



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

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Town of Brookline
Massachusetts

Town Hall, 1st 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. 2011-0042

Petitioner, Chandar K. Vaid, applied to the Building Commissioner for permission to construct a new front entrance to the basement level at 1797 Beacon Street. The application was denied and an appeal was taken to this Board.

On July 7, 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 August 25, 2011, 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 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 August 4 and 11, 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: **VAID, CHANDAR K**
Owner: **VAID, CHANDAR K**

Location of Premises: **1797 BEACON ST**
Date of Hearing: **August 25, 2011**
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:

- 1) **5.09.2.a&d; Design Review, Special Permit Required.**
- 2) **5.43; Exceptions to Yard and Setback Regulations, Special Permit Required.**
- 3) **5.50; Front Yard Requirements; Variance Required.**
- 4) **5.60; Side Yard Requirements; Variance Required.**
- 5) **5.91; Minimum Usable Open Space, variance required.**
- 6) **8.02.2; Alteration or Extension; Special Permit Required.**

of the Zoning By-Law to **CONSTRUCT A NEW FRONT ENTRANCE REQUIRING BOA RELIEF** at **1797 BEACON STREET.**

Said premise located in a **M-1.5 (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.

**Enid Starr
Jesse Geller**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Enid Starr and Board Members Jonathan Book and Mark G. Zuroff. The case was presented by the petitioner's architect, Jatinder L. Sharma of 48 Linden Place, Brookline MA 02445.

Mr. Sharma described the subject property at 1797 Beacon Street as a 3-story brick row home built in 1910, with a detached garage. The building is located near Dean Road. Surrounding buildings are nearly all residential, featuring large apartment buildings and row houses. The neighboring properties at 1803 and 1805 Beacon Street both have private basement entrances, and there is a recessed front patio similar to the patio proposed at 1797 Beacon Street that was constructed at 1865 Beacon Street.

Mr. Sharma said that his client, Chandar Vaid, is proposing to excavate a portion of his front yard and build a recessed garden level patio with a private basement entrance. The proposed patio will measure 6' x 17' and will be constructed of pavers and finished with a 3'6" black wrought iron guardrail. The patio will be slightly deeper where the basement entrance is located, and then will have stairs that lead back up to the patio area. The stairs will be constructed of concrete and the stair railings will be metal. Mr. Sharma said that his client will also be replacing the basement windows with larger double hung vinyl replacement windows and is proposing to install a new metal basement door. Addressing the Planning Board's concern relative to the use of concrete block, Mr. Sharma said that he visited similar projects that had been completed in the neighborhood and he provided pictures of them as well (exhibit #1). He said that they now desire to use a split-faced block material in a beige/grey color. He said that the irregular surface of the face has a more residential appearance than regular concrete block. Mr. Sharma said that they are proposing to provide planters along the patio railings and additional landscaping as a counterbalancing amenity. He provided a colored landscape plan revised 8-22-2011 as exhibit #2. Also, he submitted a plot plan dated 8-22-2011 as exhibit #3.

Mr. Book asked for clarification regarding the difference between the split-faced product and that which was initially proposed. Mr. Sharma explained the difference.

Mr. Zuroff asked about drainage and Mr. Sharma stated that it would be addressed with the installation of a drywell which is the way most others in the neighborhood have addressed the issue.

Chairman Starr asked whether anyone in attendance wished to speak in favor of or against the proposal. No one rose to speak.

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

Section 5.09.2.a, d – Design Review: Exterior additions and alterations to structures on Beacon Street and to multiple dwellings with four or more units require a *special permit*, subject to the Community and Environmental Impact and Design Standards of Section 5.09. The standards relative to this application are as follows:

Preservation of Trees and Landscape: The proposal will involve the removal of some grass, but the extent of the work needs not impact the existing hedgerow along the property line. The hedgerow along the front of the property line and the sides up to the patio railings should be retained to maintain uniformity along the streetscape.

Relation of Buildings to Environment: The proposal does not add any additional mass to the building and will not create any shadowing on neighboring properties.

Relation of Buildings to the Form of the Streetscape and Neighborhood: Private basement level front entrances are fairly common on Beacon Street and the subject property is adjacent to two properties (one of which received relief in 2010) with private basement entrances. There is also a property at 1865 Beacon Street with a similar excavated front yard patio so the proposed recessed patio is not entirely atypical to the streetscape.

Open Space: Although the site currently has no open space that meets usable open space requirements, this proposal does make the landscaped open space more usable.

Section 5.50 – Front Yard Requirements

Section 5.60 – Side Yard Requirements

Dimensional Requirements	Required	Existing	Proposed	Finding
Front Yard Setback	15'	17'	11'	Special Permit*
Side Yard Setback	10'	0'	0'	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 provide planters along the patio railings and additional landscaping as a counterbalancing amenity.

Section 5.91 – Minimum Usable Open Space

Although the property is cited for minimum usable open space, none of the front yard meets the requirements for usable open space. As there is no FAR being added to the building, the required amount of usable open space is not impacted and therefore the fact that there is no usable open space on the site remains a pre-existing nonconformity.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure.

Ms. Synowiec reported that the Planning Board was supportive of this proposal. The proposed patio is 11' from the front lot line and can largely be screened by the existing hedgerow. Consequently, the Planning Board felt the retention of the existing hedgerow along the front property line is critical to maintaining a level of uniformity to the streetscape and strongly encouraged the applicant to refurbish the existing hedge. The Planning Board also had some concern about the usage of concrete on the building façade or on the retaining walls by the lower entry area and suggests the applicant utilize an alternative material on those surfaces and submit samples of those materials to planning staff for approval. Therefore, the Planning Board recommended approval of the plans by Jatinder Sharma, Registered Architect, dated 11/1/10, subject to the following conditions:

1. Prior to the issuance of a building permit, a final site plan and elevations indicating all salient dimensions and materials shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, a final landscape plan indicating the retention of the front yard hedge row and all counterbalancing amenities shall be submitted 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 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 Shepard, Building Commissioner, for the report from the Building Department. Mr. Shepard said that the plan seemed well crafted and the petitioner was willing to address the concern brought up at the Planning Board relative to the material used. He said the petitioner spent a considerable effort cataloging similar entrances in the neighborhood and the resultant design would be pleasing to the streetscape. Mr. Shepard reported that there were two letters of support in the file and that the Building Department was supportive of the relief requested as well as the conditions recommended by the Planning Board.

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

The Board, having deliberated on this matter and having considered the foregoing testimony, concluded that it was desirable to grant special permit relief from Sections 5.50, 5.60, 5.43 and 8.02.2 of the Town of Brookline Zoning By-Law. The Board found that since there was no increase in the gross floor area of the property that relief from the requirements of Section 5.91 (usable open space) was not necessary as the site is a pre-existing non-conformity. 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:

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Unanimous Decision of
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TOWN CLERK

Date: September 16, 2011


Enid Starr, Chairman

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Patrick J. Ward
Clerk, Board of Appeals