



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

# *Town of Brookline*

## *Massachusetts*

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Brookline, MA 02445-6899  
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2011-0016

Petitioners, RMD Properties LLC, Lewis and Karen Cohen, applied to the Building Commissioner for permission to construct an addition including a six car garage and additional living space to their home at 230 Heath Street. The application was denied and an appeal was taken to this Board.

On March 24, 2011, 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 April 28, 2011 at 7:30 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 April 7 and 14, 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: RMD Properties LLC, Lewis & Karen Cohen**  
**Owner: RMD Properties LLC, Lewis & Karen Cohen**  
**Location of Premises: 230 HEATH ST**  
**Date of Hearing: APRIL 28, 2011**  
**Time of Hearing: 7:30 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. 4.07; Table of Use Regulations, Accessory Use #55, special permit required.**
- 2. 5.22.3.b.1.c; Exceptions to Maximum Floor Area Ratio (FAR) Regulations For Residential Units, special permit required.**

of the Zoning By-Law to **REMODEL THREE BATHS, BEDROOMS, CLOSETS AND FINISHES IN EXISTING 1<sup>ST</sup> FLOOR WING. PLANS BY ROBERT ZARELLI ARCHITECT at 230 HEATH ST.**

Said premise located in a **S-40 (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.

Due to a scheduling conflict, the site of the hearing was moved to the Selectmen's conference

room, adjacent to the hearing room. Appropriate notice was posted throughout the building advising of the change in location. The petitioners were represented by Attorney Jacob Walters of 7 Harvard Street, Brookline, MA 02445. Also in attendance was Robert Zarelli, the project architect.

Mr. Walters described the home at 230 Heath Street as a brick clad colonial style single family home that was constructed in 1932. The home is situated on a 1 & ½ acre lot in South Brookline located at the intersection of Heath and Lapland Streets. There is a stone wall in the front yard, as well as a number of large mature trees that largely screen the house from view from Heath Street. The side of the home on Lapland Street is mostly concealed by cement retaining walls and shrubs. The vehicular access to the house is provided by a circular drive in the front yard off of Heath Street, and a second driveway off of Lapland Street leads to the existing two car garage. Mr. Walters said that the petitioner, RMD Properties, is proposing to construct a nearly 4,000 square foot addition to the Lapland Street side of the property. The addition will encompass new living area as well as a new six-car garage. The new garage will be served by the existing motor court and circular drive (off Lapland Street) and the circular drive off Heath Street will be removed and landscaped. The addition and new parking facilities do not require any zoning relief with respect to setbacks, FAR or any other nonconformity and the applicant is seeking relief only for the accessory use to park six (6) vehicles on the property. Mr. Walters added that the relief required was by Special Permit pursuant to Section 4.07, Use 55 of the Brookline Zoning By-Law. Mr. Walters indicated that the garage would be visible from Lapland Street but not visible from any of the abutting properties. Mr. Walters indicated that the larger garage would be in keeping with the scale of dwellings in the neighborhood and would have no impact upon any of the neighbors or the neighborhood in general. Mr. Walters stated further that the six

vehicles to be garaged in the newly constructed space are all driven by Mr. Cohen, who is an avid automobile collector. Mr. Walters mentioned that the abutters had been fully advised of the plans for the site, and the applicant was not aware of any objections. It was pointed out to the Board that the Preservation Commission held a hearing since a portion of the existing structure was being demolished, and during the Preservation Commission review, neighbors had the opportunity to be heard and the Preservation Commission expressed its support. Mr. Walters concluded by stating that grounds for the granting of a Special Permit existed, citing the requirements of Section 9.05 of the Zoning By-Law. Mr. Walters opined that the site was an appropriate location for the proposed use, the garage would not adversely affect the neighborhood, no nuisance would result from the 6 car garage and more than adequate facilities would be provided for the proposed use.

Mr. Hussey asked if there were any FAR issues with the addition and was assured by Robert Zarelli, the applicant's architect that there were none.

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

Assistant Director for Regulatory Planning, Polly Selkoe, reviewed the findings of the Planning Board.

**Table of Uses Regulations, Section 4.07, Use #55** – A special permit is required for accessory garages or parking areas for more than four vehicles in S-Districts on lots greater than 10,000 s.f.

Ms. Selkoe reported that the Planning Board was generally supportive of this proposal. The garage will only be visible from Lapland Street and will utilize an existing motor court which already has some screening and therefore should not have a significant impact, in terms of appearance on the neighborhood. As the lot and the structure are large in size, a six car garage

will not look out of scale for the property and should nicely accommodate the homeowner's car collection. Therefore, the Planning Board recommended approval of a special permit for Use #55 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan and elevations subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered land surveyor or engineer; 2) final building 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, for the report from the Building Department. Mr. Shepard reported that the plans seemed well crafted and the petitioners were sensitive to the streetscape since the new garage will be screened by existing landscaping. Mr. Shepard said that he was supportive of the conditions recommended by the Planning Board and if approved would insure the addition is built in accordance with the conditions and the requirements of the state building code.

The Board then deliberated and each of the Members indicated their approval of the applicant's proposal, generally commenting that they believed the grounds for a Special Permit had been met. The Chairman noted that Special Permit relief as requested in this case was warranted for the specific reasons cited in Mr. Walters presentation.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits and that the petitioner has satisfied the requirements necessary for relief under **Section 4.07, Use #55** for the garaging of six motor

vehicles belonging to the occupants of the lot. 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.

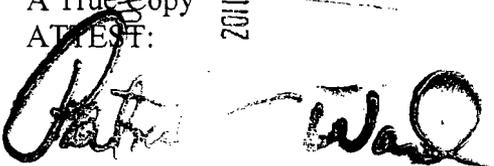
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

- 1. **Prior to the issuance of a building permit, the applicant shall submit a final site plan and elevations subject to the review and approval of the Assistant Director of Regulatory Planning.**
- 2. **Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered land surveyor or engineer; 2) final building elevations, stamped and signed by a registered architect; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds**

Unanimous Decision of  
The Board of Appeals

Filing Date: May 20, 2011

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals



Jesse Geller, Chairman

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