



BOARD OF APPEALS  
Jesse Geller, Chair  
Mark G. Zuroff

# 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. 2019-0040  
1762 BEACON STREET, BROOKLINE, MA

Petitioner, 1762 BS LLC, applied to the Building Commissioner for permission to build 4 residential units in an existing structure at 1762 Beacon Street. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed August 8, 2019 at 7:00 PM., in the Select Board's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioners, 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 July 25, 2019 and August 1, 2019 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. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

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TOWN OF BROOKLINE  
TOWN CLERK  
2019 AUG 15 P 12:08

1762 BEACON STREET, BROOKLINE, MA 02445 - Proposed addition to existing three-story building and interior renovation to accommodate new four residential units in a(n) M-2.5 APARTMENT HOUSE on 08/08/2019 at 7:00pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Stephen Sousa) Precinct 13

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

**§5.09.2.A – DESIGN REVIEW**

**§6.02, Paragraph 1 - TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS**

**§6.02.2.F – OFF-STREET PARKING SPACE REGULATIONS**

**§8.02 - ALTERATION OR EXTENSION**

Any additional relief the Board may find necessary.

*Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130 or by checking the Town meeting calendar at: [www.brooklinema.gov](http://www.brooklinema.gov).*

*The Town of Brookline does not discriminate in its programs or activities on the basis of disability or handicap or any other characteristic protected under applicable federal, state or local law. Individuals who are in need of auxiliary aids for effective communication in Town programs or activities may make their needs known by contacting the Town's ADA Compliance Officer. Assistive Listening Devices are available at the Public Safety Building for public use at Town of Brookline meetings and events. Those who need effective communication services should dial 711 and ask the operator to dial the Town's ADA Compliance Officer.*

*If you have any questions regarding this Notice or the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at [chaynes@brooklinema.gov](mailto:chaynes@brooklinema.gov).*

*Jesse Geller, Chair  
Christopher Hussey  
Mark G. Zuroff*

**Publish: 07/25/2019 & 08/01/2019**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Mark G. Zuroff and Board Members Johanna Schneider and Kate Poverman. Also present at the hearing were Zoning Coordinator/Planner Charlotte Leis, Asst. Director of Regulatory Planning Polly Selkoe, and Deputy Building Commissioner Joseph Braga.

The case was presented by Attorney Jeffery Allen of Lawson & Weitzen, LLP. Chairman Zuroff called the hearing to order at 7:00 p.m. Mr. Allen waived the reading of the public notice.

Mr. Allen gave an overview of the project and the zoning relief required. They are converting a non-profit school into a 4-unit residential building and need relief for parking and design review. Mr. Allen noted that they could have as-of-right increased the FAR and height much more than they are proposing to do. The main visible change from Beacon St. is that the front door is moving slightly closer to the street.

Chair Zuroff asked if they are removing any of the arches. Mr. Allen said they are putting a window in one of the arches but are not removing any of them. They are proposing to demolish the garage abutting the alleyway and replace it with 4 uncovered parking spaces, and to add a small addition (<1,000 sf) at the rear. Mr. Allen believes it is not a high impact project and will improve look of the neighborhood by keeping the building better maintained. They have done a total shadow study that shows minimal effect on neighbors. They have also put a deck on the roof, but did a site analysis and configured the roof deck so it won't be visible from sidewalks. He said the project has received the unanimous, enthusiastic support of the Planning Board.

Chair Zuroff asked if the reconfiguration of the rear area will leave a place for the trash to be stored. Mr. Allen said they have shown the proposed trash storage location on the plans.

Stephen Sousa, architect for the project, gave an overview of plans. He mentioned that the Preservation Commission felt that removing the garage wouldn't interrupt the fabric of the alley; they had also made some comments about the alley being an easement that must be kept clear. They are removing the garage and adding 4 parking spaces (1 is compact) made of pervious pavers. Ms. Poverman asked if the car in the right-most parking space might have issues getting out, but Mr. Sousa said they have done parking studies and all 4 spaces are up to code, so they aren't concerned about that issue. Ms. Poverman asked which space is the compact one, and Mr. Sousa indicated the one on the far left adjacent to the walkway.

Mr. Sousa noted that they are putting the trash next to the walkway which is near where the left abutting neighbor puts their trash. He said that removing the garage creates a nice view corridor through the site. Ms. Poverman asked if the garbage will be in the view corridor. Mr. Sousa said yes, but that you can see past the trashcans. Ms. Poverman asked how wide the view corridor is. Mr. Sousa gave an overview of how the view from the alleyway will change with the removal of the garage and of a set of concrete stairs at the rear.

Mr. Sousa went over the proposed versus the existing elevations. They are infilling the second bay to match the bay that is already infilled. Ms. Poverman asked why they are infilling the second bay. Mr. Sousa said it is to provide more space for interior circulation. He then went over the sightline study of the roof deck which shows that it is not visible from the alleyway, sidewalk on Beacon, or sidewalk on opposite side of Beacon.

Ms. Schneider asked if there are any studies of how neighboring properties will see the roof deck; Mr. Sousa said they haven't done any studies on how people in neighboring buildings will see roof deck or whether people on roof deck can see into windows of other buildings. Chair Zuroff asked if the floor of the neighboring building will be at deck level; there is always a concern about privacy and noise when building a deck. Mr. Sousa said the deck is not directly lining up with the windows from the neighboring buildings, and that they are about a ½ story set off from each other. Mr. Allen added that the neighboring building is higher and so they can look down on the deck.

Chair Zuroff asked if there is any screening on the roof deck. Mr. Sousa said they plan to install an open fence. Ms. Schneider asked how far the deck is away from neighboring properties. Mr. Allen said the distance from the roof deck to 1768 Beacon is about 14'. Mr. Sousa went over the shadow study.

Chair Zuroff asked if there was anyone who wished to speak in favor of the project. Phoebe Compton (1760 Beacon) wished to speak. She owns on the building 1762 Beacon is attached to and lives in the back unit of the 3 in the building. From the outside it feels like a restoration of architectural details and materials, and she is fine with the proposed changes to the porch. She is glad they didn't go any higher than the existing roof line (besides the roof deck) and thinks the project could've had a much worse impact. They are doing everything to make it as beautiful as possible, and the new backyard will be an improvement over the current garage. Overall very happy with project.

Alon Shaar (1768 Beacon) owns an adjacent apartment asked if the 14' distance from his building to 1762 Beacon is going to change at all and whether a new garage is being built. Chair Zuroff said the building is not moving closer to the side lot lines. Mr. Allen said they are demolishing the existing garage and are not building a new one. He also noted that when they build the addition, they are matching the slate of the existing building so it looks continuous.

Sharon Slodki (1768 Beacon) lives on the 4<sup>th</sup> floor and looks directly at 1762 Beacon. She knows of at least 10 letters in opposition have been written by her neighbors. She is concerned that the walkway from Beacon St to the rear alleyway is super narrow. She has general concerns about light, privacy, noise, parking spaces, and density. She said it's not true that the footprint isn't changing because the back area is being pulled towards her building. She thinks the new materials are great and will add to the building, but the windows are so close to the neighboring building that it causes a loss of privacy and light for abutters. She was sad that the applicant didn't do a study of the relationship between the windows of 1762 and 1768 beacon. The new windows will be 6-8' ft. closer to their building than the existing conditions. She also has concerns about parking in the back; it's great that the garage is being demolished, but that doesn't address any other impacts on 1768 Beacon. It will cause

more congestion to have those 4 cars. She thinks that something with 3 units would've been nice, but trying to eke out 4 is too much. She showed the Board photos of the view from her windows.

Ms. Schneider asked Mr. Allen to confirm that there is no relief needed for FAR or setbacks; Mr. Allen said that is correct, they just need parking relief and design review. He said they are below the By-law requirements for density and height and the use is compatible with the neighborhood and zoning.

David Brewster Rockwood (1768 Beacon) said he appreciates when developers do things constructively, but that's not happening here. If we want Somerville, let them build their building, but if we want Brookline keep it as it currently is.

Chair Zuroff asked to hear from the Planning Department. Ms. Leis, Zoning Coordinator / Planner, presented the findings and recommendation of the Planning Board. She noted the following:

**FINDINGS**

Section 6.02.1: Table of Off-Street Parking Space Requirements

Section 6.02.2.f: Parking Space Requirements for Visitors and Tradespeople

| Number of Spaces Per Dwelling Unit       | Required                | Existing | Proposed | Relief         |
|--|-------------------------|----------|----------|----------------|
| Zoning District With 2.5 FAR Requirement | 8 (2 per dwelling unit) | 2        | 4        | Special Permit |

Section 6.01.2.a allows the Zoning Board of Appeals to waive by Special Permit up to 50% of the required parking for structures in F, M, L, or G districts that are being converted to residential uses. Per Section 6.02.2.i, any residential uses on a lot within the Transit Parking Overlay District must provide 2 spaces per dwelling unit with 3 or more bedrooms. This property is within that Overlay District.

Therefore, the required parking is 8 spaces, and the ZBA may reduce the requirement to 4 spaces by granting a Special Permit.

Section 5.09.2.a: Design Review

The property is located on Beacon Street, and therefore any structure or outdoor use requires Design Review. Below are the relevant standards and criteria:

- Preservation of Trees and Landscape
- Relation of Buildings to Environment

- Open Space
- Circulation
- Stormwater Drainage
- Utility Service
- Heritage

The proposed addition generally maintains the existing footprint of the building so no significant changes to the landscape are proposed with the exception of the removal of a tree in the rear yard. Removal of the tree is necessary to provide a fire escape and to allow sufficient maneuvering space for residents' vehicles. The landscape is therefore preserved as much as is practicable. The renovations and the addition to the building will not significantly alter its design so the structure, which is currently consistent with the character of the neighborhood, will remain so. The proposed use and building will have minimal impact on abutters or the public way, being consistent with surrounding uses. The Planning Department sees no other concerns related to circulation, utilities, stormwater, or heritage. The design standards of §5.09.4 are satisfied.

#### PLANNING DEPARTMENT COMMENTS

The Planning Department is supportive of this proposal. The modifications to the structure are reasonable and minimal, retaining the integrity of a historically valuable building. The change of use is appropriate given the zoning and predominant uses of the surrounding neighborhood. The reduced parking requested by Special Permit amounts to 1 parking space per dwelling unit, which is also reasonable given the proximity of the Dean Rd Green Line Stop (<1 min walk). The proposal will minimally impact abutters and the public way and it satisfies all of the criteria and standards for Design Review.

#### PLANNING BOARD RECOMMENDATION

The Planning Board is supportive of this proposal. The Board believes the project is very reasonable and consistent with the surroundings. Several Board members noted that the project shows restraint, remaining well below some of the Bylaw's density allowances and that the proposed renovations are well-designed. The Board raised very minor concerns about the attempt to replicate historic windows and the limited space for parking maneuvers, but otherwise expressed full support.

Chair Zuroff asked to confirm whether the Planning Board vote had been unanimous. Ms. Selkoe confirmed that it was. Ms. Poverman asked if the Planning Board had expressed concerns about the roof top deck. Ms. Selkoe said they were fine with it and that other properties on Beacon St also have roof decks.

Chair Zuroff asked to hear from the Building Department. Mr. Braga, Deputy Building Commissioner, said the Building Department had no objections to the relief being sought.

Chair Zuroff said the project is not a burden on the neighborhood, but he wants a requirement that the deck be screened to reduce noise and visibility to neighbors. He's fine with granting parking relief because of the accessibility of the T and because this is still increasing the overall number of parking spaces for the building. The building will also have more open space than under existing conditions. Ms. Selkoe noted that the Board can condition the Special Permit to require landscaping on the deck. Overall, Chair Zuroff is in favor.

Ms. Schneider said she is in favor and that it is useful to remember that all they are really reviewing is parking relief, which is routinely granted. She believes this is enough parking for the development. She generally defers to the Planning Board for design review, and they approved this. She's fine with screening the roof deck but is not sure it's within the Board's purview given what relief the project needs.

Ms. Poverman said she is sympathetic to the neighbor's issues with privacy. She is concerned about the roof deck because the distance between buildings is so small, and so it might be intrusive. She said that because they are doing Design Review, they can look at a whole bunch of things beyond just parking for this project.

Chair Zuroff said that only one unit has access to the deck. Ms. Poverman asked how large the deck is. Mr. Sousa said it is 220sf (10'x20'). Ms. Poverman asked what ameliorating steps they can take to deal with noise / privacy issues. Chair Zuroff suggested plantings and other screenings. Ms. Selkoe noted that the Preservation Commission also has input, and might have issues with screening if it's too visible from Beacon St. Neighbors are often concerned about noise, but very often these decks aren't used that much.



Ms. Poverman said she understands the neighbors' concerns but thinks that it is a well designed project. Chair Zuroff noted that this project is restoring housing units where there are none. Ms. Poverman said she doesn't like the roof top fence but that's not going to stop her from approving it.

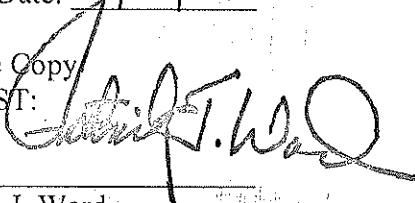
The ZBA members voted unanimously to approve the special permit relief per the site plan and architectural plans by Sousa Design Architects, dated 7/25/19, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations 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 landscaping plan subject to the review and approval of the Assistant Director of Regulatory Planning. The landscaping plan shall include screening of the roof top deck.
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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of  
The Board of Appeals

Filing Date: 8/15/19

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals



Mark G. Zuroff, Chair