



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chair
Johanna Schneider
Lark Jurev Palermo

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

TOWN CLERK'S OFFICE
333 WASHINGTON STREET
BROOKLINE, MA 02445

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-0052
7 DANA ROAD

Petitioners Caroline and Donald Young applied to the Building Commissioner for permission to construct a detached garage in the side yard setback. 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 September 29, 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 September 15, 2022, & September 22, 2022, in the Boston Globe, a newspaper in 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, September 29, 2022

Location: Virtual Hearing

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

Petitioner: Donald R. & Caroline C. Young

Address: 7 Dana Street

Subject: Construct detached garage and 48 square foot addition to rear of dwelling.

Nature of Action/Relief:

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.60 - SIDE YARD REQUIREMENTS

§8.02 - ALTERATION OR EXTENSION

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: 9/15/2022 & 9/22/2022

On September 29, 2022, the Zoning Board of Appeals held a virtual public hearing. Present at the hearing were Chair Jesse Geller and Board Members Randolph Meiklejohn and Neil Wishinsky. 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 the project architect, Claudia Noury-Ello, 46 Waltham Street, Boston, Massachusetts.

Zoning Board of Appeals Chair Geller called the virtual hearing to order at 7:00 pm. Chair Geller 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 stating that the proposal is to demolish an existing single-car aluminum garage and to construct a new 12.5'x 22.5' garage at 7 Dana Road. He continued that the Preservation Commission found the existing garage not historically significant and described the proposed garage as behind an existing single-family dwelling. He added that the Planning Board provided unanimous support for the proposal without known opposition and four letters were submitted in support from direct abutters. Attorney Allen

concluded that the setback relief requested would be minimal and would not have a negative impact on the abutters.

Attorney Allen continued that the proposed garage structure requires relief for the side yard setback because the Zoning By-Law requires a 6-foot side yard setback and the proposed side yard setback is 2-feet. He commented that, while zoning relief may be granted pursuant under M.G.L. Ch. 40A Sec. 6, the Petitioner was amenable for the relief to be granted by Special permit pursuant to **Section 5.43** of the Zoning By-Law. He stated that the Petitioner would provide additional landscaping to satisfy the counterbalancing amenity requirement.

Attorney Allen reviewed the Special Permit standards enumerated in **Section 9.05** noting the following: 1) Specific site is an appropriate location for such use: The property is located in T-6, residential neighborhood, and the detached garage is consistent as a use accessory to a single-family dwelling; 2) Use will not adversely affect the neighborhood: The garage will go in approximately the same location as the existing garage and the immediate abutters provided a letter in support of the proposal; 3) No nuisance or serious hazard to vehicles or pedestrians: There is no change to the existing site circulation and the proposed structure is not expected to have any impact to vehicular or pedestrian traffic; 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use; 5) Development will not have any effect on the supply on housing available for low and moderate income people.

Chair Geller then called for public comments in support of or in opposition to the Proposal. No comments were submitted.

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

FINDINGS

ZONING: T-6	Requirements	Existing Conditions	Proposed Conditions	Relief Required
Accessory Structure Side Yard Setback (Garage)	6'	1.7'	2'	Special Permit*

¹ Under MGL Chapter 40A, Section 6, a pre-existing nonconforming structure can extend or intensify the nonconformity by special permit provided the Board of Appeals finds that the altered structure is not substantially more detrimental to the neighborhood than the existing structure.

Other Zoning Relief Needed

Section 8.02, Alteration or Extension: A special permit is required for the alteration of a non-conforming structure.

PLANNING DEPARTMENT COMMENTS

Ms. Anthony stated that the Planning Department is supportive of this proposal. She noted that the proposed garage will result in increased covered space for parking in the rear garage and it will also be an aesthetic improvement from the existing aluminum garage. Therefore, she stated, this proposal appears not to be detrimental to the neighborhood.

PLANNING BOARD COMMENTS

The Planning Board is supportive of this proposal. This proposal is of an appropriate scale and would improve the function of the existing garage and therefore does not appear to be substantially more detrimental to the neighborhood.

The Planning Board recommends approval of the site plan by Hancock Survey Associates, Inc., dated 6/13/22 and architectural plans by Noury-Ello Architects, dated 6/15/22, with 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 Geller then called upon Deputy Building Commissioner Paul Campbell to deliver the findings of the Building Department. Mr. Campbell stated that the Building Department had no objections to the requested relief and added that should the Board grant the requested relief, the Building Department would work with the Petitioners to ensure conformance with the Board's decision and all applicable building codes.

In deliberation, Chair Geller stated that the requested relief could be appropriately granted by Special Permit under **Section 5.43** and continued that the proposal meets the standards for the relief under **Section 9.05** of the Zoning By-Law. Board Member Meiklejohn concurred and was supportive of the requested special permit relief. Board Member Wishinsky stressed the minimal nature of the requested relief, and stated that the proposal satisfied the standards for the grant of a special permit.

The Board then determined, by unanimous vote, that the proposal met the requirements for a special permit granting relief from application of the provisions of **Section 5.60** of the Zoning By-Law pursuant to **Section 5.43** of the Zoning By-Law. 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:

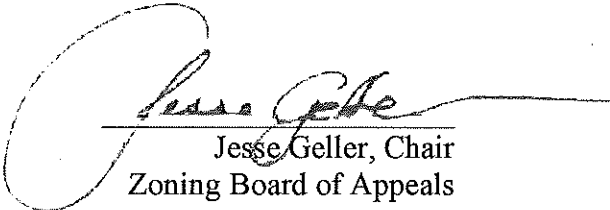
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the 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 revised 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 a landscape plan that shows proposed counterbalancing amenities subject to review of and approval by the Assistant Director for Regulatory Planning. The counterbalancing amenities must be implemented 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, 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.

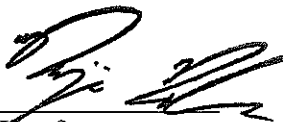
Unanimous Decision of
The Board of Appeals



Jesse Geller, Chair
Zoning Board of Appeals

Filing Date: 10/13/2022

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals