



BOARD OF APPEALS  
Enid Starr, Co-Chair  
Jesse Geller, Co-Chair  
Christopher Hussey

RECEIVED  
*Town of Brookline*  
*Massachusetts*

TOWN OF BROOKLINE  
Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2012-024

Petitioner, William Hauck applied to the Building Commissioner for permission to legalize two existing parking spots in the front yard of his property at 39-41 Winthrop Road. The application was denied and an appeal was taken to this Board.

On March 15, 2012, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed June 14, 2012, at 7:15 p.m. in the Selectmen's conference room as the time and place of a hearing on 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 May 24, and May 31, 2012, 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: **HAUCH WILLIAM & DIANE MOREA**  
Owner: **HAUCH WILLIAM & DIANE MOREA**  
Location of Premises: **39 41 WINTHROP RD**  
Date of Hearing: **June 14, 2012**  
Time of Hearing: **7:15 p.m.**  
Place of Hearing: **Selectmen's Conference Room, 6<sup>th</sup> Floor**

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

**5.43; Exceptions to Yard and Setback Regulations, special permit required.**  
**6.04.5.c.1; Design of All Off-Street Parking Facilities, variance required.**  
**6.04.12; Design of All Off-Street Parking Facilities, special permit required.**  
**8.02.2; Alteration or Extension, special permit required**

Of the Zoning By-Law to legalize two parking spaces in the front yard

at **39-41 WINTHROP RD**

Said Premise located in a **T-6** (two-family and attached single-family) residential 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 the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.*

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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 Mark Zuroff and Lisa Serafin.

The petitioner, William Hauck, presented the case before the board on his own behalf. Mr. Hauck described the property as two-family dwelling on the "downhill side" of Winthrop Road, near the intersection of Winthrop and Royal Roads. The two-and-a-half story dwelling has a

gable roof with dormers and a front porch that extends the length of the front façade. A common driveway shared with 35-37 Winthrop Road is located on the right hand side of the lot.

Immediately in the front of the dwelling is a two-car parking area paved with bricks.

Surrounding properties include other two-family and single-family homes. Several homes along Winthrop Road have front yard parking areas, including the immediate abutter at 35-37 Winthrop Road, and a recently-approved Board of Appeals case at 31-33 Winthrop Road.

Mr. Hauck said he wished to legalize the existing two parking spaces at the front of his house. He explained that the parking was subject to a previous Board of Appeals decision in 1975. He has received Building Permits to renovate and expand the parking area in the early 1990's as well as in 2011. Mr. Hauck said he did not know about the time limitation on the Board's 1973 decision until he spoke to the attorney representing the buyer of his second unit. He would like to gain approval for the parking area "as is".

Chairman Geller asked if anyone wanted to speak in opposition to the proposal. No one rose to speak. The Chairman then asked if anyone present wanted to speak in favor of the proposal. No one rose to speak.

Chairman Geller called on Lara Curtis Hayes to deliver the comments of the Planning Board.

## FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

**Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities:** Parking area front yard setback

**Section 6.04.5.c.2 – Design of All Off-Street Parking Facilities: Parking area side yard setback**

**Section 6.04.12 – Design of All Off-Street Parking Facilities**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Front Yard Setback – Parking Area</b>	15 feet	0 feet	0 feet	Special Permit*
<b>Side Yard Setback – Parking Area</b>	10 feet	3 feet (est.)	3 feet	Special Permit*

\* Under **Section 6.04.12**, the Board of Appeals may by special permit waive parking dimensional requirements when new facilities are being installed to serve an existing structure.

**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 not opposed to the proposal to legalize the existing front yard parking area. Although the Board does not typically support the installation of front yard parking, in this case the parking area is attractively finished with brick and granite pavers and surrounded with landscaping beds. The landscaping in the planting areas could be increased and is recommended in order to lessen the visual impact of the parking area on the streetscape. Particular consideration for this proposal is taken because the applicant expanded the parking area after seeking the opinion and pulling permits from the Building Department. The Board supports keeping the parking area intact and “as is,” however a new site plan indicating accurate

setbacks and dimensions for the parking area and surrounding wall should be prepared and submitted to the Planning and Building Departments.

**Therefore, the Planning Board recommends approval of the proposal and plans by Everett M. Brooks, dated 4/26/2012, subject to the following conditions:**

1. Within 20 days of the recording of the Board of Appeals decision, the applicant shall submit a final site plan, stamped and signed by a registered engineer or land surveyor, indicating the existing parking area setbacks and parking space locations, subject to the review and approval of the Assistant Director of Regulatory Planning. A copy of this plan shall be forwarded to the Building Commissioner.
2. Within 20 days of the Board of Appeals decision being filed, the petitioner shall submit a landscape plan showing additional planting around the parking area to the Assistant Director for Regulatory Planning for review and approval.
3. The petitioner shall submit to the Building Commissioner, proof of recording of the decision at the Norfolk County Registry of Deeds within 45 days of the filing date of the Board of Appeals decision.

Chairman Geller then called on Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department agrees with the recommendations of the Planning Department. He said the Building Department has no

issues with the request for relief and if the Board grants relief, the Building Department will work with the petitioner to ensure compliance with the Building Code.

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 in accordance with **Sections 5.43, 6.04.12, 8.02.2 and Section 9.05**, of the Zoning By-law and makes the following 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. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

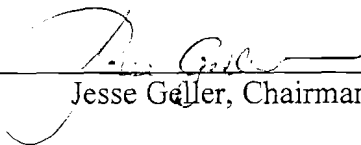
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Within 20 days of the recording of the Board of Appeals decision, the applicant shall submit a final site plan, stamped and signed by a registered engineer or land surveyor, indicating the existing parking area setbacks and parking space locations, subject to the review and approval of the Assistant Director of Regulatory Planning. A copy of this plan shall be forwarded to the Building Commissioner.
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for Regulatory Planning for review and approval.

3. The petitioner shall submit to the Building Commissioner, proof of recording of the decision at the Norfolk County Registry of Deeds within 45 days of the filing date of the Board of Appeals decision.

Unanimous Decision of  
The Board of Appeals

  
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Jesse Geller, Chairman

Filing Date: June 29, 2012

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TOWN OF BROOKLINE  
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2012 JUN 29 A 11 26  
A true copy  
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Clerk, Board of Appeals