



TOWN of BROOKLINE
Massachusetts

BOARD OF APPEALS

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 060001

Petitioners, Jeffrey Wolk and Maria Wolk, applied to the Building Commissioner for permission to make renovations to a single family home at 45 Woodland Road, Brookline. The application was denied and an appeal was taken to this Board.

On December 22, 2005, 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 February 2, 2006, at 7:15 p.m. in the Selectmen's Hearing Room on the sixth floor of the Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to its attorney (if any of record), to the owners of 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 January 19, 2006 and January 26, 2006, 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: JEFFREY WOLK AND MARIA WOLK
Location of Premises: **45 WOODLAND RD BRKL**
Date of Hearing: **02/02/2006**
Time of Hearing: **7:15 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th. Floor**

A public hearing will be held for a variance and/or a special permit from

- 1) **5.43: Exceptions to Yard and Setback Regulations; Special Permit Required.**
- 2) **5.70; Rear Yard Requirements; Variance Required.**
- 3) **8.02.2; Alteration or Extension; Special Permit Required.**

Of the Zoning By-Law to construct additions including a garage per plans

At **45 WOODLAND RD BRKL**

Said Premise located in a S-25
District.

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.

**Diane R. Gordon
Harry Miller
Bailey Silbert**

Publish: 01/19/2006, and 01/26/2006

At the time and place specified in the notice, a public hearing was held by this Board. Present at the hearing were Board Members Lawrence E. Kaplan, Bailey S. Silbert and Sarah Sheldon. Petitioners were represented at the hearing by Attorney Jeffrey P. Allen.

At the hearing, Tim Greenhill, Planner, distributed the Planning Board Report dated January 26, 2006.

Mr. Allen stated that this is a request for a modest addition to this single family dwelling. The addition would include a three car garage.

45 Woodland Road is a single family house on a large lot in South Brookline abutting the Soule Recreation Center. Built in 1892, the house is a two and a half story structure with a hip roof, dormers and a stucco exterior. It is set back quite far from the street and faces north. A deck surrounds the property on all elevations except the front. There was a two-car stucco garage that was associated with this lot, but following the creation of the lot by a subdivision, the garage ended up on the adjacent parcel. A common driveway exists which provides access to the former garage and to this lot. The surrounding area consists of single family homes on large lots.

The applicants, Jeffrey and Maria Wolk, are proposing to construct a three car garage addition, a connector addition and a two story addition within the rear yard setback. A mud room and coat closet, also within the connector, is proposed to connect the garage to the existing house. The existing kitchen on the ground floor and guest room above on the second floor will be extended over the existing deck in the rear yard setback and a new stairway and bathroom will be included in the rear setback. The front porch

and some other internal layout of the building are proposed to be changed, but these are outside of the yard setbacks.

Mr. Allen explained that the relief necessary all relates to the rear yard setback. The rear yard is presently non-conforming thus relief is necessary under Section 8.02(2) relating to the alteration of the present nonconformity. Since the deficient rear yard setback is being intensified, relief is also required under Section 5.43 which requires a counterbalancing amenity. The proposed counterbalancing amenity is substantial landscaping in the rear yard. Mr. Allen pointed out that the relief sought is minimal and that all abutters have seen the plans and do not object. This addition will make this property consistent with other properties in the area that have attached garages like the home on the subject properties rear lot line. Mr. Allen pointed out that great care has been taken in designing the addition so it would appear to be part of the original home.

The Zoning relief required is as follows:

Section 5.43 Exceptions to Yard and Setback Regulations

Section 5.70 Rear Yard Requirements

Section 8.02(2) Alteration or Extension

This section allows the alteration, repair, or enlargement of existing nonconforming buildings as long as any nonconforming condition is not increased unless allowed by another section of the By-law. In this case, rear yard was initially nonconforming, and the addition of the proposed garage will intensify this nonconformity. Relief of the rear yard requirement can be granted through a special permit under Section 5.43 as described above.

The Chairperson asked if any members of the public wished to be heard on this matter and no individuals asked to be heard.

Tim Greenhill of the Planning Department, gave the following report:

The Planning Board does not object to the construction of a two-story addition, a connector addition and an attached three car garage on the property at 45 Woodland Road. The proposed addition is located at the rear of the property and

will not be visible from the street. The addition extends into the setback less than the existing nonconforming structure and is compatible with the existing structure.

Frank Hitchcock, Senior Building Inspector, spoke on behalf of the Building Commissioner. He restated the various sections of the Zoning By-law under which relief is needed. Mr. Hitchcock stated that the Building Department has no objections to the requested relief. He further stated that he will ensure that all State Code provisions are satisfied.

The Board having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant all special permit relief that is requested.

The Board finds that the proposed alterations to the property will not be more detrimental to the neighborhood than the existing conditions. Rather, the proposed rehabilitation of the property will be of benefit to the neighborhood because the structure will be in keeping with the character of the neighborhood. The Board finds that the proposed use will not remove any existing low-or moderate-income housing in the Town.

The Board further makes the following findings pursuant to Section 9.5:

1. The location, topography, vicinity and natural features of the site make it particularly suitable for the proposed home as renovated.
2. The design of the proposed home is in harmony with the prevailing character of the neighborhood.
3. The specific site is appropriate for a home of the size and character proposed.
4. The renovated home will not adversely affect the neighborhood.
5. There will be no nuisance or serious hazard to vehicles or pedestrians from the use as proposed.

6. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
7. The home, as designed, will not have a significant adverse effect on the supply of housing available for low and moderate-income people.

Accordingly, the Board grants special permits pursuant to 5.43, 5.70 and 8.02.2 of the Zoning By-Laws, subject to the following conditions:

1. A landscaping plan, showing all counterbalancing amenities and site improvements, shall be submitted subject to the review and approval of the Chief Planner of the Planning and Community Development Department prior to the issuance of a building permit.
2. Prior to obtaining a building permit, the applicant shall submit to the Chief Planner of the Planning and Community Development Department for review and approval for conformance to the Board of Appeals decision: a) a final site plan, stamped and signed by a registered architect or land surveyor, including grading, and location of utilities and b) final building elevations stamped and signed by a registered architect.

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2006 FEB 22 A 11:29

Unanimous Decision of
The Board of Appeals



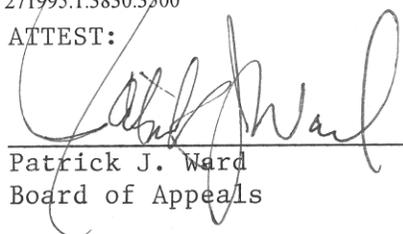
Lawrence E. Kaplan, Chairman

Filing Date: February 22, 2006

A True Copy:

271995.1.3830.3500

ATTEST:



Patrick J. Ward
Board of Appeals