



BOARD OF APPEALS

Enid Starr, Co-Chair

Co-Chair Jesse Geller

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Town of Brookline
Massachusetts

Town Hall, 1st Floor

333 Washington Street

Brookline, MA 02445-6899

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2012-0072

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Petitioner, Gregory Judge, applied to the Building Commissioner for permission to construct a carport at the side of 53 Willard Road. The application was denied and an appeal was taken to this Board.

On December 20, 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 January 31, 2013 at 7:15 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 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



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to all others required by law. Notice of the hearing was published on January 10, 2013 and January 17, 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: **JUDGE TR GREGORY B**

Owner: **JUDGE TR GREGORY B**

Location of Premises: **53 WILLARD RD**

Date of Hearing: **January 31, 2013**

Time of Hearing: **7:15 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:

- 1. 5.43; Exceptions to Yard and Setback Regulations**
- 2. 5.60; Side Yard Requirements**
- 3. 6.04.5.c.2; Design of All Off-Street Parking Facilities**
- 4. 8.02.2; Alteration or Extension**

of the Zoning By-Law to **CONSTRUCT ATTACHED CARPORT REQUIRING BOA RELIEF**

at **53 WILLARD RD**

Said premise located in a **S-15 (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.***

Enid Starr

Jesse Geller

Christopher Hussey

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 Jonathan Book. The case was presented by John Porter, contractor, presented the case for the petitioner.

Mr. Porter described the property as being constructed in 1900 and is one of the oldest homes on the street. The property is developed with a single family dwelling and a garage in the rear yard located within 8' of the rear property line. Surrounding homes are single family dwellings primarily constructed in the first half of the 20th century.

Mr. Porter said the applicant, Grey Judge, is proposing to construct a carport, which will be located on the eastern side of the property, within 6" of the side property line. The carport will match the color of the dwelling and will align with and match the trim molding on the porch. The proposed carport will be used to access the existing deck and side entry to the dwelling.

Chairman Geller asked Mr. Porter to explain the use of the existing garage. Mr. Porter said the garage is a storage structure and there is no driveway connecting the garage to the street. Board Member Book asked Mr. Porter what the petitioner was proposing for counterbalancing amenities. Mr. Porter said there would be some landscaping and lattice screening installed between the carport and the most affected abutter.

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

Timothy Richard, Planner, delivered the findings of the Planning Board.

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.60 – Side Yard Requirements

Dimensional Requirements	Required	Existing	Proposed	Relief
Side Yard Setback	15'	20.33'	6"	Special

* Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided.

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

Mr. Richard said the Planning Board would support the requested relief to allow the applicant to construct a carport on the property if the abutter has no objections. The proposed carport will be shielded by trees and landscaping from 459 Chestnut Hill Avenue, which is the most affected property, directly abutting to the east. 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 J.M.P. General Contractors, Inc., dated 1/4/12, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations 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 landscape plan indicating all counterbalancing amenities, 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 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; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called on Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department has no objections to the requested relief. He said the relief is minimal and the Building Department will work with the petitioner to ensure compliance with the Building Code as well as any conditions.

In response to a question, Mr. Porter stated that the petitioner had contacted the abutter most affected by the alterations and that the abutter responded via electronic mail that the alterations were fine.

The Board then determined, by unanimous vote that the requirements of Sections 5.43, , Section 6.04.5.c.2 and 9.05 of the Zoning By-Law, were met. The Board made the following specific findings pursuant to said Section 9.05:

- 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 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 landscape plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.
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elevations; 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

Filing Date: March 21, 2013

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals