



BOARD OF APPEALS
Jesse Geller, Chair
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Lark Palermo

Town of Brookline

Massachusetts

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-00076
750 WASHINGTON STREET

Petitioners Janine Burman & Brendan Gage applied to the Building Commissioner for permission to replace the existing garage with a new garage, construct a third floor dormer, construct a 100 square foot rear bump out addition, and construct a second-floor addition to the rear. The application was denied and an appeal was taken to this Board.

The Board of Appeals 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 January 5, 2023, 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 December 22, 2022 & December 29, 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, January 5, 2023

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3HNAsm8>

Petitioner: Brandon M. Gage & Janine Burman-Gage

Address: 750 Washington Street

Subject: Replace the existing garage with a new garage, construct a small third floor dormer, construct a small 100 square foot rear bump out addition, and construct a second floor addition to the rear

Nature of Action/Relief:

§5.09.2.A – DESIGN REVIEW; §5.20 - FLOOR AREA RATIO;

§8.02 - ALTERATION OR EXTENSION

Plans and submissions may be viewed online at

<https://www.brooklinema.gov/DocumentCenter/Index/3379>

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: 12/22/2022 & 12/29/2022

On January 5, 2023, the Zoning Board of Appeals held a public hearing. Present at the hearing were Chair Johanna Schneider and Board Members Randolph Meiklejohn and Wadner Oge. The case was presented by the attorney for the Petitioners, Jennifer Dopazo Gilbert., RLAW P.C., 300 Washington Street, Brookline, Massachusetts. Also in attendance was the project architect, Eric Rochon, ART Architects, 33 Union Street, Boston, Massachusetts. The Petitioners, Janine and Brendan Gage, were also in attendance.

Zoning Board of Appeals Chair Schneider called the 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 Dopazo Gilbert waived a reading of the published notice.

Attorney Dopazo Gilbert presented the case for the Petitioners. Attorney Dopazo Gilbert stated that the single-family home located at 750 Washington Street is in an S-7 Zoning District and that the Petitioners are seeking to update the existing two-story home. She stated that the goal of the project was to make small but impactful changes to update the house to modern standards while respecting the historic home. She stated that a project overview from ART Architects dated

10/13/2022 was submitted to the Board of Appeals and provided a comprehensive overview of the project. Attorney Dopazo Gilbert continued that the proposed changes to the main house are modest, do not trigger the Demolition Delay By-Law, and added that the metal garage is proposed to be demolished as it has fallen into disrepair. She added that some changes to the driveway will also improve safety for both the owners and pedestrians. Attorney Dopazo Gilbert stated that three letters were submitted in support of the project, and there is no known opposition.

Attorney Dopazo Gilbert stated that the Petitioner is requesting a finding under M.G.L. Ch. 40A, Section 6 to allow for the increase of the preexisting nonconforming FAR and side yard setback. She continued that the existing FAR is 0.42 and the proposed FAR is 0.48, in a zoning district with a maximum FAR of 0.35 allowed. She added that though relief is only requested pursuant to Section 6, a community impact statement that outlines how the project satisfies the design review standards under **Section 5.09** was provided. Regarding the side yard setback, Attorney Dopazo Gilbert stated that the existing setback of the garage is 3.7 feet which would be maintained but extend toward the rear yard property line. She noted that no new nonconformities would be created and there would not be a substantial detriment to the neighborhood.

Mr. Rochon presented the site plans to the Board of Appeals. Upon inquiry from Chair Schneider, Mr. Rochon stated that the existing side yard setback of the garage is 3.7 feet and the proposed setback is 3.7 feet. He noted that the garage extends towards the rear yard from an existing rear yard setback of 9.9 feet to a proposed rear yard setback of 6.5 feet.

Attorney Dopazo Gilbert opined that while the special permit standards enumerated in **Section 9.05** of the Zoning By-Law are a higher standard than “substantial detriment,” the proposal meets those requirements and noted the following: 1) Specific site is an appropriate location for such use: The property is located in a residential neighborhood and the addition will maintain this use. 2) Use will not adversely affect the neighborhood: There will be no change to the use and the

proposed addition will not adversely affect the neighborhood. Three letters of support, including from direct abutters, were submitted and the abutter most directly impacted by the garage stated that “the proposed drawings look fantastic and notes that the design has maintained the charm of the original house...I couldn’t ask for a better situation as an abutter.” 3) No nuisance or serious hazard to vehicles or pedestrians: There will be no change to the site circulation for vehicles or pedestrians. The expansion of the garage will make it easier for the family to get in and out of the garage and the modest changes to an existing retaining wall will make it safer and easier for cars to enter and exit the driveway. 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use. The project includes interior work to bring the house up to modern code requirements and to improve energy efficiency. 5) Development will not have any effect on the supply on housing available for low and moderate income people.

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

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

FINDINGS

§5.09.2.A – DESIGN REVIEW

A special permit is required under this section. A Community and Environmental Impact Report was submitted and satisfactorily addressed all of the design standards.

§5.20 - FLOOR AREA RATIO (See below.)

§8.02 - ALTERATION OR EXTENSION

A special permit is required to alter or extend a non-conforming structure.

ZONING: S-10	Requirements	Existing Conditions	Proposed Conditions	Relief Required
Side Yard Stbk. Garage	6'	3.7'	3.7'	Special Permit ¹
FAR	0.30	0.42	0.48	Special Permit ¹

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.

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 staff believes the proposed modifications to the main house will improve its condition and energy efficiency, and the proposed materials are consistent with the existing house; and replacement of the garage, which is in poor condition, is appropriate.

PLANNING BOARD COMMENTS

Ms. Anthony stated that the Planning Board supports this proposal to rebuild a dilapidated garage and make some improvements to the main house and there should be no detrimental impacts to the surrounding neighborhood and several support letters were received.

Therefore, Ms. Anthony stated, the Planning Board voted unanimously to recommend approval of the site plan by Allen & Major Associates, dated 10/19/22 and architectural plans by ART Architects, dated 10/13/22, 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.

Chair Schneider then called upon Paul R. Campbell, Deputy Building Commissioner, 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 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.

The Board then deliberated. Board Member Meiklejohn stated that the drawings convey good stewardship of the property. He added that the proposal meets the requirements for relief and continued that the impacts of the addition do not rise to be more substantially detrimental to the neighborhood than the existing condition. Board Member Oge concurred and noted that the design fits within the existing neighborhood. Chair Schneider stated that the request meets the standards under M.G.L. Ch. 40A, Section 6 and the standards under **Section 9.05** of the Zoning By-Law.

The Board determined, by unanimous vote, that the proposal met the requirements for a finding under M.G.L. Ch. 40A, Section 6 allowing for an alteration or increase to preexisting nonconforming conditions as established **Section 5.20** to permit an increase in the preexisting nonconforming FAR and under **Section 5.60** for the side yard requirements to permit expansion of a preexisting and nonconforming side yard setback of 3'-7".

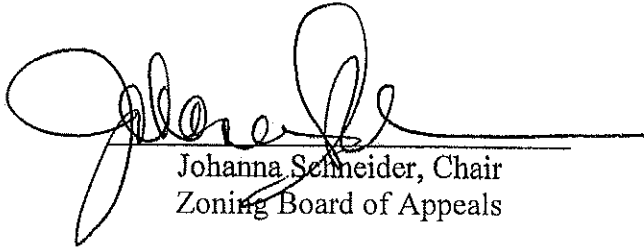
In addition, the Board made the following specific findings under **Section 9.05** based on the evidence submitted at the hearing and the Board's deliberation:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will no 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.

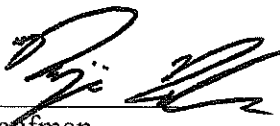
Unanimous Decision of
The Board of Appeals



Johanna Schneider, Chair
Zoning Board of Appeals

Filing Date: 1/26/2023

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals