



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

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. 2011-0044

Petitioners, Anne and Brian Trinque, applied to the Building Commissioner for permission to demolish an existing two-car garage and construct another of similar size and design in the northwest corner of their lot at 33 Somerset Road. The application was denied and an appeal was taken to this Board.

On July 22, 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 September 8, 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 18 and 25, 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: **TRINQUE ANNE K & BRIAN C**
Owner: **TRINQUE ANNE K & BRIAN C**
Location of Premises: **33 SOMERSET RD**
Date of Hearing: **September 8, 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. 5.43; Exceptions to Yard and Setback Regulations, special permit required.**
- 2. 5.63; Accessory Buildings or Structures in Side Yards, variance required.**
- 3. 5.72; Accessory Buildings or Structures in Rear Yards, variance required.**
- 4. 6.04.5.c.2; Design of All Off-Street Parking Facilities, variance required.**
- 5. 8.02.2; Alteration or Extension, special permit required**

of the Zoning By-Law to Demolish 2 car garage at **33 SOMERSET RD.**

Said premises located in an **S-7 (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.

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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, Mark G. Zuroff and Board Members Jonathan Book and Christina Wolfe. The case was presented by the petitioner, Anne K. Trinque.

Ms. Trinque described her home at 33 Somerset Road as a single family center entrance colonial that was built in 1929. The home is two-and-a-half stories and sits on a gently sloping lot. There is a garage

in the rear yard with a play area next to it. The neighborhood is comprised of similar two and three story single family homes.

Ms. Trinque said that she and her husband Brian are proposing to demolish their existing garage and construct a new garage closer to the side and rear lot lines. The new garage will have an identical appearance to the existing garage, with the exception of the windows currently located on the west facade of the garage. Those windows will not be replicated as they will not meet code for fire separation since they will be within 5' of the lot line; however, there will be windows on the east facade of the garage. She said that they will also be removing a substantial amount of pavement from the front of their current garage to allow for a larger play area for their children in the rear yard.

Ms. Trinque said unlike other garages in the neighborhood, theirs is located behind the home, not along the property line directly off the street. She said because of the location and the grade that goes up from the street, maneuvering into and out of the garage is very difficult. Also, the garage takes-up premium play space that could be used by her children. Moving the garage will solve the access issues for vehicles, remove a significant amount of pavement and provide a larger play area for her children. Noting that in order to get the requested relief under **Section 5.43** of the Town of Brookline Zoning By-Law, Ms. Trinque said that the removal of a substantial amount of impervious pavement and replanting the area, the space will be more pleasing to the eye as well as more environmentally friendly.

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

Mr. Charles Walsh, a direct abutter and the neighbor most impacted by the proposal, said in an e-mail dated August 18, 2011 that "I am writing to let you know that we fully support moving the garage closer to the property line."

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

FINDINGS

Section 6.60 – Side Yard Setback

Section 5.70 – Rear Yard Setback

Dimensional Requirements	Required	Existing	Proposed	Relief
Garage (Side Yard)	6'	Est. 10'	3'	Special Permit*
Garage (Rear Yard)	6'	Est. 18'	3'	Special Permit*

* Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements by special permit if a counterbalancing amenity is provided. The applicant is proposing to remove a substantial amount of pavement in the rear yard and replant the area as a counterbalancing amenity.

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. Many of the homes on Somerset Road have garages tucked into the corner of the lot in a similar configuration as that which the applicant is proposing, and the Planning Board believed that the new garage is consistent with the community standard in this neighborhood for off-street parking. The Planning Board also noted that there is a hedge between the property at 33 Somerset Road and 39 Somerset Road that should partially screen the new garage from the neighboring property; however, should those plantings be damaged during construction, the Planning Board believed the applicant should replace the plantings. Therefore, the Planning Board forwards recommending approval the plans by Lynn Osborn, dated 8/4/11, subject to the following conditions:

1. Prior to the issuance of a building permit, final plans and elevations for the garage 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, the applicant shall submit a final landscape plan indicating the location of any removed pavement as well as new plantings 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 reported that the existing garage was constructed in an odd location. He said that moving the garage would make it more accessible and remove a significant amount of pavement. Mr. Shepard stated that special considerations regarding the construction of the garage are required due to the proposed proximity to the side and rear lot lines. Mr. Shepard noted that it is a very neighbor friendly neighborhood and the change in location of the garage would be a benefit to all. Mr. Shepard said that the Building Department was supportive of the relief requested as well as the conditions proposed by the Planning Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concluded that it was desirable to grant set-back relief under Section 5.43 since they believed that the proposed removal of pavement and replanting offset the relief required. Also, the Board thought it desirable to grant relief under Section 8.02.2 since the structure is pre-existing, non-conforming. 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, final plans and elevations for the garage 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, the applicant shall submit a final landscape plan indicating the location of any removed pavement as well as new plantings 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.

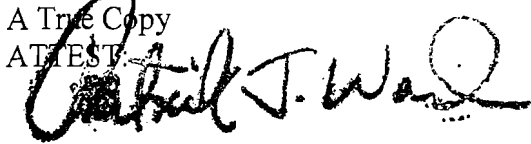
Unanimous Decision of
The Board of Appeals



Mark G. Zuroff, Chairman

Filing Date: September 23, 2011

A True Copy
ATTEST



Patrick J. Ward
Clerk, Board of Appeals