



BOARD OF APPEALS
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Johanna Schneider
Lark Jurev Palermo

Town of Brookline

Massachusetts

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-000068
225 Pond Avenue

Petitioners Sangbae Kim & Ruby Wong applied to the Building Commissioner for permission to demolish the existing garage and to construct an attached two-story garage at 225 Pond Ave. 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 1, 2022, and December 8, 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, December 15, 2022

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3u3LMCR>

Petitioner: Sangbae Kim & Ruby Wong

Address: 225 Pond Ave

Subject: A single story addition as well as interior renovations to an existing house, including basement

Nature of Action/Relief:

§5.09.2.J - DESIGN REVIEW; §5.20 - FLOOR AREA RATIO;

§5.22.3.B.1.C - EXCEPTIONS TO FLOOR AREA RATIO (FAR) FOR RESIDENTIAL UNITS; §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: 12/1/2022 & 12/8/2022

On January 5, 2023, the Zoning Board of Appeals held a public hearing. Present at the hearing was Chair Johanna Schneider and Board Members Randolph Meiklejohn and Wadner Oge. The case was presented by the project's architect, Nima Yadollahpour, ONY Architecture, 129 Newbury Street, 2nd Floor Boston MA 02116.

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. Mr. Yadollahpur waived a reading of the published notice.

Mr. Yadollahpur presented the case for the Petitioners. Mr. Yadollahpur stated that the proposed project consists of an approximately 1,400 sq. ft. addition to the existing house, which is currently about 2,000 sq. ft. Roughly 630 sq. ft. of the addition will be basement space. He continued, explaining that the proposal will increase the FAR to a little over 19% of the allowable

FAR and, therefore, they are seeking a Special Permit for the proposal. He added that without the 630 sq. ft. of proposed basement space, the FAR would be conforming and that the existing GFA is currently 8,300 sq. ft., they would be allowed an additional FAR of just under 2,900 sq. ft. by right, and the proposal is for an additional 3,477 sq. ft. He stated that outside of the FAR non-conformity, the proposal complies with all other dimensional requirements.

Mr. Yadollahpur stated that proposal has received the approval of the Preservation Commission. He continued, stating that he has three letters of support from adjacent neighbors that he can share with the Board, if they wish to see them.

Chair Schneider inquired of the basement would be finished or unfinished. Mr. Yadollahpur explained that, since this is a historic neighborhood, they are limited to where they can put the addition and they will not be altering the front of the house in order to preserve the façade. Because of this, the entire addition will be to the rear. He continued, stating that the basement will be unfinished and mainly used for storage, since the existing one car garage cannot be expanded, since it is visible from the front yard and cannot be expanded.

Board Member Meiklejohn inquired if the grade on the lot rises from Pond Avenue towards the back as you go up behind the house and away from the river. Mr. Yadollahpur responded that the grade does rise very gradually, but most of this rise happens towards the rear. He explained that the grade is relatively flat until it reaches the existing sunroom to the rear of the house, after which where there's a gradual incline.

Board Member Meiklejohn stated that he is trying to better understand the overall impact and presence of the basement space since, looking at the site plan and elevation drawings, the grade looks essentially flat relative to the surrounding properties. He then asked if there are any windows to the basement space and, if there are, are they window wells or very small windows. Mr. Yadollahpur replied that there will be a reverse shelf on the foundation wall for the joist in

order to maintain eight inches from the gray to the other side of the siding and that the windows would be window wells. Board member Meiklejohn then asked what the material the deck behind the house was made of and if the opening under the deck was meant to be a crawl space to the basement. Mr. Yadollahpur digitally displayed the proposed basement floor plan and pointed out where the crawl space would be. He then explained that the basement that was being counted towards the FAR was highlighted in red on the proposed plans and the remaining portion, would be unfinished and pointed out where the deck would be in relation to the unfinished portion of the basement.

Chair Schneider stated that Mr. Yadollahpur had mentioned letters of support for the proposal earlier and asked if they had been submitted to the Planning Department. Mr. Yadollahpur responded that he had three letters of support but was not aware if they were submitted or not, but he could share them with the Board if they wished. He added that the letters were from the residents of 219 Pond Ave, 1231 Pond Ave, and 46 Glen Road and he can forward them to the Board if they wish to review them. Chair Schneider asked him to do so in order to have them on record.

Board Member Oge asked if the applicant could read or display at least one of the letters, so that the Board could review their content. Mr. Yadollahpur digitally displayed all three letters and read their contents to the board.

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

FINDINGS

§5.09.2.J - DESIGN REVIEW¹

§5.20 - FLOOR AREA RATIO

§5.22.3.B.1.B - EXCEPTIONS TO FLOOR AREA RATIO (FAR) FOR RESIDENTIAL UNITS

§8.02 - ALTERATION OR EXTENSION

ZONING: S-7	Requirements/Allowed	Existing Conditions	Proposed Conditions	Relief Required
Floor Area Ratio	0.35 2,898 sf	0.25 2,090 sf	0.42 (119.9%) 3,477 sf (includes unfinished basement)	<u>Special Permit</u> ²

¹ 5.09.2.J Design Review. In the following categories all new structures and outdoor uses, exterior alterations, exterior additions, and exterior modifications or changes, including exterior demolitions, which require a building permit from the building department under the Building Code, shall require a special permit subject to the community and environmental impact and design review procedures and standards hereinafter specified. This case falls under:
J. any exterior addition or exterior modification for which a special permit is requested pursuant to §5.22.

² Section 5.22.3.B.1.B, Exceptions to Maximum Floor Area Ratio Regulations for Residential Units:

In all S and SC Districts, a special permit may be granted for an increase in floor area above the permitted gross floor area. For this case, an exterior addition that is less than or equal to 20% of the permitted gross floor area is allowed by special permit.

PLANNING STAFF COMMENTS

The additions will provide the residents with additional room for their family. A large portion of the increase in FAR is due to the inclusion of the unfinished basement in the calculation, which will not be visible to the public. The additions will also have a minimal impact on the public way and surrounding abutters and is therefore unlikely to be substantially more detrimental to the neighborhood than the existing structure.

PLANNING BOARD COMMENTS

The Planning Board is supportive of this proposal. The Board appreciated the attractiveness of the addition's massing and valued the differentiation between the existing historical house and the proposed structure. The proposal was considered to be in scale with the neighborhood, given that the addition was mostly to the rear.

If the Planning Board recommends approval of the site plan by Vineyard Engineering & Environmental Services Inc., dated 9/21/21 and architectural plans by ONY Architecture, dated 12/1/2022, 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 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.

Chair Schneider asked if the Board was sent any kind of analysis for the design review. Ms. Anthony responded that no analysis for the design review was sent to the Board.

The Board then deliberated. Chair Schneider began deliberations by stating that normally under §5.09.2.J – Design Review, some sort of impact statement is required. She continued, stating that she wants to make sure there is evidence on the record to support the Board's decision. Board Member Meiklejohn asked Chair Schneider if this is something that can be addressed in the conditions. Chair Schneider responded that this was a good idea and asked the Mr. Yadollahpur if he would approve of the Board adding a condition stating the approval was subject to the submission and approval by the Assistant Director of Regulatory Planning of an analysis of the project in reference to the community and environmental impact and design procedures and standards outlined in §5.09.2.J.

Chair Schneider continued, stating that in reference to the special permit criteria, outside of the issue of lacking an impact statement, the use is appropriate for the area, there does not appear to be any adverse impact to the neighborhood, and there do not appear to be any nuisances or hazards that will be created by this proposal. However, she stated she would like to hear from her fellow board members whether they feel adequate and appropriate facilities have been provided,

as she knows there are window wells and a crawl space in the basement expansion space that are a part of the proposal. She added that the proposal does not appear to have an effect on the supply of adequate affordable housing in the area.

Mr. Yadollahpur asked if the window wells would be under the jurisdiction of just building code, as opposed to the approval of the Board. Chair Schneider responded, stating that special permits have criteria that must be met under the bylaw, one of which is whether adequate and appropriate facilities have been provided for the operation of the use, and everything that is being proposed here falls within the jurisdiction of the board in reference to those particular factors.

Board Member Meiklejohn stated that, looking at the project, it appears quite restrained and modest. He continued, stating that because of this, the added area does not appear to be impactful on the public way or from surrounding areas. He stated that he believed the criteria for a special permit have been met here and explained that he is comfortable making the impact analysis a condition because, looking at the language of the bylaw, the environmental and community impact standards are guidelines, rather than rigid requirements and the project was proposed in a way that has little impact on the community of environment. He stated that he would be in favor of granted the requested relief, subject to the additional condition.

Board Member Oge stated that he agreed that it appears all the criteria for relief has been met and he appreciates the fact that the proposal has neighborhood support. He continued, stating he would be comfortable adding the impact analysis as a condition and he would be in favor of granting the requested relief.

The Board then determined, by unanimous vote, to grant the requested Special Permits and that the petitioner has satisfied the requirements necessary for relief under **Sections 5.09.2.J, 5.22.3.B.1.B, and 8.02.2** of the Zoning By-Law. In addition, the Board made the following specific

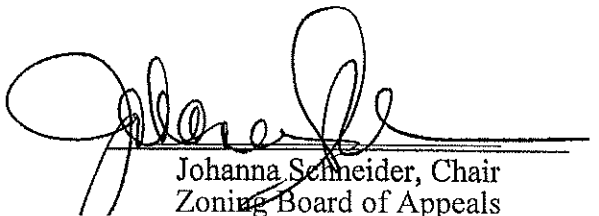
findings under said Section 9.05 based on the evidence submitted at the hearing and the Board's deliberation:

- 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.
3. Prior to the issuance of a building permit, the applicant shall submit an analysis of the project in reference to the community and environmental impact and design procedures and standards outlined in §5.09.2.J. of the bylaw to the Assistant Director for Regulatory Planning for review and approval.


Unanimous Decision of
The Board of Appeals



Johanna Schneider, Chair
Zoning Board of Appeals

Filing Date: 3/15/23

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals