



Town of Brookline

Massachusetts

BOARD OF APPEALS
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2022 FEB 16 10:00 AM
TOWN OF BROOKLINE

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-00072
11 CHESTNUT PLACE

Petitioners Bryce Klempner and Julia Africa applied to the Building Commissioner for permission to demolish and reconstruct an existing carriage house. 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 February 16, 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 February 2, 2023, and February 9, 2023, 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, February 16 2022

Location: Virtual Hearing

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

Petitioner: Bryce Klempner & Julia Africa

Address: 11 Chestnut Place

Subject: Demolish and reconstruct existing carriage house

Nature of Action/Relief:

§5.03 - SPACING OF RESIDENTIAL BUILDINGS ON THE SAME LOT; §5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS; §5.60 - SIDE YARD REQUIREMENTS; §5.70 - REAR YARD REQUIREMENTS

Plans and submissions may be viewed online at

<https://www.brooklinema.gov/DocumentCenter/Index/3647>

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: 2/2/2023 & 2/9/2023

On February 16, 2023, the case was continued with the approval of the Zoning Board of Appeals to March 2, 2023.

On March 2, 2023, the Zoning Board of Appeals held a virtual public hearing. Present at the hearing were Chair Jesse Geller and Board Members Paul Bell and Saul Feldman. The case was presented by the attorney for the Petitioner, Robert Allen, Jr., RLAW P.C., 300 Washington Street, Brookline, Massachusetts. Also in attendance were Bryce Klempner, the Petitioner, and Jeff Klug, the project architect, BUTZ + KLUG Architecture, 157 W Newton Street, Boston, MA.

Zoning Board of Appeals Chair Geller called the 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 Petitioners stating that the Petitioner and his family have lived at the property for about eight years, during which time they have proven themselves excellent stewards of the home at 11 Chestnut Place. He continued that the present proposal, would preserve a 30-inch cork tree, despite the resultant design constraints.

Attorney Allen then stated that the home at 11 Chestnut Place is a two-and one-half story single-family residence, with the nearby carriage house standing some three hundred feet from the nearest public street. He added that property is located south of Lincoln School, near the Brookline Cemetery, in a S-25 residential zoning district, and that the neighborhood, which abuts the S-40 zoning district, consists almost entirely of other single-family residences. Attorney Allen continued that letters from neighbors in support of the project had been submitted to the Board of Appeals.

Attorney Allen stated that the first floor of the existing carriage house consists of 1,000 square feet and is used for parking for three cars and storage space, while the second floor, roughly 900 square feet of gross floor area, also includes an attached deck. He noted that the mechanical equipment for the home is currently exposed on the side of the carriage house. Attorney Allen continued that the proposal calls for demolishing the existing carriage house and replacing it with a 1,347 square foot carriage house, increasing the setback from the property line to the west by 4 feet. He added that the first floor of the carriage house would still provide parking for three cars and that the second floor would still be used as living space. Attorney Allen noted that a mechanical and storage room would be added to house the mechanicals, thus protecting them from the elements. He emphasized that a stay on demolition, upheld by vote of the Preservation Commission, had expired some months ago. Attorney Allen mentioned that letters of support had been received from the immediate abutters at 77 Codman Road, 33 Chestnut Street, 1 Chestnut Place, and 29 Chestnut Place, as well as from the neighbor at 41 Codman Road.

Project architect Jeffrey Klug then presented the site plans to the Board of Appeals. In reliance on a digital presentation, Mr. Klug displayed an overhead view of the property at 11

Chestnut Place and identified the main and carriage houses and reviewed the efforts taken by the Petitioners to renovate the house.

Mr. Klug then displayed a picture of the old home and carriage house, noting the myriad of the existing design elements and the elevation changes between the two structures. While showing a 3-D rendering of the property, he stated that one of the primary objectives in renovating the carriage house is to provide a structure that is materially rich but reductive, thereby accentuating the materials and design of the main home. Mr. Klug also displayed a photo of the existing carriage house, stating that the structure had previously likely experienced at least one significant addition. Mr. Klug also showed a photograph of the existing deck on the second story of the carriage house, again pointing out where additions had likely been previously made.

Mr. Klug then compared the existing site plans to the proposed site plans, noting that the latter would increase the existing side setback to the west by four feet, with any further increase likely to result in impracticalities. He continued that the second floor would continue to be used as an outdoor deck and that most trees would be unaffected by the work.

Chair Member Bell inquired about the location of the new garage's condensers. Petitioner Klempner stated that the condensers will be located to the left and rear of the carriage house, underneath the deck of the second story. Chair Member Bell asked whether the neighbor nearest to the carriage house had objected to the project. Attorney Allen stated that the neighbor had not expressed any opposition to the proposal. Petitioner Klempner added that the neighbor, himself an architect, had written a letter in support of the project.

Attorney Allen then reviewed the requested relief, noting that the carriage house was subject to expansive setback requirements because it constituted "any other structure" within the meaning of the zoning code. He stated that relief was sought from **Section 5.60** of the Zoning By-

Law where a minimum side yard setback of 30 feet is required and the proposed carriage house will have a setback of 1 foot-7.5 inches. Attorney Allen noted that this relief would actually reduce the existing intrusion into the side yard from more than 50 square feet to about 20 square feet. He continued that relief from **Section 5.70** of the Zoning By-Law, requiring a minimum rear yard setback of 60 feet, was also required since the proposed setback is 49 feet (with a 64 foot existing set back). He continued that the relief was available under **Section 5.43** of the Zoning By-Law, according to which the Petitioner would provide a counterbalancing amenity in the form of enclosing the mechanicals, preserving an existing cork tree, and performing extensive landscaping around the property. Attorney Allen added that he believed it was important for the Board of Appeals to review the proposed carriage house in light of the condition of the main house.

Attorney Allen then reviewed the special permit requirements of **Section 9.05** of the Zoning By-Law, stating the following: 1) Specific site is an appropriate location for such use: The property is located in an S-25 residential neighborhood, a carriage house is a generally permitted accessory use to a single-family home, and the attached carriage house will be constructed where an existing carriage house currently stands. 2) Use will not adversely affect the neighborhood: The carriage house will go in approximately the same location as the existing carriage house. The square footage of the structure contained in the side-yard will be reduced by the proposal, and mechanicals will be screened from view. Neighbors have not expressed any opposition to the proposal, and several have submitted letters in support. The Planning Board was unanimously supportive of the application. 3) There will be 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 on vehicular or pedestrian traffic. 4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use: The screening of the

mechanicals will be a nice improvement to their operation. 5) There will be NO 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 public comments were made at the hearing.

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

FINDINGS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.60 - SIDE YARD REQUIREMENTS

§5.70 - REAR YARD REQUIREMENTS

ZONING: S-25	Requirements	Existing Conditions	Proposed Conditions	Relief Required
Side Yard Setback	30'	1'-7 ½"	1'-7 ½"	<u>Special Permit</u> ¹
Rear Yard Setback	60'	56'	49'	<u>Special Permit</u> ¹

¹ **Section 5.43, Exceptions to Yard and Setback Regulations:** Relief from setback requirements can be granted through this section if the applicant can provide an adequate counterbalancing amenity that mitigates negative impacts arising from the requested deviation from the provisions of the Zoning By-law.

PLANNING DEPARTMENT COMMENTS

Ms. Anthony stated that Planning Department Staff is supportive of the proposal. She continued that the new accessory carriage house would not significantly increase the property’s FAR and that extending the existing nonconformity should have no negative impact to the surrounding neighborhood. Ms. Anthony noted that since the carriage house is at the rear of the lot, and large mature trees surround the property, it will not be visible from the streetscape. She added that Staff is pleased that the reconstruction will not impact mature trees

Ms. Anthony continued that the Planning Board is supportive of the proposal, as the new carriage house will allow a more uniform architectural language with the main house which is historically significant. She added that the Board is pleased that the mature tree beside the carriage

house will be integrated into the design and a new foundation is part of the measures to avoid disturbing the root ball of the tree.

Ms. Anthony continued that therefore, the Planning Board recommends approval of the site plan by FRAMINGHAM SURVEY CONSULTANTS INC, dated September 15, 2022, and architectural plans by BUTZ + KLUG ARCHITECTURE, RA, dated January 12, 2023, 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 or designee for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape plan and a tree protection plan that shows proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning. The counterbalancing amenities must be executed 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.

Chair Geller 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 objections to the requested relief and added that should the Board grant the requested relief, the Building Department would work with the Petitioner to ensure conformance with the Board's decision and all applicable building codes.

The Board then deliberated. Board Member Bell expressed admiration for the restoration of the main house and stated that the proposal would contribute positively to the overall design. He continued that he believed the project satisfied the requirements for relief under **Section 5.43** and that he would vote in favor of granting the requested relief.

Board Member Feldman stated that the project represented only a minor increase in FAR and that the design was well done. He also stated that he would vote in favor of granting the relief.

Chair Geller stated that he was in agreement with the comments made by the other Board Members and that the project satisfied the requirements for special permit relief under **Section 9.05**, given the provision of a counterbalancing amenity under **Section 5.43**.

The Board then determined, by unanimous vote, that the proposal met the requirements for special permit relief under **Section 9.05**.

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:

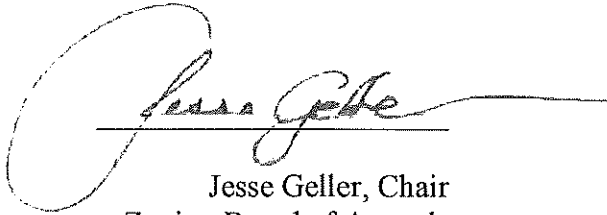
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will no adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the 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 or designee for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape plan and a tree protection plan that shows proposed counterbalancing amenities subject to review and approval by the Assistant Director for Regulatory Planning. The counterbalancing amenities must be executed in accordance with the approved plan.

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Unanimous Decision of
The Board of Appeals



Jesse Geller, Chair
Zoning Board of Appeals

Filing Date: 4/4/2023

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals