



Town of Brookline

Massachusetts

BOARD OF APPEALS
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TOWN OF BROOKLINE
BOARD OF APPEALS
18 SPOONER ROAD
CASE NO. 2023-000031

Petitioners, David Quinnschiefelbein Gacioch and Mary Curran, applied to the Building Commissioner for permission to rebuild an attached garage with roof garden (Modification to CASE NO. 2019-0043) for an existing single-family at 18 Spooner Road. The application was denied and an appeal was taken to this Board.

The Board 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 July 20, 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 July 6, 2023, and July 13, 2023, in the Herald, a newspaper in 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, July 20, 2023

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3pAoR3q>

Petitioner: David Quinnschiefelbein Gacioch & Mary Curra

Address: 18 Spooner Road

Subject: Garage & Exterior Renovations

Nature Of Action/Relief:

§5.43 - Exceptions To Yard And Setback Regulations

§5.70 - Rear Yard Requirements

§8.02 - Alteration Or Extension

Plans And Submissions May Be Viewed Online At

<https://www.brooklinema.gov/DocumentCenter/Index/4379>

**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: 7/06/2023 & 7/13/2023

On July 20, 2023, the Zoning Board of Appeals held a virtual public hearing. Present at the hearing were Chairman, Jesse Geller and Board Members Randolph Meiklejohn and Neil Wishinsky. The case was introduced by the Petitioners David Quinnschiefelbein Gacioch and Mary Curran, 18 Spooner Road, Brookline, Massachusetts. The project architect Stephen L. Reilly, 350 Washington Street, Wellesley, MA 02481 was also in attendance. Mr. Gacioch waived a reading of the hearing notice.

Project architect, Stephen L. Reilly, presented the plans. Mr. Reilly described the general orientation and slope of the site. Mr. Reilly stated that the proposed garage is slightly larger than the existing garage and is proposed to be connected to the house making it a part of the primary structure and therefore in violation of the 30-foot rear yard setback requirement for primary structures which would otherwise be six feet required if the garage remained an accessory structure. Mr. Gacioch added that there is a significant water management issue due to the

downward slope of the site and that the addition of the green roof was intended to mitigate some of those issues. Mr. Reilly also stated that the home owner has a large family and the home does not have a large yard, so the green roof will also provide additional private outdoor space. Mr. Gacioch stated that all abutters were informed and to his knowledge are supportive of the proposal.

Board Member Meiklejohn asked about allowable Floor Area Ratio (FAR) for the project. Mr. Reilly explained that allowable FAR maximum for the site is 0.3 and there is no FAR increase proposed since the garage is not counted as habitable floor area for the FAR calculation.

Mr. Gacioch explained the proposed counterbalancing amenities and basis for the relief such as the green roof and water management, improving the currently damaged garage, and additional landscape features.

Chairman Geller asked whether anyone in attendance wished to speak in favor of or against the proposal. No one wished to speak.

Madison Anthony, Planner and Zoning Coordinator, delivered the findings of the Planning Board.

FINDINGS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.70 - REAR YARD REQUIREMENTS

§8.02 - ALTERATION OR EXTENSION

ZONING: S-10	Requirements/Allowed	Existing Conditions	Proposed Conditions	Relief Required
Rear Yard Setback (Garage)	30 ft	38.2 ft	6.3 ft	<u>Special Permit¹</u>

¹ Under **Section 5.43, Exceptions to Yard and Setback Regulations**, a special permit may waive a yard setback if a counterbalancing amenity is offered. Because the garage is now connected to the main house, it is considered an extension of the principal structure and must meet the much stricter setback for a primary building.

PLANNING STAFF COMMENTS

The new garage and exterior renovations are well-designed and will be an aesthetic improvement to the property. Because most of the work is towards the rear of the lot, it will have a minimal impact on the public way. The changes are unlikely to be substantially more detrimental to the neighborhood than the existing structure.

PLANNING BOARD COMMENTS

The Planning Board is supportive of this proposal as it provides additional amenities without significant impacts on the neighborhood.

The Planning Board recommends approval of the site plan by EMB CO., PLS EMB PLS, dated October 14, 2022 and architectural plans by SLR ARCHITECTURE, RA, dated April 14, 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 subject to 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 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.

The Chairman then called upon Paul Campbell to deliver the comments of the Building Department. Mr. Campbell stated that the Building Department had no objection to the requested relief and would work with the Petitioners to ensure compliance with the Board of Appeal's decision and all applicable codes.

During deliberation, Board Member Wishinsky stated that the project will be an improvement to existing conditions and that the site is an appropriate location for the use, the use will not adversely affect the neighborhood, cause any nuisances or hazard to pedestrians or vehicles, or pose a significant adverse impact on the supply of housing for low to moderate income people. Mr. Meiklejohn agreed with Board Member Wishinsky's comments and said he had a positive outlook about the green roof's ability to retain water and the public benefit that it would provide. Chair Geller agreed and confirmed that the proposal meets the necessary standards for granting the relief under **Section 9.05** of the Zoning By-Law subject to the conditions read into the record.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant a special permit and that the Petitioner has satisfied the requirements necessary for relief from application of the provisions of **Section 5.70** of the Zoning-By-Law pursuant to **Sections 5.43, 8.02** and **9.05** of the Zoning By-Law and made the following specific findings pursuant to **Section 9.05** of the Zoning By-Law:

- 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 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 a final landscape plan indicating all counterbalancing amenities to the Assistant Director for Regulatory Planning for review and approval. 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.

Unanimous Decision of
The Board of Appeals


AUG 17 2023

AUG 17 2023


Jesse Geller, Chairman

Filing Date: _____

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals