



# *Town of Brookline*

## *Massachusetts*

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

Town Hall, 1<sup>st</sup> 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. 2010-0070

Petitioners Church of Our Savior, applied to the Building Commissioner for permission to legalize two parking spaces constructed on their property for the parking of car sharing vehicles at 23 Monmouth Street. The application was denied and an appeal was taken to this Board.

On 14, October 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 13, January 2011, at 7:00p.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 23 and 30, December 2010, 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: **Church of Our Savior**  
Owner: **Church of Our Savior**  
Location of Premises: **23-25 Monmouth Street**  
Date of Hearing: **January 13, 2011**  
Time of Hearing: **7:00 PM**  
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; Use # 22A (in excess of 10% of spaces available on lot dedicated to CSO vehicles).**
2. **6.02.4.c; Off-Street Parking Regulations, (religious use), special permit required.**
3. **6.04.5.c 1); Design of All Off-Street Parking Facilities, (front set-back), special permit required.**
4. **6.04.12; Design of All Off-Street Parking Facilities, (substitution of other dimensional requirements), special permit required.**
5. **8.02.2; Alteration or Extension, special permit required.**

Of the Zoning By-Law to provide two spaces on your lot for a car sharing organization at 23 Monmouth Street.

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.*

**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, Jesse Geller and Board Members, Jonathan Book and Christopher Hussey. The Petitioner was represented by Church Senior Warden A. Stephan Williams of 35

Prescott Street. Also in attendance was Fred Lebow of FSL Associates an engineering firm located at 358 Chestnut Hill Ave., Boston, MA 02135. Attorney Williams presented the case before the Board.

Mr. Williams said that 23 Monmouth Street is located one block south of Beacon Street at the southwest corner of the Monmouth Street and Carlton Street intersection. The masonry buildings for the Church of Our Savior are located on the property, which consists of two lots that are held in common ownership. The property is located in the Longwood National Register District. The subject lot has two vehicular access drives, one off of Carlton Street, and another off of Monmouth Street. The Monmouth Street driveway leads to a gravel parking area in the front of the building, signed for use by Zip Car, and to a small parking area along the side and rear. The rest of the property is landscaped with grass, shrubbery and large trees. Mr. Williams said that the Church of Our Savior, proposes to legalize the use of two parking spaces for the use of a car sharing organization service. He said that the Church was approached by a car sharing organization and the use represented a need in the neighborhood. The Church also realized that income derived from the lease of the spaces could help offset rising infrastructure costs within the congregation. The two spaces are located in a front yard parking area, 6 feet from the front lot line. The parking area makes use of an existing driveway near the property's side lot line. Although he was not sure when these spaces were created, he suspects that they were likely installed in 2009. He said the Church was unaware that they needed a building permit for this work and therefore one was never applied for or obtained. The Chairman asked whether anyone in attendance wished to speak either in favor or in opposition to the petition before the Board. No one rose to speak.

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

**Section 4.07 – Table of Use Regulations, Use #22A:** For religious uses, up to 10 percent of parking spaces on the lot are allowed by right for CSO vehicles, and an additional two spaces beyond the 10 percent cap are allowed by special permit, up to a total of four CSO spaces. It is not clear how many parking spaces this property currently has since not all spaces are well marked. When visiting the property, staff estimated at least 7 to 8 parking spaces on site. The applicant is proposing to use two of those spaces for a CSO. *Special permit required.*

**Section 6.02.4.c – Off-Street Parking Regulations (religious use):** The Board of Appeals may by special permit allow a modification in the requirements specified in Article 6 as applied to Use 10 to the extent necessary to allow reasonable development of such a use in general harmony with other uses. *Use 10 only includes educational uses exempt from the Zoning Act, Ch. 40A, §3, and does not include religious uses, which are listed as Use 9 in the Table of Uses. This section likely is not applicable to this proposal.*

**Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities (front yard setback)**

**Section 6.04.12 – Design of All Off-Street Parking Facilities:** The Board of Appeals may by special permit allow for the substitution of other dimensional requirements where new parking facilities are being installed to serve existing structures and land uses. *Special permit required.*

**Section 8.02.2 – Alteration or Extension**

Ms. Synowiec reported that the Planning Board was not opposed to the legalization and use of these parking spaces by a car-sharing organization. Although the Planning Board does not usually support locating parking spaces in the front yard, these spaces are far from the corner intersection, which is the most prominent portion of the property, and a hedge has been planted to partially screen the parking area. Additional vegetative screening around the perimeter of the parking area would be beneficial. The gravel parking area is clearly defined and well maintained, and renting the spaces to a car sharing organization provides revenue to the church and a service to those in the neighborhood. The parking area should remain finished either in gravel or some other permeable paver. Therefore, the Planning Board recommends approval of the proposal and the plan prepared by FSL Associates and dated 11/30/2010, subject to the following conditions:

1. There shall be no more than two parking spaces on site dedicated to Zip Car, or any other car sharing organization.
2. The parking area shall be maintained with either gravel or permeable pavement.

3. The applicant shall retroactively apply for a building permit to install two parking spaces in the front yard setback and pay all fees and fines associated with the work.
4. Prior to a final sign off of the building permit, the applicant shall install additional vegetative screening around the front and sides of the parking area, and the Assistant Director for Regulatory Planning shall confirm its satisfactory installation upon a site visit.
5. Prior to issuance of a building permit to legalize the parking spaces, 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; and 2) 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 responded that the Building Department was not opposed to the legalization of these parking spaces. He said that the Board should consider an additional condition requiring the petitioner to obtain an open air parking license annually from the Board of Selectmen. Also he recommended the insertion of the word "certified" in place of "final in the last condition recommended by the Planning Board.

During deliberations, Board Members were unanimous in their disappointment and frustration that the work was done without benefit of a building permit. Board Member Book was concerned that the parking spaces appeared offensive in an otherwise pristine setting. He did note however, that no one from the public, particularly nearby residents seemed to be concerned. Board Member Hussey stated that the Planning Board should require a certified site plan before cases like this are forwarded to the Board. Ms. Synowiec responded that a plan was provided, although not certified, as the petitioner desired to keep costs to a minimum should the appeal be denied.

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 4.07, 6.04.12, 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. There shall be no more than two parking spaces on site dedicated to Zip Car, or any other car sharing organization.
2. The parking area shall be maintained with either gravel or permeable pavement.
3. The applicant shall retroactively apply for a building permit to install two parking spaces in the front yard setback and pay all fees and fines associated with the work.
4. Prior to a final sign off of the building permit, the applicant shall install additional vegetative screening around the front and sides of the parking area, and the Assistant Director for Regulatory Planning shall confirm its satisfactory installation upon a site visit.
5. The applicant shall obtain an open air parking license annually from the Board of Selectmen.
6. Prior to issuance of a building permit to legalize the parking spaces, the applicant shall submit to the Building Commissioner to ensure conformance with the Board of Appeals decision: 1) a certified site plan, stamped and signed by a registered engineer or land surveyor; and 2) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of

The Board of Appeals

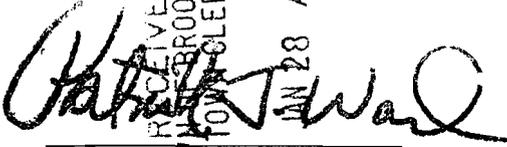
Filing Date: January 28, 2011

  
\_\_\_\_\_  
Jesse Geller, Chairman

A True Copy  
ATTEST

RECEIVED  
JAN 28 2011  
TOWN CLERK

JAN 28 A 6:25



Patrick J. Ward  
Clerk, Board of Appeals