



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

11:33
BROOKLINE
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. 2010-0046

Petitioner, Robert Strecker, applied to the Building Commissioner for permission to expand the parking area, install a new retaining wall and install a water cistern at his single family home at 255 Summit Avenue. The application was denied and an appeal was taken to this Board.

On August 5, 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 October 14, 2010 at 7:00 p.m. in the Selectmen's Hearing Room, 6th floor, Town Hall, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to the 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 September 23 and 30, 2010 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

LEGAL NOTICE
TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEAL
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: STRECKER, FORERT & LARSEN ULLA

Owner: STRECKER, FORERT & LARSEN ULLA

Location of Premises: 255 SUMMIT AVE

Date of Hearing: October 14, 2010

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. 5.44.4; Accessory Underground Structures, closer to lot line than 10', special permit required.**
- 3. 6.04.2.b; Standard stall depth, variance required.**
- 4. 6.04.4.c; Curb cut too wide, variance required.**
- 5. 6.04.5.c.1; Parking in front setback, variance required.**
- 6. 6.04.9.b; No drainage details provided, variance required.**
- 7. 6.04.12; Exceptions to dimensional requirements for new parking for existing structures, special permit required.**
- 8. 8.02.2; Alteration or Extension, special permit required**

Of the Zoning By-Law to expand parking area, new retaining wall and cistern requiring Board of Appeals relief at 255 SUMMIT AVENUE.

Said premise located in a S-7 (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.

**Enid Starr
Jesse Geller
Robert De Vries**

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 Lisa Serafin. The petitioner, Robert Strecker, presented his case before the Board.

Mr. Strecker described his home at 255 Summit Avenue as a two-story single-family that was constructed in 1950. The home is on a corner lot and has frontage on both Summit Avenue and Jenness Road. There is a recessed single car garage at the basement level of the house on the Jenness Road side of the property. The garage is accessed by a 15' long driveway which has retaining walls on both sides, one of which has recently been replaced and the other needs to be replaced. He said that his garage inside is very small and it is difficult to open a car door once inside. The surrounding uses are primarily single family homes and the lot is located very close to the town line.

Mr. Strecker presented photographs of the site to the Board which were marked as exhibits. He said that he is proposing to widen the existing 9'6" wide driveway to 20' wide to accommodate two cars parked side by side. In order to widen the driveway, one of the existing stone retaining walls will need to be moved 12'6" closer to Summit Avenue. He said he is also proposing to plant a narrow landscaped bed between the new parking space and the house. Finally, he desires to bury a cistern near the new parking space which will store graywater from the basement sump-pump for use in the garden. The new driveway will be paved with paving stones, and the new retaining wall will be 45" high and constructed of river rocks.

Mr. Strecker advised the Board of the relief he was requesting. He said that he needed relief from **Section 5.44.4** for accessory underground structures, the cistern. He said that the Board could waive some of the set-back required for this structure under **Section 5.43** if adequate counterbalancing amenities are provided. As to counterbalancing amenities he said he would

provide new landscaping and climbing vines near the new retaining wall. He said the new driveway would be finished with a pervious surface rather than asphalt. He also said rebuilding the unsightly retaining wall and installation of the cistern would benefit the neighborhood as well as the environment. He said that since the depth of his parking stalls do not meet the minimum 18 feet required, that he would need relief under Section 6.04.12 to waive dimensional requirements for new parking facilities to serve existing buildings. He said the existing space is currently pre-existing non-conforming.

The Chairman asked whether anyone wished to speak in support or in opposition to the application. A resident of 265 Summit Avenue, across Jenness Road, questioned the need for a wider parking area since the petitioner's car fits in the existing driveway. She was also very concerned about the cistern and was worried that this volume of water, 600 gallons, could somehow fail and inundate her home which is down grade from that of the petitioner. The petitioner responded that indeed his car fit in the driveway but the proximity of the retaining walls made it a tight fit and also obscured his vision when turning onto Jenness Road. The Chairman responded that the safety of the cistern would be addressed by the Building Commissioner.

Lara Curtis Hayes delivered the findings of the Planning Board.

Section 5.44.4 – Accessory Underground Structures

Underground structures closer than 10' to the lot line require a special permit. The proposed cistern is approximately 5' from the lot line.

Section 6.04 – Design of Off-Street Parking Facilities

- 2.b – Standard stall depth shall be 18'
- 4.c – Curb cuts shall be a maximum of 20' wide
- 5.c.1 – Front yard setbacks for parking in S districts is 20' from the front lot line
- 9.b – Driveways shall be appropriately graded, surfaced with a suitable material, and drained to the satisfaction of the Building Commissioner. The applicant is proposing to pave the driveway with pavers.

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
Cistern Setback	10'	n/a	Est. 5'	Special Permit*
Stall Depth	18'	15'	15'	Pre-existing

				Nonconforming**
Curb Cut Width	20'	10'	20'†	Complies
Front Yard Setback (Parking)	20'	0'	0'	Pre-existing Nonconforming**

* Under Section 5.43, the Board of Appeals may waive setback requirements if a counterbalancing amenity is provided. The applicant is proposing to provide new landscaping and climbing vines near the new retaining wall.

** Under Section 6.04.12, the Board of Appeals may waive dimensional requirements for new parking facilities to serve existing buildings.

† While the site plan indicates the new driveway will be 22' wide, the applicant has agreed to reduce the curb cut to 20'.

Section 8.02 – Alteration or Extension

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

Ms. Curtis Hayes reported that the Planning Board was supportive of the proposal to widen the driveway at 255 Summit Avenue. As Jenness Road is a low traffic dead-end private road, it is not anticipated that the widening of this driveway will have a significant impact on safety at this intersection. Further, the Planning Board was supportive of the usage of a cistern to reuse the sump-pump graywater for gardening. Finally, the Planning Board believed the use of pavers and the new retaining wall will be aesthetically pleasing and will be an improvement to the existing dilapidated wall. Therefore, she said, the Planning Board approved the plans by Robert Strecker, dated 7/26/2010, and the site plan by Bradford Engineering Co., dated 9/30/2010, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan indicating a 20' curb cut 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 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 final drainage plan including plumbing details for the cistern subject to the review and approval of the Building Commissioner.
4. Prior to 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; and 2) evidence that 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 said regarding the cistern, that it is an environmentally friendly way to handle excess water. As to the abutter's specific concerns relative to the proximity of 600 gallons of water to her property, he said that inground swimming pools have many thousands of gallons of water, often closer than the cistern in question. He said that the installation would be subject to the plumbing code as well as the building code and the neighbors would not be subjected to any hazard. Mr. Shepard said that the Building Department is supportive of the requested relief as well as the conditions proposed by the Planning Board.

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 Sections 5.43, 604.12 and 8.02.2, of the Zoning By-Law and made the following specific findings pursuant to 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:

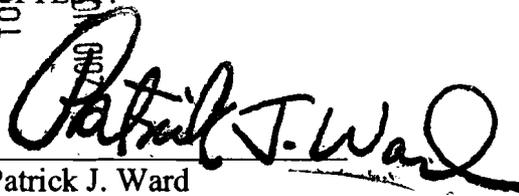
- 1. Prior to the issuance of a building permit, the applicant shall submit a final site plan indicating a 20' curb cut subject to the review and approval of the Assistant Director of Regulatory Planning.**

2. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan 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 final drainage plan including plumbing details for the cistern subject to the review and approval of the Building Commissioner.
4. Prior to 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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of the
Board of Appeals


Enid Starr, Chairman

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
Filing Date: November 15, 2010
5 P
True Copy
TEST:


Patrick J. Ward
Clerk, Board of Appeals