



# *Town of Brookline*

## *Massachusetts*

**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

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. 2015-0011  
OWNER: RON GARONZIK

Petitioner, Ron Garonzik, applied to the Building Commissioner for permission to construct an enclosed rear entryway at 9 Griggs Terrace. 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 April 16, 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 April 2, 2015 and April 9, 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:

**9 GRIGGS TER – CONTRUCT AN ENCLOSED REAR ENTRY in a T-6, TWO-FAMILY and ATTACHED SINGLE-FAMILY, residential district, on**

**April 16, 2015, at 7:00 PM in the 6<sup>th</sup> Floor Selectmen's Hearing Room (Petitioner: GARONZIK RON BEN-NATAN SHULAMIT; Owner: GARONZIK RON BEN-NATAN SHULAMIT) Precinct 10**

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.c: Exceptions to Floor Area Ratio (FAR) for Residential Units**
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.60 (Footnote 2): Side Yard Requirements**
- 5. Section 5.70: Rear Yard Requirements**
- 6. 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](http://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 Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).***

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

**Publish: April 2, 2015 & April 9, 2015**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Board Chair Jonathan Book, and Board Members Christopher Hussey, and Avi Liss. The project architect, Kaj Vandkjaer (KV Design & Bldg. – 300 Main Street, Wenham, MA) presented project details to the Board on the applicant's behalf. Mr. Vandkjaer stated that he produced plans detailing the enclosure of an existing rear entryway at 9 Griggs Terrace almost 10 years ago. Recently the applicant brought this proposal to the building department. The proposal was cited for FAR and rear/side yard setback relief. Mr. Vandkjaer presented these plans to the Planning Board in early April. At that time, the Planning Board noted that a building

code violation was present due to the lack of a 3 foot landing at the top of proposed stairs accessing the enclosed entryway. Mr. Vandkjaer stated that the stairs have been reconfigured (shifted from rear to side) in order to provide an appropriate landing and avoid impact on an existing rear pedestrian pathway.

Mr. Vandkjaer provided updated project plans (stamped by a registered architect) and photos detailing the existing condition at the rear of the property. There is adequate space to provide four stairs and a landing that will most likely be constructed of flagstone or bluestone. The enclosed entryway will serve as a mudroom and will be supported by posts rather than a full foundation. The siding will be constructed of treated natural wood (mahogany). A copper roof is also proposed in order to match the existing structure.

Board Member Hussey requested clarification regarding proposed rear and side-yard setback measurements. There is a discrepancy between site plans, construction plans, and Planning Board reports. Mr. Hussey and Mr. Vandkjaer determined that the proposed rear-yard setback is approximately 19.8 feet and the side-yard setback will be approximately 3.5 feet. Mr. Hussey confirmed that a certified and updated site plan must be submitted prior to the issuance of a building permit.

Board Members Hussey and Liss agreed that side-yard setback relief is not required as the property is an attached single-family home located in a T-6 zoning district. This lot is unique because there is a rear bump out that is off of the side lot line but Board Members agreed that this residence is not at the end of attached rowhouses and therefore requires no side-yard setback according the Zoning Bylaw Section 5.01 – Table of Dimensional Requirements.

Board Chair Book requested that Mr. Vandkjaer describe provided counterbalancing amenities for the required setback relief. Mr. Vandkjaer stated that minimal side-yard space makes landscape screening along the side lot line difficult. The applicant has suggested rear landscape improvements, pedestrian pathway preservation, and overall façade improvement, but a final landscaping plan has not been submitted.

Board Chair Book called for public comment in favor of or in opposition to the applicant’s proposal. No members of the public spoke in favor or opposition.

Mr. Book requested that Jay Rosa deliver the findings of the Planning Board and Building Department.

**FINDINGS**

**Section 5.09.2.j – Design Review**

A special permit is required for design review since FAR relief is triggered. No landscaping needs to be removed and the design of the enclosed entryway is consistent with the design of the home. All of the other design standards under this section have been met.

**Section 5.22.3.c – Exceptions to Floor Area Ratio (FAR) for Residential Units**

**Section 5.43 – Exceptions to Yard and Setback Regulations**

**Section 5.60, Footnote 2– Side Yard Setback**

**Section 5.70 – Rear Yard Setback**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Floor Area Ratio</b>	0.75 2,182 sf	0.98	1.01	Special permit*
<b>Side Yard Setback</b>	7.5 ft.	7.0 ft.	3.6'	Special permit**
<b>Rear Yard Setback</b>	30 ft	24.6 ft	20.3- 24 ft. ft	Special permit**

\* Under **Section 5.22.3.c**, an addition up to 350 sf may be allowed by special permit as long as it doesn't exceed 150% of the allowed FAR.

\*\* Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant is proposing to install additional landscaping to help screen the addition as a counterbalancing amenity.

**Section 8.02.2 – Alteration or Extension**

A special permit is required to alter a pre-existing non-conforming structure or use.

Mr. Rosa stated that the Planning Board supported this enclosed rear entry design in concept with the knowledge that modified plans were required to address the need for a code compliant landing. The Planning Board also noted that clear counterbalancing amenities, construction materials, and foundation detail must be provided prior to the issuance of a building permit. Overall, the addition is minimal in size and several impacted abutters have submitted formal support. The as-built entryway also preserves the rear pedestrian pathway that does serve as an amenity for immediate abutters. Therefore, the Planning Board recommends approval of the plans by K.V. Design and Building, dated April 9, 2015, and the site plan by Bruce Bradford, registered land surveyor, dated September 2, 2014, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final 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 landscape plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
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; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Rosa reiterated that plan dates are subject to change and suggested that building materials and foundation details be included in condition #1, and final floor plans be included in condition #3. Mr. Book agreed with these suggested revisions.

Mr. Rosa also stated that the Building Department is aware of initial code compliance concerns but otherwise has no objection to the applicant's proposal. The applicant has been responsive to Building Department recommendations and ultimately final construction plans will

be vetted by the Building Commissioner. Requested relief is minimal, and provided under bylaw sections 5.43 and 5.22.3.c. Should the Board find that the conditions for special permit relief have been met, the applicant will continue to work with the applicant to ensure compliance with all building codes.

The Board deliberated on the merits of special permit relief as requested. Mr. Hussey stated that design review standards have been met as a requirement of requested FAR relief. Mr. Hussey also agreed that this proposed addition is minor in scale and will have very little impact on abutters. For these reasons, Mr. Hussey supported the proposed project, subject to revised conditions. Mr. Liss concurred with these comments.

Mr. Book concurred and reiterated the fact that side-yard setback relief is not required. Mr. Book stated that if the Board grants approval, the submission and approval of final plans is critical in terms of documenting exact dimensional relief. Mr. Book concluded by stating that the standards for special permit relief under Bylaw Sections 9.05, 5.43, and 5.22.3.c have been satisfied.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 5.22.3.c, 5.43, and 9.05 of the Zoning By-law, granting relief from application of the provisions of Sections 5.09.2.i, 5.70, and 8.02.2 of the Zoning By-Law. The Board made the following specific findings pursuant to Section 9.05 of the Zoning By-law:

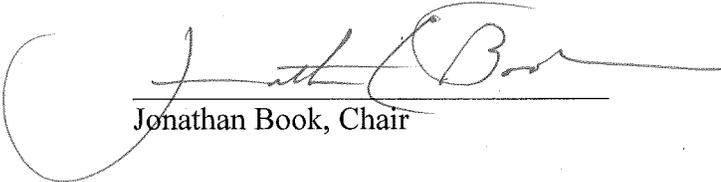
- The specific site is an appropriate location for such a use, structure, or condition.
- The use as developed will not adversely affect the neighborhood.
- There will be no nuisance or serious hazard to vehicles or pedestrians.
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Accordingly, the Board voted unanimously to grant the requested relief, subject to the following revised conditions:

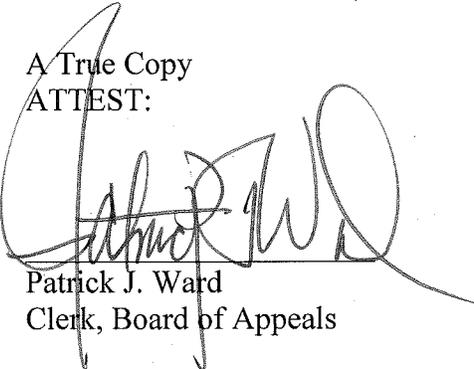
1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations, including all building materials and foundation details, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
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; 2) final floor plans and elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous decision of the Board of Appeals.

Filing Date: 4/27/15

  
Jonathan Book, Chair

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2015 APR 27 A 10:36