



Jesse Geller, Chair
Christopher Hussey
Jonathan Book

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Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0071
Owner: Scott and Mary Young

Petitioners, Scott and Mary Young, applied to the Building Commissioner for permission to construct a carport at the rear of their home at 178 Naples Road. 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 at 7:30 PM September 12, 2013, in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 August 22th and 29th, 2013, in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **Scott Young**
Owner: **Scott and Mary Young**
Location of Premises: **178 NAPLES RD**
Date of Hearing: **September 12, 2013**
Time of Hearing: **07:30 PM**
Place of Hearing: **Selectmen's hearing room, 6th floor**

A public hearing will be held for a variance and/or special permit from:

- 1. 5.43; Exceptions to Yard and Setback Regulations**
- 2. 5.72; Accessory Buildings or Structures in the Rear Yard**
(closer than 6 feet to side yard)
(closer than 6 feet to rear yard)
(closer than 6 Feet to the principal building)
(more than 25 percent of the required rear yard)
- 3. 8.02.2; Extension and Alteration**

Of the Zoning By-Law to **construct a carport at the rear**
At 178 NAPLES RD

Said premise located in an **T-5 (Two-Family and Attached Single-Family)** residence district.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. ~Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA ~02445. ~Telephone (617) 730-2328; TDD (617) 730-2327; or e-mail atrsneirson@brooklinema.gov

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Jesse Geller and Board Members Jonathan Book Christopher Hussey. Attorney Diane Gordon, having a business address at 10 Winthrop Square, Boston, Massachusetts presented the case for the petitioners.

Attorney Gordon said 178 Naples Road is an attached two-family dwelling in a series of five town houses constructed in the Flemish style in 1894. The brick building is two and a half stories tall with gable slate roofs and a continuous front porch. The site is very close to Commonwealth Avenue, and surrounding properties are primarily residential in nature. She said her client, Scott Young, is proposing to construct a carport to the rear of the two-family dwelling. There is an existing driveway that is accessed by a private alley to the rear of the dwelling. The carport will allow the applicant to be shielded from natural elements upon entry to the driveway.

The Chairman then asked if anyone in attendance wished to speak in support of or in opposition to the petitioner's proposal. No one asked to be heard.

Lara Curtis Hayes, Planner, delivered the findings of the Planning Board.

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.72 – Accessory Buildings or Structures in the Rear Yard

(Closer than 6 feet to side yard)

(Closer than 6 feet to rear yard)

(Closer than 6 feet to the principal building)

(More than 25 percent of the required rear yard)

Dimensional Requirements	Required	Existing	Proposed	Relief
Rear Yard Setback	6'	N/A	1.4'	Special
Side Yard Setback	6'	N/A	0.2'	Special

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure or use.

Ms. Hayes said the Planning Board is supportive of this proposal. The carport will provide the applicant with shelter from natural elements to and from their cars. The two parking spaces are pre-existing, and are accessed by the alley to the rear of the property. The Planning Board recommends that the applicant install additional landscaping as a counterbalancing amenity required for a special permit.

Therefore, the Planning Board recommends approval of the plans by DIRSA Construction Fine Home Builders, dated 4/12/13, and the site plan by Land Mapping, Inc., dated 6/3/13, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan and landscaping plan indicating the required counterbalancing amenity in the form of additional landscaping.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department has no objection. He said all the relief can be granted through one section of the Zoning By-Law.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant the Special Permit relief requested and that the petitioner has satisfied the requirements necessary for relief under Sections 5.43, 8.02.2, 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.

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 submit final plans subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan and landscaping plan indicating the required counterbalancing amenity in the form of additional landscaping.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land

surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

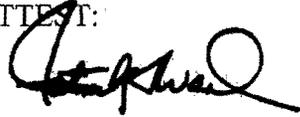
Unanimous Decision of

The Board of Appeals

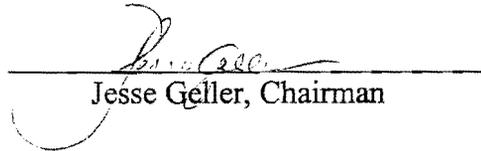
Filing Date: October 7, 2013

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals



Jesse Geller, Chairman

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