



Town of Brookline Massachusetts

BOARD OF APPEALS
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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2023-00005
25 COTTAGE STREET

Petitioner, Warren Cottage Ventures, LLC, applied to the Building Commissioner for permission to relocate a home and construct an addition to the structure at 25 Cottage Street. 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 April 13, 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 March 30, 2023, and April 6, 2023, in the Herald, 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, April 13, 2022

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/31Ok9Nr>

Petitioner: Warren Cottage Ventures LLC

Address: 25 Cottage Street

Subject: Move house and construct addition

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 UNIT S;§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS;§5.50 - FRONT YARD REQUIREMENTS;

§5.51 - PROJECTIONS INTO FRONT YARDS;§6.04.4.D - DESIGN OF ALL OFF-STREET PARKING FACILITIES

Plans and submissions may be viewed online at

<https://www.brooklinema.gov/DocumentCenter/Index/4003>

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: 3/30/2023 & 4/6/2023

On April 13, 2023, the Zoning Board of Appeals held a virtual public hearing. Present at the hearing were the Chair, Jesse Geller and Board Members, Neil Wishinsky and Wadner Oge. The case was presented by the attorney for the Petitioner, Jennifer Dopazo Gilbert, RLAW P.C., 300 Washington Street, Brookline, Massachusetts. Also in attendance were the representative of Petitioner, Jeff Birnbaum, the landscape architect, Troy Sober, Gregory Lombardi Design Inc., 221 Boston Road, North Billerica, Massachusetts, and the project architect, Tony Filardo, Catherine Truman Architects, 29 Warren Street, Cambridge, Massachusetts.

Zoning Board of Appeals Chair Geller called the hearing to order at 7:00 pm and reviewed the standard hearing procedure for virtual hearings and confirmed that all Board Members and staff could visually and auditorily engage in the hearing. Chair Geller, noting that the proposal at 25 Cottage Street and a proposal at 222 Warren Street, Case No. 2023-00006, were related, inquired of Attorney Dopazo Gilbert whether the petitioner would like to address the two applications simultaneously. Attorney Dopazo Gilbert responded in the affirmative. She then waived a reading of the published notice for both cases.

Attorney Dopazo Gilbert presented the case for the Petitioner stating that the two matters had been under the review of the Preservation Commission for two years and five months, with numerous site visits having been performed in that time by the public, members of the Commission, and the Commission's specially hired preservation architect, Steve Riley, of Albany, New York. Attorney Dopazo Gilbert continued that the Conservation Commission had already approved the proposals, adding that the body was excited to see the septic system for 222 Warren Street moved further away from wetlands at the rear of the property. She requested that the Board, when it considered the present proposals' provision of counterbalancing amenities under Zoning By-Law **Section 5.43**, consider a submitted mitigation package, which was approved by the Preservation Commission, as well as the extensive landscaping changes.

Attorney Dopazo Gilbert stated that the mitigation plan consisted of largely preserving both 25 Cottage Street and 222 Warren Street, which are located in both the National Register District and the Greenhill National Register District. She continued that the Preservation Commission had found the properties to be historically significant and subsequently subjected them to additional restrictions by creating the Olmsted-Richardson Local Historic District. Attorney Dopazo Gilbert further stated that the mitigation package had then been created to preserve both 25 Cottage Street and 222 Warren Street, which constitute the H.H. Richardson House and John Charles Olmsted House, respectively. She added that plans, elevations, extensive professional photographs of the homes' interiors, 3-D walkthroughs of the homes, and landscaping plans had all been provided to the Preservation Commission.

Attorney Dopazo Gilbert stated that most of the materials would be recycled from both homes and that a berm, surrounding the new location of 25 Cottage Street, would be recreated in accordance with a request by the Preservation Commission. She also noted that a donation of \$5,000 was being made to the Town for the purchase and installation of a commemorative sign on

nearby public property, while some or all of the Richardson House's bedroom, glass, staircase, fireplaces, interior tile, seating areas, and other items were also being donated. She continued that the Petitioner had collaborated with the Baird Foundation, a nonprofit charitable trust in Buffalo, New York dedicated to preserving items of historic significance.

Attorney Dopazo Gilbert stated that the Petitioner had entered, at the request of the Preservation Commission, a memorandum of understanding with the Baird Foundation that documented the latter's intent to partner with Buffalo State University and one of its masters' programs to preserve the items and eventually display them there. She noted that the donated rooms and items had already been removed and stored in strict accordance with the recommendations of Mr. Riley, the Preservation Commission's architect for the proposals, and that they would be transported upon being alerted by the Baird Foundation. Attorney Dopazo Gilbert continued that a certificate of occupancy had been made contingent on the proposals' provision of a view shed and the imposition of a related landscape restriction. She further stated that the view shed would provide a view of both houses from the street upon the relocation of the structure at 25 Cottage Street. Attorney Dopazo Gilbert stated that the structure at 25 Cottage Street, also known as the H.H. Richardson House, will be relocated to the east and a new 2-story addition constructed that is visually tucked away from the house, thereby allowing the existing historic design to be viewed by passersby. She continued that the addition is intended to compliment the home's original design by matching the existing details at the base, corner-boards, eaves, and rakes, as well as by using the same palette of exterior materials to fit into the context of the neighborhood. Attorney Dopazo Gilbert noted that the proposed addition would originally have increased the home's gross floor area by approximately 1,354 square feet, resulting in an FAR of 0.179, whereas 0.15 is the maximum allowed in the district. She added that while a variance would

typically be required for relief from the additional FAR, subsequent changes to the basement floor plan now made such relief available by Special Permit.

Attorney Dopazo Gilbert stated that she believed the Building Department's citation of **Section 5.51** of the Zoning By-Law, governing front-yard projections in excess of three and one-half feet, was erroneous in the present context. She noted that the Section had been previously interpreted as applying to projections that extended "three and one-half feet" into the required front-yard setback, not simply the front yard. Attorney Dopazo Gilbert, noting that the lot's frontage was some eighty feet, stated that the porch did not approach the required front yard setback. She continued that nevertheless, Special Permit relief for the extension was available because of the proposal's provision of counterbalancing amenities under **Section 5.43**.

Attorney Dopazo Gilbert stated that a Special Permit was required for the setback of the proposed driveway serving 25 Cottage. She continued that the driveway, which was previously used by the residents at 222 Warren Street and, prior to that, by the residents at 25 Cottage, had existed in this location for more than 100 years. Attorney Dopazo Gilbert stated that because 25 Cottage is a corner lot and because the proposal calls for 25 Cottage to use the driveway once again, the driveway's minimum required setback from the corner must be at least 25 feet, as measured from the nearby intersection of Cottage and Warren streets. She noted that the proposed setback of 21 feet was allowable by Special Permit relief and that the driveway was being redesigned to provide a better view of the home and a more safe egress.

Tony Filardo, the project architect, presented the site plans for 25 Cottage Street to the Board of Appeals. In reliance on a digital presentation, Mr. Filardo first stated that 25 Cottage Street consists of a main central structure, surrounded on three sides by a porch, as well as a one-story addition and a two-story addition on either of its sides. He continued that a two-story addition, including a kitchen and three-car garage, would be constructed on the side of the main structure

that lacks a porch. Mr. Filardo added that this side of the main structure was largely invisible from the street and that the goal of the design had been to make the structure appear as though it was unchanged, resulting in the addition being tucked behind the existing home. Displaying a rendering of the existing home at 25 Cottage Street, he noted that the Preservation Commission had insisted on the preservation of the home's existing front columns, its flat roof, and its shuttered windows. Mr. Filardo further noted that a blank wall on one side of the home would also remain unchanged. He then presented a rendering of the proposed home's rear, emphasizing the similarities between the existing home's design and that of the proposed addition. Mr. Filardo further identified the proposed addition's elevation as being critical to maintaining the historic appearance of the existing home. He subsequently stated that the location of the existing windows would also be preserved.

Mr. Filardo reviewed the floor plans for the proposed basement. He stated that, at the time of the application's initial submission to the Town, the allocation of mechanical space in the basement had not yet been finalized. Mr. Filardo continued that as a result, the entirety of the basement had originally been calculated as livable space, thereby increasing the floor area ratio of the proposed structure and necessitating variance relief. He then stated that a portion of the basement will now be used for the pool equipment and mechanical space with another portion reallocated as unfinished space. These changes now reduce the proposed FAR calculation to below the 0.15 maximum allowed.

Board Member Wishinsky clarified that the basement's now-unfinished space could be subject to a restriction that it would not be converted into livable space within the next ten years. Attorney Dopazo Gilbert confirmed that this was the case. Chair Geller then asked Paul Campbell, the Deputy Building Commissioner, to confirm the accuracy of the proposed FAR calculation, insofar as the reallocation of basement space was allowed under the By-Laws. Mr. Campbell stated

that the proposed FAR was, in fact, 0.149. Chair Geller then stated that he believed there were two components involved in Section 5.09.2.: The proposed structure's consistency with the neighborhood, and a finding by the Board as to what part of the as-yet unfinished space may be converted for future use. Attorney Dopazo Gilbert responded that as to the latter, the Petitioner was requesting a condition that would allow 604 square feet of the basement currently identified by the proposal as unfinished space to be converted into livable space after ten years. Board Member Wishinsky inquired as to whether this condition would be contained in the decision itself. Chair Geller answered in the affirmative.

Chair Geller asked whether the existing structures were subject to federal or state protection. Attorney Dopazo Gilbert stated that the structures were not subject to any protection, apart from the properties' being listed in the National Registered District and being subject to the now expired 18-month stay of demolition. Chair Geller then asked whether the structures were being gutted. Attorney Dopazo Gilbert answered in the affirmative, noting that 25 Cottage Street had been uninhabitable at the time of its recent purchase. She continued that everything that the Baird Foundation had selected for preservation had been packaged and stored according to the foundation's instructions, with other salvageable parts of the home to be incorporated into the new structure. Attorney Dopazo Gilbert noted that good-faith efforts would be undertaken with a recycling company in order to secure the disposal of the rest of the interior items.

Troy Sober, the project's landscape architect, presented the landscaping plans for 25 Cottage Street to the Board of Appeals. In reliance on a digital presentation, Mr. Sober stated that the landscaping plans, like the rest of the proposal, had been developed in consultation with the Preservation Commission in order to ensure that the angles and dimensions of the design were suitable for the lot's proximity to Warren Street. He continued that the lot's available open space had largely been consumed by the driveway's connection to the new three-car garage and, near the

northeast corner of the property, by an outdoor entertainment space and pool. Mr. Sober then identified the location of a mature tree and noted that the area along the property lines would receive additional landscaping to provide screening and privacy. He further noted that, at the recommendation of the Preservation Commission, the proposal had been designed to mimic the home's present elevation and maintain its historic appearance. Mr. Sober subsequently displayed the proposed species and location of new plants and trees. He added that almost all of the proposed materials were natural, not man-made. Mr. Sober also displayed the location of proposed outdoor lighting and reiterated that the project was dedicated to contributing to the Dark Sky Initiative. He further noted that once the home at 25 Cottage Street was moved to its new location, the proposed viewshed would offer a view of the home.

Attorney Dopazo Gilbert reviewed the requested zoning relief for the proposal at 25 Cottage Street. She stated that Special Permit relief was sought for the proposed FAR under **Section 5.09.2.n** of the Zoning By-Law. Attorney Dopazo Gilbert continued that, as to the language of that section, the massing, scale, footprint, and height of the proposed building are not substantially greater than, and that the setbacks of the building are not substantially less than, those of abutting structures and of other structures conforming to the Zoning By-Law on similarly sized lots in the neighborhood. She continued that other buildings in the neighborhood, particularly 222 Warren Street, were of similar size and alignment, with the exception of the three much larger houses across the street. Attorney Dopazo Gilbert further stated that under **Section 5.22.2** of the Zoning By-Law, she was requesting that the Board, in granting the requested Special Permit for the 604 square feet of presently uninhabitable space in the basement, add a condition allowing the space to be converted to habitable space after ten years.

