard—and along the property line to the south. While older photos of the property showed more than one vehicle parked in this 55 foot space with encroachment in the front yard setback, the combination of the new fence and location of accessory structure will not exacerbate this existing parking condition.

PLANNING BOARD COMMENTS

The Planning Board is supportive of this proposal as the proposed shed is small, straightforward and will not be visible from the public way.

The Planning Board recommends approval of the site plan by A.S. Elliott Associates, dated June 29, 2021, and the rendering of the proposed shed submitted September 14, 2021, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan and elevations for a wood shed with dimensions 4.5 feet deep by 8 feet wide and with a height of 7 feet max 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 submit a final [landscaping plan/site plan/narrative] indicating proposed counterbalancing amenities subject to the review and approval of 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: 1) a final site plan stamped and signed by a registered engineer or land surveyor, and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chair Geller then called upon Paul Campbell, Deputy Building Commissioner, to review the findings of the Building Department. Mr. Campbell stated that he has no opposition to the requested relief.

The Board then deliberated on the merits of the proposal. Board member Randolph Meiklejohn noted that the proposed counterbalancing amenity is appropriate and that he supports the project.

Board Member Zuroff asked Mr. Campbell whether there was a distinction between a permanent structure and a portable structure. Mr. Campbell noted that the definition of structure in the Zoning-Bylaw does not distinguish the two. Therefore, the shed needed to be cited. Board Member Zuroff stated that he supported the project. Chair Geller agreed with Board Members Meiklejohn and Zuroff.

The Board then determined, by unanimous vote to grant the special permit relief sought regarding the side yard setback under Section 5.43 of the Zoning By-Law and pursuant to Section 9.05 of the Zoning By-Law.

The Board made the following specific findings pursuant to said Section 9.05:

- 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. Development will not have any 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 revised conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit final site plan and elevations for a wood shed with dimensions 4.5 feet deep by 8 feet wide and with a height of 7 feet max subject to the review by and approval of the Assistant Director of Regulatory Planning.
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 and to be implemented prior to issuance of a Certificate of Occupancy.
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) a final site plan stamped and signed by a registered engineer or land surveyor; 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.

Unanimous Decision of
The Board of Appeals

By:


Jesse Geller, Chair

Filing Date: DEC 21 2021

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals