



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2011-0011

Petitioner, Lifei Guo, applied to the Building Commissioner for permission to construct an addition to his home at 26 Monmouth Street. The application was denied and an appeal was taken to this Board.

On February 10, 2010, 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 March 17, 2011, at 7:15p.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 March 3 and 10, 2011, 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: **GUO, LIFEI**
Owner: **GUO, LIFEI**
Location of Premises: **26 Monmouth St**
Date of Hearing: **March 17, 2011**
Time of Hearing: **7:15PM**
Place of Hearing: **Selectmen's Hearing Room, 6th. floor**

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

1. **5.20; Floor Areas Ratio, variance required.**
2. **5.22.3.1.b; Exceptions to Maximum Floor Area Ratio (FAR) Regulations For Residential Units, special permit required.**
3. **5.09.2.j&k; Design Review, special permit required.**
4. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
5. **5.60: Side Yard Requirements, variance required.**
6. **8.02.2; Alteration or Extension, Special Permit Required**

Of the Zoning By-Law to construct a garage addition with a living room to the rear and bedrooms above at 26 Monmouth St. BRKL.

Said premise located in a S-10 (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 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 Christopher Hussey and Lisa Serafin.

The Petitioner, was represented by Attorney Robert L. Allen Jr., 300 Washington Street #2 Brookline, MA 02445-6865.

Mr. Allen described the property at 26 Monmouth Street as a 2 ½ story single family dwelling that was constructed in 1905. The home is a Georgian Revival that was designed by Shepley, Rutan and Coolidge and is clad in stucco with slate shingles. The home is currently accessed by vehicles through the common alleyway at the rear of the property where there is also a freestanding three-car garage. He said that his client's are currently constructing a 13' x 19' addition on the rear of their home. The property is across the street from the Church of Our Savior and is surrounded primarily by single and multifamily residential dwellings with mixed use buildings to the rear of the property on Beacon Street.

Attorney Allen said that his client, Dr. Guo, is proposing to construct a two-story addition on the east elevation of the house. The addition will measure roughly 26-29.5' x 51.5'. The first floor of the addition will accommodate a two-car garage, a mudroom, several closets, a bathroom and a second living room. The garage will have two 9' doors with an additional "pedestrian door" between the main house and the garage doors. The second story of the addition will be recessed 4' (so that it complies with the side yard setback) and will have a hipped roof which is consistent with the main house. The second story addition will accommodate two new bedrooms as well as an additional bathroom. The addition is intended to house the applicants' parents and provide some moderately private living quarters for them as well as covered parking facilities for the entire family.

Mr. Allen said that the removal and relocation of the existing driveway is part of the proposed project. There currently is a driveway on the west side of the property (accessed from Monmouth Street) with a secondary "driveway" located in the rear yard adjacent to the existing garage that is accessed through a common alley. The driveway in the rear yard contains two parking spaces which are currently used by residents in the neighboring building and will be retained. He said

that his client will be removing the other driveway and constructing a new driveway on the other side of the front yard off Monmouth Street and the existing garage will be retained for storage.

Mr. Allen presented photographs of the existing home which were retained as an exhibit. Mr. Allen said that relief was requested under Section 5.09.2.j and k of the Zoning By-Law requiring design review, which design review is triggered by the petitioner's request for special permit relief under Section 5.22 of the Zoning By-Law. Also, he said relief was requested from Section 5.60, side yard setback. Attorney Allen said that the Board could provide this dimensional relief by special permit under Section 5.43 of the Zoning By-Law. He said that his client is proposing to install new landscaping including a hedgerow along the side lot line to screen the proposed addition, preserve the existing mature trees on either side of the driveway and plant the area with grass as counterbalancing amenities.

The Chairman asked whether anyone in attendance wished to speak in favor or against the proposal. Mr. Melvin Clouse of 59 Monmouth Street said that he was supportive of the proposal before the Board. A letter from Mr. Clouse was accepted as an exhibit in the case. No one spoke in opposition to the proposal. A letter was received from Tommy Vitolo raising concerns about the size of the curb cut for the new driveway and the possibility of vehicular parking within the green space.

Courtney Synowiec, planner, delivered the findings of the Planning Board.

Section 5.09.2.j&k – Design Review: Any exterior addition for which a special permit is requested pursuant to *Section 5.22 (Exceptions to Maximum Floor Area Ratio Regulations)* requires a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. 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 proposed location is cited where a large evergreen tree is currently located, and there are two significant trees on either side of the new proposed driveway. The applicant will be retaining the two trees that straddle the

proposed driveway, but the large evergreen will need to be removed.

- b) Relation of Buildings to Environment: The proposal has some potential to cast shadows on the neighboring property to the east. The nearest building to the proposed addition is a three-story apartment building with rear bays that are located approximately 16' away; with an existing driveway between the two properties. The applicant reduced the massing of the second story by pushing it in (so that it complies with the setback) which should reduce the impact of some of the potential shadowing.
- c) Relation of Buildings to the Form of the Streetscape and Neighborhood: The proposed addition is sensitive to and complementary of the architecture of the existing house. The applicant is utilizing windows that are similar to the existing wood windows (which were repaired rather than replaced per the recommendation of Preservation Staff) and is utilizing window and roof materials and styles that are consistent with the main house and the neighboring structures.
- d) Open Space: The applicant has a large lot for the zoning district and while some of the open space on the lot will be removed to accommodate the new addition, the loss of the open space should not detract from the recreational functionality of the property.
- e) Circulation: The applicant will be removing an existing driveway and relocating it on the other side of the property. The existing driveway will be grassed over and the curb cut will be removed. The new driveway is outside the setbacks and the two parking spaces on the rear of the property are proposed to be retained.

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.30 100%	.26 86%	.36 120%	Special permit*
Floor Area (s.f.)	5,490	4,748	6,586	

* Under Section 5.22.c.3 the Board may allow by special permit an exterior addition up to 120% of the permitted gross floor area.

Section 5.60 – Side Yard Setback

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
East Side Yard Setback (ft.)	10	35.6	6.1	Special Permit*/

* Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant is proposing to install new landscaping including a hedgerow along the side lot line to screen the proposed addition, preserve the existing mature trees on either side of the driveway and remove the pavement from the existing driveway and replace with grass as counterbalancing amenities.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a nonconforming structure or use.

Ms. Synowiec reported that the Planning Board was generally supportive of this proposal. The Planning Board believed the proposed addition is well-designed, attractive and is indicative that effort was taken to design an addition that would be complementary of the existing structure while meeting the functional needs of the residents. Although the Planning Board also believes the addition could be redesigned without much difficulty so that the first floor of the addition that requires relief complies with all required setbacks, such a redesign would be detrimental to the appearance of the addition. Further, as the setback encroachment is only for the wall of the garage of the first floor, the Planning Board believes they could find such an encroachment acceptable should the applicant install a hedgerow to screen the part of the addition within the setback. Finally, the Planning Board would like the applicant to submit plans indicating the location of major trees on the property, particularly those that are proposed to be removed and a driveway with a maximum 20' wide curb cut. Therefore, the Planning Board recommended approval of the plans by N.S.B.C. Inc., dated 1/19/11, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final FAR analysis, final floor plans and elevations indicating all salient materials and dimensions 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 indicating the location of the driveway and proposed curb cut as well as 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 certificate of occupancy for the new addition, the applicant shall remove the existing driveway and curb cut and reseed the area with new grass.
4. The applicant shall not park more than four vehicles on the property.
5. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance with the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations,

stamped and signed by a registered architect; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard, referring to the photographs in the Planning Board report, commented on the architectural quality of the existing structure and opined that given the level of workmanship evident on the rear addition he expected the proposed addition will be an asset to the homeowner as well as the neighborhood. Mr. Shepard questioned the Planning Board condition regarding the maximum amount of vehicles saying that it could prove to be an enforcement nightmare as during occasional special events there could be more than the four vehicles referenced in the condition. Mr. Shepard said that there is no parking allowed in the front setback and that he did not foresee any problem in this regard. Mr. Shepard said that the Building Department was supportive of the proposal as well as the conditions recommended by the Planning Board with the exception of #4.

During deliberations, Board Members discussed drainage on the property. The immediate abutter to the east, writing in support of the relief, said he wanted the petitioner to keep runoff on his own property. The Board Members agreed, stating that a drainage plan should be submitted to the Town Engineer for review and approval. There was further discussion about the need for the setback relief; however the Board felt that the plan showed a very modest mudroom and two car garage and felt it was appropriate.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that all the requested relief could be granted by special permit. The Board found that that the petitioner has satisfied the requirements necessary for relief under Sections 5.09.2.j&k,

5.22C.3, 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 a final FAR analysis, final floor plans and elevations indicating all salient materials and dimensions 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 indicating the location of the driveway and proposed curb cut as well as 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 a drainage plan prepared by a Registered Engineer for review and approval of the Town Engineer.**
- 4. **Prior to the issuance of a certificate of occupancy for the new addition, the applicant shall remove the existing driveway and curb cut and reseed the area with new grass.**
- 5. **Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance with the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations, stamped and signed by a registered architect; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.**

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2011 APR 1 A
Unanimous Decision of
The Board of Appeals
Filing Date April 1, 2011


Jesse Geller, Chairman

A True Copy
ATTEST:

A handwritten signature in black ink, appearing to read "Patrick J. Ward". The signature is written in a cursive style with a large initial "P" and a distinct "Q" at the end.

Patrick J. Ward
Clerk, Board of Appeals