



Town of Brookline

Massachusetts

BOARD OF APPEALS
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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2021-0078
63 GREEN STREET

Petitioner WC Green 63, LLC applied to the Building Commissioner for permission to demolish the existing two-family dwelling and construct a new three-family dwelling at 63-65 Green 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 August 18, 2022, 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 August 4, 2022, & August 11, 2022, in the Boston Globe, a newspaper of general circulation in Brookline.

A copy of said notice is as follows:

TOWN OF BROOKLINE – Zoning Board of Appeals

NOTICE OF HEARING

The Brookline Zoning Board of Appeals will hold a public hearing on

Date/Time: Thursday, August 18, 2022

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3J7xgR6>

Petitioner: WC-Green 63 LLC

Address: 63 – 65 Green Street

Subject: Demolish two-family dwelling and construct new three-family dwelling

Nature of Action/Relief:

§5.09.2.M – DESIGN REVIEW

Plans and submissions may be viewed online at

<https://brooklinema.gov/DocumentCenter/Index/2352>

Interested persons may provide comments at the public hearing or by submitting written comments by email to manthony@brooklinema.gov.

Assistive Listening Devices are available upon request:

<https://www.brooklinema.gov/560/Americans-With-Disabilities-Act-ADA>

Publish: 8/4/2022 & 8/11/2022

On August 18, 2022, the Zoning Board of Appeals held a public hearing. Present at the hearing were Chair Johanna Schneider and Board Members Neil Wishinsky and Paul Bell. The case was presented by the attorney for the Petitioner, Robert L. Allen, Jr., RLAW P.C., 300 Washington Street, Second Floor, Brookline, Massachusetts. Also in attendance was Alan Mayer, Mayer + Associates Architects, 1647 Beacon St #1, Waban, Massachusetts.

Zoning Board of Appeals Chair Schneider called the virtual hearing to order at 7:00 pm. Chair Schneider reviewed the standard hearing procedure for virtual hearings and confirmed that all Board Members and staff could visually and auditorily engage in the hearing. Attorney Allen waived a reading of the published notice.

Attorney Allen presented the case for the Petitioner. Attorney Allen stated that the proposal is to demolish the existing two-family structure and construct a new three-family home at 63 Green Street located in the F-1.0 zoning district. He stated the proposed FAR is .99, where a maximum of 1.0 is allowed, and stated that the proposal complies with all other dimensional criteria and a special permit is required under **Section 5.09** Design Review.

Attorney Allen stated that the proposal went to the Planning Board on three occasions and, through the process, received the support of the Planning Board. He noted that the original proposal was modern in design. However, he added that based on feedback from the Planning Board and the abutters, the design was significantly modified to fit in with the neighborhood. Mr. Allen noted that in addition to the changes made to the design, the building was flipped in response to the abutter's concern regarding shadow impacts on their property. He stated that a few minor modifications had been made to the design after the Planning Board meeting on July 7, 2022. He noted that none of these changes impact the zoning and are in the spirit of the proposal that the Planning Board endorsed and seeks to further address concerns from abutters.

Mr. Mayer presented a digital presentation of the proposal. Mr. Mayer reviewed the existing conditions of the lot and neighborhood and presented renderings of the proposal structure. Mr. Mayer described the materials and the use of stucco on the exterior to tie in with abutting structures. He additionally reviewed the building code requirements for a three-family building versus a two-family building and noted that preserving the existing structure poses significant obstacles, including the need for an elevator, staircases and accessibility requirements. Upon inquiry from Chair Schneider, Mr. Mayer stated that extending the stucco material to the rear of the building poses several logistical challenges and described the design principles underpinning differentiating the rear volume from the front.

The Board discussed the number of parking spaces proposed. Attorney Allen noted that the proposal includes six spaces for the three units; the spaces are underground and do not impact the massing of the building.

Attorney Allen then reviewed the requested zoning relief. He stated that since the proposal is to demolish the existing structure in the Coolidge Corner Overlay District, a special permit is

required under **Section 5.09** Design Review. He stated that the proposal complies dimensionally with a proposed FAR of .99, where the maximum is 1.0. Attorney Allen noted that the zoning district was recently amended at Town Meeting, and the records indicated that the FAR was initially proposed at 0.75 and increased to 1.0 during the town meeting process.

Attorney Allen then reviewed the special permit requirements enumerated in **Section 9.05**, stating the followings: 1) Specific site is an appropriate location for such use: The proposed building is in a residential neighborhood and will be in keeping with the surrounding structures. To the rear of the lot is a nine-story apartment building, and the block is bookended with four-story apartment buildings. Across the street is a four-story apartment building. 2) Use will not adversely affect the neighborhood: The proposed building will be used as a three-family dwelling, one more unit than the existing two-family, consistent with many homes in the neighborhood that include larger apartment buildings. The proposal will comply with setbacks and other dimensional criteria. 3) No nuisance or serious hazard to vehicles or pedestrians: The property's on-site circulation will not cause a nuisance or serious hazard to vehicles or pedestrians. The driveway and garage were designed to have minimal impact on abutters and the neighborhood. 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use. Adequate and appropriate facilities will be provided for properly operating a three-family dwelling. 5) Development will not have any effect on the supply on housing available for low- and moderate-income people.

Attorney Allen stated that the building's design received a positive recommendation from the Planning Board and was designed to comply with zoning and meet many of the Town's sustainability goals and the neighborhood's preferred aesthetic. He further stated that an impact

statement was submitted outlining the Section 5.09 standards and reviewed the sustainability initiatives for this project.

Chair Schneider then called for public comments in support of or in opposition to the Petitioner. Susie Roberts, 69 Green Street, stated that she is opposed to the demolition of the existing building and requested the Petitioner to preserve the existing building. Beatka Zakrzewski, 59 Green Street, also spoke in opposition.

Chair Schneider then called upon Planner and Zoning Coordinator Madison Anthony to present the Planning Board report.

FINDINGS

Section 5.09.2.m, Design Review: This project requires design review because it proposes the demolition of a building located in the Coolidge Corner Design Overlay District. The applicant has submitted an Impact Statement that explains how the project addresses the Community and Environmental Impact and Design Standards.

PLANNING DEPARTMENT COMMENTS

Ms. Anthony stated that the Planning Department is supportive of this proposal and added that the new building would yield an additional housing unit in a location that is accessible to public transit and a walkable commercial neighborhood. She continued that the proposed building has been revised to explicitly borrow common elements from the surrounding neighborhood. She stated that although staff feels that the current design is less coherent in its architecture, it does make strides in accommodating the concerns and comments from Board members and the public.

PLANNING BOARD COMMENTS

Ms. Anthony stated that although the Planning Board members had reservations about the size of the units, the Board did support the revised design.

Therefore, Ms. Anthony stated that the Planning Board recommends approval of the site plan by Boston Survey Inc., dated 6/16/22 and architectural plans by Mayer and Associates Architects, dated 6/17/22, the Planning Department recommends 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, and 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.
2. 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, floor plans, 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 Campbell to deliver the findings of the Building Department. Mr. Campbell stated that the Building Department had no objection to the requested relief and added that the Building Department would work with the Petitioner to ensure conformance with the Board's decision and all applicable building codes.

In deliberation, Board Member Wishinsky stated that while appearing large, the proposal complies with the Zoning By-law. Chair Schneider said the proposed use is by-right, and the proposal complies with all dimensional requirements. She noted that design review generally is deferred to the Planning Board as their area of expertise and added that having a better understanding of why the demolition of the existing building was necessary would have been helpful. Chair Schneider added that there is a separate demolition process with the town and the Petitioner has followed that process. Board Member Bell confirmed that the 12-month demolition delay process has expired. He added that the initial design was modern and took a completely different approach at the request of the Planning Board and noted that generally, the Planning Board's expertise is with the design. He added that his opinion is that the proposed design

reasonably fit in with the abutting structures, stated that he appreciated that the height is setback from the street, and noted that the new building would be energy efficient. Board Member Bell stated that the Petitioner has demonstrated that the threshold has been satisfactorily satisfied for the requested special permit on design review under Section 5.09.

Chair Schneider concurred and stated that she believed the proposal met the requirements of Sections 9.05 and 5.09.2.M to allow the demolition of the existing two-family dwelling and construction of a new three-family dwelling.

The Board then determined by unanimous vote that the proposal met the requirements for a special permit under Sections 9.05 and 5.09.2.M.

In addition, the Board made the following specific findings under Section 9.05 based on the evidence submitted at the hearing and the Board's deliberations:

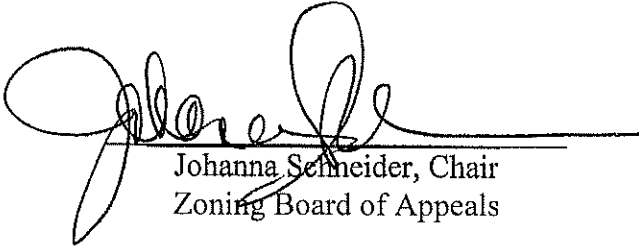
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the 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 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, and 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.
2. 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, floor plans, 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.

Unanimous Decision of
The Board of Appeals



Johanna Schneider, Chair
Zoning Board of Appeals

Filing Date: 9/7/22

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals