



TOWN OF BROOKLINE

Massachusetts

BOARD OF APPEALS

DIANE R. GORDON, Co-Chair
HARRY MILLER, Co-Chair
BAILEY S. SILBERT

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PATRICK J. WARD, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
NO. BOA060003

Petitioner Elizabeth Billowitz applied to the Building Commissioner for permission to enclose the single story porch located at the side setback of the property at 240 Aspinwall Avenue, to create additional habitable living space. The Building Commissioner denied the petitioners' application due to the fact that the proposed addition violated the Zoning By-Law and an appeal taken to this Board.

On December 15, 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. The Board then fixed the date of February 16th, 2006 at 7:15 p.m. in the Selectmen's Hearing Room on the sixth floor of Town Hall as the time and place of a hearing of the appeal. Notice of the hearing was mailed to petitioners and their attorney, (if any of record), to 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 on January 26th, and February 2nd, 2006 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice as follows:

LEGAL NOTICE
TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEAL
NOTICE OF HEARING
PETITIONERS: Elizabeth Billowitz

LOCATION OF PREMISES: 240 Aspinwall Avenue BKRL

DATE AND PLACE OF HEARING

Thursday February 16th, 2006

At 7:15 p.m. in the Selectman's Hearing Room on the sixth floor of Town Hall
333 Washington Street Brookline, Massachusetts.

A public hearing will be held for a Special Permit from Section 5.43; Exceptions to Yard and Setback Regulations; and Section 8.02.2 ; Alteration or Extension; and Variance from Section 5.50; Front Yard Requirements; Section 5.51; Projections into Front Yards; Section 5.60: Side Yard Requirements; Section 5.61; Projections into Side Yards; Section 5.70: Rear Yard Requirements; and Section 5.71: Projections into Rear Yards; of the Zoning By-Law to construct an addition as per plans.

At 240 Aspinwall Avenue
Said premises is located in an M 1.0
Apartment House Residence District

The Town of Brookline does not discriminate on the basis of disability in admission to, or 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 Co-ordinator, 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

At the time and place specified in the notice a public hearing was held by this Board. Present were Harry Miller, chairman, Bailey Silbert and Diane Gordon.

Petitioner was represented by Attorney Jacob Walters of Goldenberg, Walters and Popkewitz of Seven Harvard Street in Brookline. Mr. Walters stated that all the requested relief could be granted by Special Permit, pursuant to Sections 5.43 and 8.02.2 of the Zoning By-Law. Mr. Walters stated that the Board could waive dimensional requirements - front, side and rear yard requirements under Section 5.43 if the applicant could provide a counterbalancing amenity. Mr. Walters stated that the proposed addition would not exceed the dimensions of the existing structure,

which is a pre-existing non-conforming use. Mr. Walters stated that the amenity being proposed by the applicants was additional landscaping including a new tree pursuant to a landscape plan. Mr. Walters added that the only other relief was under Section 8.02.2 Alteration or Extension. Mr. Walters stated that the porch enclosure would provide a small amount of additional habitable living space and relief is required due to the position of the house and side porch on this small lot. Mr. Walters concluded by providing letters of support from the abutters of the 240 Aspinwall Street property and stating that the proposed change to the nonconforming property will not be a detriment to the neighborhood. Mr. Walters asked the Board to grant the application.

The Chairman then called upon Timothy Greenhill of the Brookline Planning Department to present the Planning Board report. Mr. Greenhill stated that the Planning Board recommends approval of the requested zoning relief and indicated that such relief could be granted by Special Permits under Sections 5.43 and 8.02.2 of the Zoning By-Law. Mr. Greenhill stated that the Planning Board felt the proposal was reasonable and noted the odd shape of the lot and the fact that the addition would not exceed the existing footprint of the dwelling. Mr. Greenhill concluded by stating that the Planning Board recommends approval of the proposal from plans submitted and stamped by Jonathan Raisz, architect, dated November 18, 2005, with the following conditions: (1) A landscaping plan, showing 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 and (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 fencing, grading and location of utilities and (b) building elevations stamped and signed by a registered architect.

The Chairman then called upon Frank Hitchcock of the Brookline Building Department. Mr. Hitchcock stated that the Building Department has no objection to the applicant's proposal, and mentioned that the only issue was due to the layout of the dwelling on the lot; the existing porch was too close to the front, side and rear lot lines. Mr. Hitchcock stated that all dimensional relief could be granted pursuant to Section 5.43 of the By-Law.

The Board, having heard all testimony, and after review of the plans submitted, voted unanimously to grant special permits under Sections 5.43 and

8.02.2 to allow the enclosure of the existing porch into habitable living space with the following conditions:

1. A landscaping plan, showing 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 and

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 fencing, grading and location of utilities and (b) building elevations stamped and signed by a registered architect.

Unanimous decision of
the Board of Appeals



Harry Miller, Chairman

Date of Filing: March 24, 2006

A True Copy;
ATTEST:



Patrick J. Ward
Board of Appeals