Attorney Dopazo Gilbert stated that a Special Permit was sought for the entrance and exit drive's setback from the street corner. She continued that the proposed setback from the street

intersection was 21 feet, the same as it has been for more than a century, whereas the minimum required setback is 25 feet. Attorney Dopazo Gilbert noted that in providing a line-of-sight for the viewshed, the driveway's location posed no threat to traffic or pedestrians and was in fact improved. She then stated that, if the Board found **Section 5.51** of the Zoning By-Law applicable to the proposal's front porch, Special Permit relief was nevertheless available upon provision of a counterbalancing amenity under **Section 5.43**. She continued that even if the porch was deemed to "extend" into the front-yard, the extension was just over 7 feet, whereas 3.5 feet was the maximum allowed.

Attorney Dopazo Gilbert, noting that the proposal satisfied the conditions for a Special Permit under **Section 9.05**, then stated the following: 1) Specific site is an appropriate location for such use: The site is appropriate for the proposed use of the home as a single-family dwelling, as it is an allowed use in the S-40 district by-right. 2) Use will not adversely affect the neighborhood: The proposal has gone through substantial design review with the Preservation Commission, and it also has the support of the Planning Board. 3) There will be no nuisance or serious hazard to vehicles or pedestrians: The property's on-site circulation has a long driveway, which is located to the rear of the home. 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use: Adequate and appropriate facilities will be provided for the proper operation of the single-family dwelling. 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 favor of or in opposition to the proposal. No public comments were made.

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

FINDINGS

§5.09.2.K - DESIGN REVIEW

§5.20 - FLOOR AREA RATIO

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.51 - PROJECTIONS INTO FRONT YARDS

§6.04.4.D - DESIGN OF ALL OFF-STREET PARKING FACILITIES

ZONING: S-40	Requirements	Existing Conditions	Proposed Conditions	Relief Required
Floor Area Ratio	0.15	0.07	0.179	<u>Variance</u> ¹
Entrance and exit drive distance from street corner	25'	N/A	<25'	<u>Special Permit</u> ²
Projections into Front Yards	3.5'	N/A	7' - 2 ¾"	<u>Special Permit</u> ^{3,4}

¹ **Variance - MGL c.40A §10:** This section allows the permit granting authority to grant a Variance from requirements of the local zoning by-law but only in situations where, owing to circumstances relating to soil conditions, shape of the lot, or topography affecting the subject property but not generally affecting the zoning district, a literal enforcement of the zoning by-law would cause substantial hardship to the applicant. *Note that because the existing house is being moved to a different lot it no longer qualifies for FAR relief under §5.22 and loses its pre-existing privileges.*

² **§6.04.4.D - DESIGN OF ALL OFF-STREET PARKING FACILITIES:** Entrance and exit drives, shall be located at least 25 feet from a street corner in all S, SC, T, and F districts, said distance to be measured from the intersection of the street lot lines or extension thereof. The Board of Appeals by special permit may modify this requirement after receipt of reports from the Commissioner of Public works and the Director of Transportation that such modification in distance would facilitate traffic and be safer and subject to the provisions of § 9.05.

³ **§5.51 - PROJECTIONS INTO FRONT YARDS:** Bays and porches not over half the length of the front wall may project into any front yard three and one-half feet. The porch is both over half the length of the front wall and projects almost seven and a half feet into the front yard.

⁴ **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.

Section 5.09.2.K Design Review: A Special Permit for Design Review is required for any structure for which a variance is requested. The applicant has submitted an Impact Statement that explains how the project satisfies the Community and Environmental Impact and Design Standards of Section 5.09.4.

PLANNING DEPARTMENT COMMENTS

Ms. Anthony stated that Planning Department Staff is pleased that this proposal will prioritize the preservation and restoration of a noteworthy historic building. She continued that the

relocation of the house under the current plans was extensively evaluated by the Preservation Commission under the Demolition By-Law and will be executed according to an approved mitigation package. Ms. Anthony noted that the addition will be built to match the existing house materials and style. She added that the significant increase in FAR and impervious surface, regrading and removal of trees to allow construction are minimal since the front of the lot on 222 Warren Street is mainly an open field. Ms. Anthony further stated that the addition is positioned to limit its visibility from the street while allowing the historic structure to be viewed. She continued that one of the special permits is required for the curb cut on Warren Street, which despite being non-conforming for the new location of 25 Cottage Street, was already being used to access 222 Warren Street. Ms. Anthony added that the applicant, therefore, needs to submit reports from the Commissioner of Public works and the Director of Transportation confirming that location of the curb cut is safe. She continued that variance for FAR for this project can be considered based on the fact that a literal enforcement of the By-Law would involve substantial hardship, financial or otherwise to the applicant, as a result of moving and preserving the house.

Ms. Anthony then stated that the Planning Board is supportive of this proposal and understands that this is a unique structure. She continued that FAR relief is only needed because the house is being moved to a new lot for preservation purposes, and a finished basement is being added. Ms. Anthony noted that the Board suggests including the viewshed easement as part of the required counterbalancing amenities.

Ms. Anthony continued that the Planning Board, therefore, recommends approval of the site plan by EVERETT M. BROOKS, PLS, dated November 18, 2022, and architectural plans by CATHERINE TRUMAN ARCHITECTS, RA, dated January 23, 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 or site plan that shows proposed counterbalancing amenities, including the viewshed easement, subject to approval by the Assistant Director for Regulatory Planning or designee.
3. Prior to the issuance of a Certificate of Occupancy, a restrictive covenant with a survey showing the new location of 25 Cottage Street stamped by a registered engineer and depicting a viewshed with landscaping restriction area to be agreed upon and approved by the Preservation Commission and generally located in the area shown on the sketch plan to the request pertaining to 25 Cottage Street shall be executed and recorded in the chain of titles of both properties.
4. 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.

Attorney Dopazo Gilbert stated that she would prefer that the second condition's reference to the "the viewshed easement" be replaced with "the proposed viewshed area," as the easement itself would be determined, in collaboration with the Preservation Commission, only after the structure at 25 Cottage is moved and a survey completed. In response to request for clarification by Mr. Geller, Attorney Dopazo Gilbert stated that once the home at 25 Cottage Street is moved it will be renovated. She continued that while the interior renovations were ongoing at 222 Warren Street, the Petitioner would visit the site with the Preservation Commission once the 25 Cottage Street structure is relocated, at which point final decisions relating to plants, their locations, and their maximum height would be made in order to best align with the intent of the viewshed and landscape restriction.

Chair Geller stated that he believed that a condition, expressly providing for a recorded easement, was still necessary. Attorney Dopazo Gilbert stated that she had no objections to such a condition. Chair Geller also requested that approval be conditioned on implementing the

counterbalancing amenities in accordance with the approved plan. Attorney Dopazo Gilbert stated she was amenable to the imposition of such a condition.

Attorney Dopazo Gilbert stated that, to her knowledge, the architectural plans for 25 Cottage Street, like those for 222 Warren Street, were dated January 24, 2023. Ms. Anthony confirmed that the plans were dated January 24, 2023. Attorney Dopazo Gilbert noted that the plans, as presented, consisted of the architectural plans, dated January 24, 2023, “with the revised basement plans, A0.2, as revised on April 13, 2023” and the decision should reflect this. Chair Geller agreed.

Chair Geller called upon Paul R. Campbell, the Deputy Building Commissioner, to deliver the findings of the Building Department. Mr. Campbell stated he would first address two preliminary matters. First, as to **Section 5.51**, Mr. Campbell stated that the proposal had been cited because of the Zoning By-laws’ distinction between a “yard” and a “required yard.” He continued that while **Section 5.51** specifically addresses restrictions regarding the “front yard,” **Section 5.61** specifically references “required side yards.” Mr. Campbell stated that the former Section’s omission of “required” led the Building Department to interpret the Section as applying to any front yard projection of more than 3.5 feet, regardless of whether it intrudes into a required front yard setback. In response to the Board’s inquiry, Mr. Campbell confirmed that the reallocation of roughly 600 square feet left the proposal well below the maximum required FAR and that, should the space be converted in the future, this would remain the case because the By-Law allowed for the conversion of up to 30% of the home’s square footage.

Mr. Campbell stated that the Building Department has no objections to the requested relief and that, should the Board grant the requested relief, the Building Department would work with the Petitioner to ensure compliance with the Zoning By-Laws, the Board’s decision, and all applicable codes.

The Board then deliberated. Board Member Oge stated that he was in favor of granting the requested relief. He continued that the applicant offered sufficient evidence to show that the proposal at 25 Cottage Street met the requirements for Special Permit relief under **Section 9.05** and **Section 5.09**. Board Member Oge, noting that he was pleased to see that both the property and the structure would be preserved, voted in favor of granting the requested relief.

Board Member Wishinsky stated that he recalled the original submission of the present proposal and the opposition it had received. He continued that the fact that no public comments had been made at the present hearing indicated that the proposal's lengthy review process had been effective at addressing and mitigating pertinent concerns. Board Member Wishinsky noted that he had no issue with the driveway at 25 Cottage, adding that, had there been an issue with it, it surely would have come to light in the last century of its use. He further stated that he was comfortable deferring to the Building Department's interpretation of **Section 5.51** and that he was pleased to avoid any conversation about a variance for FAR, though he thought such relief would have been warranted. Board Member Wishinsky concluded by voting in favor of granting the requested relief.

Chair Geller stated that he would defer to Mr. Campbell's interpretation of **Section 5.51** and that Special Permit relief was warranted under that Section. He continued that, as to Section **5.09.2.n**, no variance relief was required, because reducing the finished gross floor area and delineating 604 square feet unfinished space meant that the proposal's FAR was now below the maximum of 0.15. Chair Geller added that he was content imposing a ten-year moratorium on converting that 604 s.f. of space into livable space.

Mr. Geller noted that he was pleased that a large part of the exterior of the structures would not be demolished but that he would have hoped these two historically structures would have found a place in more original preserved condition. He further stated that, while the Town's forfeiture of its own history was discouraging, Special Permit relief was warranted under **Section 5.43** because

the project provided counterbalancing amenities, including landscaping improvements and a mitigation plan, in accordance with that Section. Chair Geller, noting that the proposal also met the conditions for a Special Permit under **Section 9.05**, concluded by voting in favor of granting the requested relief.

The Board then determined, by unanimous vote, that the proposal met the requirements for a special permit under design review pursuant to **Section 9.05** and **Section 5.09.2.n**, with the latter relief being subject to a 10-year restriction on the conversion into livable space of 604 feet of basement, proposed for use as unlivable space. Given the Petitioner's provision of counterbalancing amenities under **Section 5.43**, the Board also granted Special Permit relief from the parking setback requirements of **Section 6.04.4.d**. The Board finally granted Special Permit relief under **Section 5.51** for the extension of the front porch into the front yard.

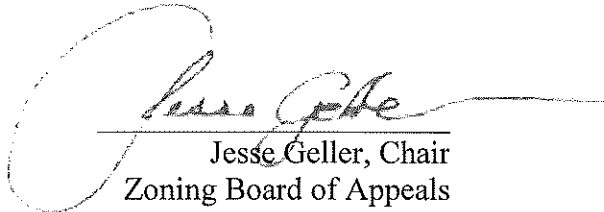
In addition, reference to the date of the architectural plans of record was corrected to the plans by CATHERINE TRUMAN ARCHITECTS, RA, dated January 24, 2023, with the revised basement plans, A0.2, as revised on April 13, 2023. The Board also made the following specific findings under **Section 9.05** 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 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 amended 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 or site plan that shows proposed counterbalancing amenities, including the proposed viewshed area, subject to review and approval by the Assistant Director for Regulatory Planning or designee. The counterbalancing amenities must be executed in accordance with the approved plan.
3. Prior to the issuance of a Certificate of Occupancy, a restrictive covenant/easement with a survey showing the new location of 25 Cottage Street stamped by a registered engineer and depicting a viewshed with landscaping restriction area to be agreed upon and approved by the Preservation Commission and generally located in the area shown on the sketch plan to the request pertaining to 25 Cottage Street shall be executed and recorded/filed in the chain of title of each of 25 Cottage Street and 222 Warren Street.
4. 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: 5/16/2023

A True Copy
ATTEST:



Benjamin Kaufman

Clerk, Board of Appeals