



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

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2012-0043

Petitioners Mark and Tama Zorn applied to the Building Commissioner for permission to construct a two car garage at the front of their property at 676 Washington Street. The application was denied and an appeal was taken to this Board.

On June 14, 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 July 26, 2012 at 7:00 p.m. in the Selectmen's Hearing Room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to his 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 12 and 19, 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: **ZORN MARK & TAMA**
Owner: **ZORN MARK & TAMA**
Location of Premises: **676 WASHINGTON ST**
Date of Hearing: **July 26, 2012**
Time of Hearing: **7:00 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th. floor**

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

5.01; Table of Dimensional Requirements - Footnote 1, variance required
5.09.2.a; Design Review, special permit required
5.31 Exceptions to Maximum Height Regulations, special permit required.
5.43; Exceptions to Yard and Setback Regulations, special permit required.
5.50; Front Yard Requirements, variance required.
5.53; Accessory Buildings in Front Yards, variance required.
5.54; Exceptions for Existing Alignment, variance required.
5.60; Side Yard requirements, variance required.
5.63; Accessory Buildings or Structures in Side Yards, variance required.
6.04.5.b; Design of All Off-Street Parking Facilities, variance required.
6.04.5.c.2; 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 construct additions on the northwest and southeast sides of your home.

Said premise located in a **M-1.0 (apartment house) 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, Board Members, Jonathan Book and Mark Zuroff. Jonathan Raisz, architect, whose address is 26 Thorndike Street, Brookline, presented the case for the petitioners.

Mr. Raisz described the property as a two-and-a-half story single-family dwelling on the south side of Washington Street. Although it is a single-family dwelling, the interior was modified in 2009 for two kitchens to allow for two related families to share the dwelling, with a covenant recorded at the Registry of Deeds restricting the use of the building to single-family use. There is a steep rise in grade from the street to the rear lot line, and there is no parking on site. A tall rock retaining wall runs along the front lot line, with stairs leading up to the center entrance. Surrounding properties are primarily multi-family dwellings or attached single-families, with the commercial properties in Washington Square nearby.

Mr. Raisz said the petitioners are proposing to build a new garage at the front of the property so they can continue to live in this house. He said there are many steps to get to the front door and the garage will allow them to park on site and additionally construct an elevator from the garage to access the house more easily.

Board Member Zuroff asked why the garage was so deep. Mr. Raisz said it was for maneuverability and future accessibility as well as the construction of the elevator entrance. Mr. Raisz said once the garage is constructed, the street handicap parking space will be removed so there is no reduction in street parking. Petitioner Tama Zorn said the neighbors have been very supportive including Jerry Kampler who owns the abutting property most affected by the project.

Board Member Book asked Mr. Raisz if he would describe the counterbalancing amenities to be provided by the petitioners under Section 5.43 of the Zoning By-Law. Mr Raisz

said there would be a new wrought iron railing and a container garden as well as correction of an existing drainage issue on the abutting neighbor's property. Chairman Geller asked whether any consideration was given to installation of pedestrian warnings. Mr. Raisz said they have worked with the DPW and suggested pedestrian warning strips, but the DPW was not in favor of that proposal. Mr. Raisz said he would be open to providing whatever the Town felt was necessary.

The Chairman asked whether anyone in attendance wished to speak in favor of the proposal. No one rose to speak. The Chairman asked if anyone would like to speak in opposition. No one spoke in opposition.

The Chairman called upon Lara Curtis Hayes, Planner, to deliver the comments of the Planning Board.

FINDINGS

Section 5.01 – Table of Dimensional Requirements, Footnote #1: If the entrance to a garage faces toward the street to which its driveway has access, said entrance shall be at least 20 feet from the street lot line.

Section 5.09.2.a – Design Review: Any exterior addition to a structure that fronts on Washington Street in an M District requires a special permit subject to the design review standards listed under *Section 5.09.4(a-1)*. All the conditions have been met, and the most relevant sections of the design review standards are described below:

- a. Preservation of Trees and Landscape – The new garage is proposed where there is extensive vegetation, and will require the removal of at least one tree.
- b. Relation of Buildings to Environment – The proposed addition is not expected to cause any shadows on neighboring buildings or the streetscape, but is expected to require excavation of the hillside.
- c. Relation of Buildings to the Form of the Streetscape and Neighborhood – Several other buildings along Washington Street, particularly the abutting attached single-families to the right, already have front-yard garages, similar to what is being proposed with this application. The current retaining wall along the front lot line is quite high.
- d. Open Space – This proposal would remove a significant amount of landscaped space from the front yard, although it is currently overgrown, as well as the removal of at least one tree; usable open space would remain largely the same since front yard space in M Districts cannot be counted toward usable open space. A deck at the rear of the building provides recreational space for the dwelling, and the proposed deck on the garage roof would add to this recreational space.
- e. Circulation – This proposal would create a new access point for vehicles where there is now none, in an area with relatively high pedestrian and vehicular traffic. However, the proposed width of the curb cut is typical of most two-car garages.
- f. Utility Service – The proposal would create new impervious surface on the property, and therefore more storm water runoff than before. All runoff should be appropriately addressed in accordance with Engineering Department regulations.

Section 5.31 – Exceptions to Maximum Height Regulations

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.50 – Front Yard Setback

Section 5.53 – Accessory Buildings to Front Yards

Section 5.54 – Exceptions for Existing Alignment

Section 5.60 – Side Yard Setback

Section 5.63 – Accessory Buildings or Structures in Side Yards

<u>Dimensional Requirements /</u>			
<u>Garage & Elevator</u>	<u>Required</u>	<u>Proposed</u>	<u>Relief</u>
<u>Front Yard Setback</u>	<u>20 feet</u>	<u>0 feet</u>	<u>Special Permit*/Variance</u>
<u>Side Yard Setback</u>	<u>7.5</u>	<u>0 feet</u>	<u>Special Permit*/Variance</u>
<u>Height</u>	<u>35 feet</u>	<u>33'9"</u>	<u>Complies**</u>

* Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided. The applicants are considering proposing landscaping as a counterbalancing amenity, as well as working to resolve a drainage issue with the abutter at 672-674 Washington Street.

** Under *Section 5.31*, maximum height regulations do not apply to structures (such as cupolas, domes, chimneys, elevator penthouses, etc.) that are built above the roof and not devoted to human occupancy if they are erected to such heights and of such areas as are necessary to accomplish their purposes.

Section 6.04.5.b – Design of All Off-Street Parking Facilities

Section 6.04.5.c.2 – Design of All Off-Street Parking Facilities

Section 6.04.12 – Design of All Off-Street Parking Facilities

<u>Parking/Driveway</u>	<u>Required</u>	<u>Proposed</u>	<u>Relief</u>
<u>Front Yard Setback</u>	<u>10 feet</u>	<u>0 feet</u>	<u>Special Permit^a</u>
<u>Side Yard Setback</u>	<u>5 feet</u>	<u>0 feet</u>	<u>Special Permit^a</u>

^aUnder *Section 6.04.12*, the Board of Appeals may waive the dimensional requirements for parking facilities being installed to serve existing structures and land uses.

Section 8.02.2 – Alteration or Extension

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

Ms. Hayes said the Planning Board is not opposed to this proposal to construct a new attached garage and elevator addition to this single-family dwelling. Although the Board does not typically support front yard parking proposals, in this case, the property has no on-site parking, already has a very high retaining wall along the front lot line, and is next to a series of buildings with similar front yard garages. The new garage with deck above would provide articulation and dimension to the pedestrian area, an improvement over the existing wall, and the new deck would create recreational open space in an area that's largely overgrown with landscaping. The applicants have also indicated they would work with their neighbor at 672-674 Washington Street to resolve a drainage issue on the property line. The elevator would allow for an accessible entrance to the dwelling, as well as provide access to all floors.

Some details for the proposal should still be provided, specifically what sort of materials will be used for the exterior of the garage and elevator addition and more information regarding the third floor dormer. If landscaping is to be used as a counterbalancing amenity, then a detailed landscaping plan should be provided prior to issuance of a building permit showing the new

plantings. Additionally, although the Planning Board believes the proposed tactile warning strips on either side of the garage are helpful, the applicant should check with the Department of Public Works about such installations on public sidewalks to ensure the proposal meets their standards.

Therefore, the Planning Board recommends approval of the plans by Jonathan Raisz, dated 6/5/2012, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations, indicating all salient dimensions, materials, and railing and lighting details, subject to the review and approval of the Planning Board.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan indicating all counterbalancing amenities subject to the review and approval of the Planning Board.
4. 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; 2) final building elevations stamped and signed by a registered architect; and 3) 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, for the comments of the Building Department. Mr. Yanovitch said that the Building Department has no objections to the proposal and feels the addition will improve the streetscape as a whole.

Chairman Geller said he disagrees that the structure is an improvement to the streetscape. He said he does appreciate the need for off-street parking and feels it meets the requirements for the relief requested under the Zoning By-Law. Chairman Geller suggested that a condition be added to include some form of warning to provide better safety to pedestrians. Board Member Zuroff said he agrees with Chairman Geller. Board Member Book said he agrees with Mr. Geller and Mr. Zuroff but is troubled by the elevator shaft at the front of the house, however he is favorable towards granting the relief requested.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits pursuant to **Section 5.09, Section 5.72, Section 5.43, Section 6.04.12 and Section 8.02.2** of the Zoning By-Law. The Board also made the following specific findings pursuant to **Section 9.05** of the Zoning By-Law:

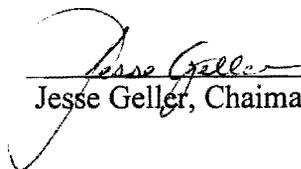
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the 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 and elevations, indicating all salient dimensions, materials, and railing and lighting details, as well as pedestrian safety measures, subject to the review and approval of the Planning Board.

2. Prior to the issuance of a building permit, the applicant shall submit a final site plan subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan indicating all counterbalancing amenities subject to the review and approval of the Planning Board.
4. 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; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals


Jesse Geller, Chairman

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Patrick J. Ward
Clerk, Board of Appeals