



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

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. 2014-0086
OWNER: JOSHUA VITULLO & KRISTINA YEE

Petitioners, Joshua Vitullo and Kristina Yee, applied to the Building Commissioner for permission to construct two rear additions totaling 405 square feet at 11 Kensington Circle. The application was denied and appeal was taken to this Board.

The Board administratively 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 March 12, 2015 at 7:00 p.m. in the Selectmen's Hearing Room as the time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 February 19, 2015 and February 26, 2015 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:

11 KENSINGTON CIRCLE – CONSTRUCT TWO REAR ADDITIONS in an S-10, Single-Family, residential district, on March 12, 2015, at 7:00 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner: Joshua and Kristina Vitullo; Owner: Joshua and Kristina Vitullo) Precinct 15

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

- 1. Section 5.09.2.j: Design Review**
- 2. Section 5.22.3.b.1.b: Floor Area Ratio**
- 3. Section 8.02.2: Alteration or Extension**

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.

*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 Town programs and services may make their needs known to **Robert Sneider**, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneider@brooklinema.gov.*

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

Publish: February 19, 2015 & February 26, 2015

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Board Chairman Jesse Geller, and Board Members Mark Zuroff and Christopher Hussey. Property owner Joshua Vitullo presented details of the proposed construction to the Board.

Mr. Vitullo stated that he is requesting special permit relief to construct a small first-floor addition that will expand the existing kitchen. This addition is minimal, approximately eight feet by four feet, and effectively encloses an existing rear porch. A 370 square foot addition is also

proposed for the second-story above an existing sun porch. This additional floor area will be used for a master bedroom and bathroom. In total the project requires zoning relief from floor area ratio requirements and the alteration of a pre-existing non-conformity. Mr. Vitullo has communicated these project plans to abutting residents and he was not aware of any opposition.

Board Member Mark Zuroff requested additional detail regarding any counterbalancing amenities proposed by the applicant. Board Chairman Jesse Geller stated that the proposal had not been cited for dimensional violations necessitating relief under Bylaw **Section 5.43**, and therefore does not require counterbalancing amenities. Board Members concurred.

Mr. Vitullo stated that he did intend to install landscaping features near the rear lot line and install additional trees on the property.

Mr. Geller called for any public comment in favor of, or in opposition to, the applicant's proposal. No members of the public commented.

Mr. Geller requested that Zoning Coordinator Jay Rosa deliver the opinions of the Planning Board:

FINDINGS

Section 5.09.2.j – Design Review

Section 5.22.3.b.1.b – Floor Area Ratio

Dimensional Requirements	Allowed	Existing	Proposed	Relief
Floor Area Ratio	.30	.28	.32	Special Permit*
Percentage of Allowable	100%	91.7%	105.8%	
Gross Floor Area	2,872 s.f.	2,634 s.f.	3,039 s.f.	

* Under **Section 5.22.3.b.1.b**, the Board of Appeals may grant a special permit for an increase in floor area that is less than or equal to 20% of the permitted gross floor area.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure (side-yard setback).

Mr. Rosa stated that the Planning Board unanimously supported this proposal. Requested FAR relief is minimal and side-yard setback non-compliance is pre-existing. The first-floor addition is not visible from surrounding properties and design elements have been incorporated to reduce the overall impact of the second-story addition on abutters.

Therefore, the Planning Board recommended approval of plans submitted by Oak Hill Architects, dated 5/28/2013, and the site plan submitted by Everett M. Brooks Co., dated 10/16/2014, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, existing and proposed floor plans, and elevations, subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director for Regulatory Planning.
3. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) final floor plans and elevations, stamped and signed by a registered architect; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Geller requested that Michael Yanovitch present the opinion of the Building Department. Mr. Yanovitch stated that the Building Department had no objection to the proposal. Special permit FAR relief is included in the Bylaw specifically for projects such as this. If the ZBA does grant necessary special permit relief, the Building Department will work with the petitioner to ensure compliance with building codes.

The Board deliberated on the merits of special permit relief as requested. Board Members were satisfied that the standards for special permit relief have been met. Board members agreed that Condition 2, included in the record, should be removed to reflect the fact

that counterbalancing amenities are not required for the grant of special permit relief as requested by the applicant.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under **Sections 5.09.2.j** and **9.05** of the Zoning By-law, granting relief from application of the provisions of **Sections 5.22.3.b.1.b** and **8.02.2** of the Zoning By-Law. The Board made the following specific findings pursuant to the aforementioned **Section 9.05** of the Zoning By-law:

- The specific site is an appropriate location for such a use, structure, or condition.
- The use as developed will not adversely affect the neighborhood.
- There will be no nuisance or serious hazard to vehicles or pedestrians.
- 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 revised conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, existing and proposed floor plans, and elevations, subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) final floor plans and elevations, stamped and signed by a registered architect; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous decision of the
Board of Appeals



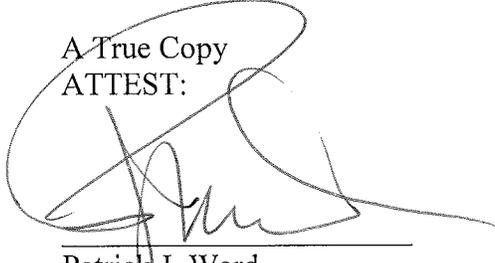
Jesse Geller, Chairman

Filing Date: 3/31/15

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK

2015 MAR 31 A 11:48

A True Copy
ATTEST:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to read 'Patrick J. Ward'.

Patrick J. Ward
Clerk, Board of Appeals