



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chair
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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2023-000012
152 WOODLAND ROAD

Petitioner, Woodland RKI, LLC, applied to the Building Commissioner for a building permit to construct a single-family home on this vacant lot. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed May 25, 2023 at 7:00 p.m. as the date and time for a virtual hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to its attorney 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 5/11/2023 & 5/18/2023 in the Boston Globe, a newspaper published in Brookline. A copy of said notice is as follows:

Notice of Hearing

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, May 25, 2023

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3nJi7PM>

Petitioner: Woodland RKI, LLC

Address: 152 Woodland Road
Subject: Construct Single Family Home

Nature of Action/Relief:

§5.09.2.N – DESIGN REVIEW

Plans and submissions may be viewed online at

<https://www.brooklinema.gov/DocumentCenter/Index/4159>

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: 5/11/2023 & 5/18/2023

The public hearing was held on May 25, 2023.

Present at the May 25, 2023 virtual hearing were Chair Jesse Geller and Board Members Randolph Meiklejohn and Saul Feldman.

Attorney Jeffrey P. Allen, attorney for the Petitioner, waived a reading of the published notice and provided an overview of the proposed project. Attorney Allen characterized the matter as a relatively simple case and that the project architect, Michael McKay, was in attendance to answer any questions from the Board. Mr. Allen commented that that the project was reviewed extensively, initially by the Conservation Commission at multiple meetings and then by the Planning Board. He explained that the Planning Board expressed some concerns and the Petitioner revised the project to address those concerns and the project now has a unanimous support of the Planning Board. Attorney Allen described the proposed home as the fifth house in this six-lot subdivision. Attorney Allen stated that the house is the smallest out of the five new houses, at a total of 6,415 square feet. Attorney Allen noted that the Board has been provided with the plans that show the design and that the design is consistent with this private right of way and the other houses that have been designed on it. Attorney Allen noted that all of the houses in the subdivision are large homes ranging in size from 7,500 sq. ft., 7,000 sq. ft. to approximately

6,500 sq. ft. He stated that the proposed home meets all dimensional requirements, including height, floor area ratio, and the like but requires relief for design review because part of the basement could be converted in ten years pursuant to **Section 5.09.2.n** of the Zoning By-Law. Attorney Allen noted that under that Section of the Zoning By-Law, the Zoning Board must specify the maximum allowed square feet that may be converted and requested that 1,949.2 sq. ft. be the maximum allowed square feet. Attorney Allen added that the proposed home is consistent with the neighborhood, is consistent with the size of the homes in the neighborhood, poses no danger to pedestrians or vehicle traffic, is on a private way, and is in a residential neighborhood. Attorney Allen continued that the Board has approved the other three new homes in the subdivision under the same circumstances as this.

Board Member Randolph Meiklejohn asked if there is significant re-grading of land. Mr. McKay responded that this property has a knoll of ledge and the property went through an extensive Conservation Commission process that involved going back and forth with the Conservation Commission, and also the Planning Board. Mr. McKay explained that there were changes, including lowering the garage by two feet.

Attorney Allen stated that one of the concerns of the Planning Board was with the proposed rip rap. He explained that, by lowering the garage, the rip rap was reduced. Attorney Allen added that the Petitioner has also committed that, in conjunction with the landscaping, it will plant ground cover that will cover the hillside in 12-18 months.

Chair Geller asked if there were members of the public who wished to speak in favor of or against this application. There were none.

Chair Geller called upon Zoning Coordinator/Planner Madison Anthony to review the findings of the Planning Board.

FINDINGS

§5.09.2.N - DESIGN REVIEW

A Special Permit for Design Review is required where a structure complies with the maximum allowed FAR but contains unfinished space that could be converted in the future and result in a structure with more FAR than allowed. 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 STAFF COMMENTS

The Planning Board met on March 30, 2023 to consider this proposal for a single-family house on a lot created from an ANR subdivision of the property at 150 Woodland Road. The only zoning relief needed is design review under Sec. 5.09.2.n to convert the basement to habitable space in ten years, per Section 5.22. Planning Board members were concerned that the design of the house did not work with the site features. The applicant has now submitted new plans lowering the garage slab by two feet, which will lower the rip-rap wall by two feet, and has revised façade details, including adding windows and simplifying the roofs. The location of the house on the site has not been changed. There is an Order of Conditions to protect the wetlands on the lot. Staff is pleased that EV charging will be provided and encourages the applicant to make the building fossil fuel-free.

PLANNING BOARD COMMENTS

The Planning Board is pleased that the applicant has made some changes to improve the façade and that the rip-rap wall has been reduced.

The Planning Board recommends approval of the site plans by VERNE T. PORTER JR., PLS, dated December 29, 2022 and architectural plans prepared by MCKAY ARCHITECTS, RA, dated March 4, 2022, and updated April 27, 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 landscaping plan, stamped and signed by a registered landscape architect, to the Assistant Director for Regulatory Planning or designee for review and approval.
3. If the applicant chooses to convert the basement into habitable space, provisions specified under Section 5.22 shall be met.
4. Prior to the issuance of a Certificate of Occupancy, the applicant shall electronically submit an as-built plan, stamped by a registered engineer, showing that the private right-of-way shown on the site plan by Verne T. Porter, dated 2/25/21, has been constructed in accordance with the Subdivision Plan of Land for 150 Woodland Road, as subsequently amended. The as-built plan shall be reviewed and approved by the Assistant Director of Regulatory Planning and the Commissioner of Public Works prior to the issuance of a Certificate of Occupancy.
5. 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 Allen suggested that the 1,949.2 sq. ft. be added to condition number 3, and Chair Geller agreed that the Board, if it approves the requested relief, would need to make the required finding.

Chair Geller requested that Deputy Building Commissioner Paul Campbell present the findings of the Building Department. Mr. Campbell stated that the Building Department has no objection to the requested relief sought by the Petitioner and that, should the Board grant the requested relief, the Building Department will work with the Petitioner to ensure compliance with the Board's decision, Zoning By-Law, and applicable codes.

Chair Geller invited deliberation from the Board. Board Member Feldman indicated that he votes in favor. Board Member Meiklejohn stated that he would vote in favor of the grant of a special permit for design review on the condition that the Board also find that the future conversion of habitable space be no more than 1,949.2 sq. ft. Chair Geller stated that he agreed and commented that the proposal meets the requirements under By-Law **Section 9.05**. Chair Geller continued that he is glad to see this project for a new home fully complies with the Zoning By-Law and requires no relief other than for design review. Chair Geller stated that he agrees with Board Member Meiklejohn that the Board should make the finding that, if the owner determines that they wish to convert portions of the basement to habitable space in the future, that space should be limited to 1,949.2 sq. ft.

The Board found that the requirements for special permit were met pursuant to **Section 9.05** of the Zoning By-Law, specifically:

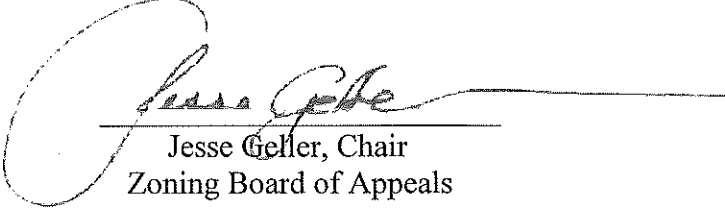
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people. **Accordingly, the Board voted unanimously to grant special permit relief and approve the project as reflected in the site plans by VERNE T. PORTER JR., PLS, dated December 29, 2022 and architectural plans prepared by MCKAY ARCHITECTS, RA, dated March 4, 2022, and updated April 27, 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 landscaping plan, stamped and signed by a registered landscape architect, to the Assistant Director for Regulatory Planning or designee for review and approval.
3. If the owner chooses to convert the basement into habitable space, provisions specified under Section 5.22 shall be met, and the space converted shall not exceed 1,949.2 sq. ft.
4. Prior to the issuance of a Certificate of Occupancy, the applicant shall electronically submit an as-built plan, stamped by a registered engineer, showing that the private right-of-way shown on the site plan by Verne T. Porter, dated 2/25/21, has been constructed in accordance with the Subdivision Plan of Land for 150 Woodland Road, as subsequently amended. The as-built plan shall be reviewed and approved by the Assistant Director of Regulatory Planning and the Commissioner of Public Works prior to the issuance of a Certificate of Occupancy.
5. 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

Filing Date: 6/22/2023



Jesse Geller, Chair
Zoning Board of Appeals

A True Copy
ATTEST:



Benjamin Kauffman
Clerk, Board of Appeals