



BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town of Brookline

Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2015-0026
NEIL HOROWITZ & SERENE SROUJI
73 WELLAND ROAD, BROOKLINE, MA

Petitioners, Neil Horowitz and Serene Srouji, applied to the Building Commissioner for permission to construct a single-story rear addition. 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 June 11, 2015 at 7:15 p.m. in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 May 28, 2015 and June 4, 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:

73 WELLAND RD – CONSTRUCT A SINGLE-STORY ADDITION AT REAR in an S-7, Single-Family, residential district, on June 11, 2015, at 7:00 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner: HOROWITZ NEIL SROUJI SERENE; Owner: HOROWITZ NEIL SROUJI SERENE) Precinct 6

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 or Section 5.22.3.c: Exceptions to Floor Area Ratio Regulations for Residential Units**
- 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 Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneirson@brooklinema.gov.***

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Mark G. Zuroff and Board Members Christopher Hussey and Johanna Schneider. The case was presented by the attorney for the Petitioners, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance were Petitioners, Neil Horowitz and Serene Srouji, and the Petitioners’ architect, Philip Kramer, Philip Kramer Design, 84 Davis Avenue, Brookline, MA 02445.

Chairman Zuroff called the hearing to order at 7:15 p.m. Attorney Allen stated that the Petitioners propose a 96 s.f. single-story rear addition.

Attorney Allen presented to the Board a background of the Petitioners and the property, stating the following: 73 Welland Road is a two-and-a-half story, single-family home built in 1940. He stated that the Petitioners purchased the home in July 2009 due to its close proximity to Brookline High School. Mr. Allen noted that the Petitioners would like to expand the living areas on the first floor and eventually the second floor in order to improve the layout and function of the existing home.

Philip Kramer, 84 Davis Avenue, Brookline, MA 02445, described the project as a single-story rear addition totaling 96 square feet. Mr. Kramer noted that the extra floor area will serve as a mudroom. He stated that there is an existing rear “bump out” that will be extended along the rear of the home, a deck will be included above the addition, and the basement will be excavated to provide an adequate foundation for the addition. Mr. Kramer stated that the materials include wood clapboard and the existing brick veneer will be replaced with clapboard for consistency.

Mr. Allen noted that Section 5.09.2.i of the Zoning By-Law states that any exterior addition for which a special permit is required pursuant to Section 5.22, is subject to design review standards. He noted that the Planning Board was supportive of this proposal and felt that the natural grade of the property would not be altered as a result of the addition and the design of the rear massing would maintain the streetscape. He continued that the Petitioners request special permit relief pursuant to Town of Brookline Zoning By-Law Section 5.22.3.b.1.b because the existing floor area will be increased to 113.7% of the allowed FAR and Section 8.02.2 to alter the pre-existing non-conforming structure.

Attorney Allen discussed special permit relief under Section 9.05 of the Zoning By-Law arguing: (1) the specific site is an appropriate location where the rear addition is in keeping with the streetscape along Welland Road where single-family dwellings from 49-109 Welland incorporate brick facades and the requested FAR will improve usability and access to the home by adding a small mudroom visible only from the North and East elevations of the home; (2) there will be no adverse

effect on the neighborhood where the 96 s.f. rear yard addition will be shielded from the streetscape and existing deciduous trees will largely screen the visual impact for rear abutters; (3) no nuisance or serious hazard to vehicles or pedestrians will be created because the proposal does not depart from the current parking scheme; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) development will not have a significant adverse effect on the supply on housing available for low and moderate income people.

Board Member Hussey inquired about the excavation of additional unfinished basement space. Mr. Kramer noted that storage space is at a premium and a large portion of the basement level serves as garage parking.

Zoning Board of Appeals Chairman Zuroff asked if there was anyone present who wished to speak in favor of this application. No one spoke in favor of the application.

Zoning Board of Appeals Chairman Zuroff asked if there was anyone present who wished to speak in opposition to the application. No one spoke in opposition to the application.

Jay Rosa, Zoning Coordinator for the Town of Brookline, delivered the findings of the Planning Board and the Building Department:

FINDINGS:

1. **Section 5.09.2.j – Design Review:** Any exterior addition for which a special permit is required pursuant to §5.22 is subject to design review standards listed under Section 5.09.4 (a-m). All design review standards have been met, with the most relevant design review sections described below:
 - a. Preservation of Trees and Landscape – The natural grade change from Somerset Road to Welland Road is a distinct feature of the neighborhood that will not be altered as a result of this rear addition.
 - b. Relation of Buildings to the Form of the Streetscape and Neighborhood – Single-family dwellings from 49-109 Welland Road produce a consistent streetscape by incorporating attractive brick facades, front entry staircases, and driveway retaining walls. The proposed

rear massing for 73 Welland Road effectively maintains this streetscape, as well as the Tudor style design that is characteristic of the immediate neighborhood.

2. **Section 5.22.3.b.1.b – Exceptions to Floor Area Ratio (FAR) for Residential Units:**

	Permitted	Existing	Proposed	Relief
Floor Area Ratio (FAR)	2,485 s.f. 100%	2,731 s.f. 109.9%	2,826 s.f. 113.7%	Special Permit*

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

* Under **Section 5.22.3.c**, the Board of Appeals may grant by special permit an exterior addition that is less than or equal to 350 square feet, provided that the resulting gross floor area is not more than 150% of the permitted gross floor area.

3. **Section 8.02.2 – Alteration or Extension:** A special permit is required to expand the pre-existing non-conforming structure (FAR).

Mr. Rosa stated that the Planning Board unanimously supported this proposed rear addition with a 4-0 vote. The addition meets applicable design review standards and the overall massing is consistent in with the immediate neighborhood. The natural slope of the lot also limits the visual impact of the rear addition. Abutters are largely in support and the increased floor area is intended to better serve a growing and active family. Overall, the Board commended the applicant and architect on a strong design. Therefore, the Planning Board recommends approval of floor plans and elevations submitted by Philip Kramer, aia, dated 2/24/2015 and 5/5/2015, and the site plan submitted by Clifford Rober, dated 6/25/2014, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans and elevations, subject to review and approval by the Assistant Director for Regulatory Planning.
2. 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.

Mr. Rosa next delivered the findings of Michael Yanovitch, Interim Chief Building Inspector. He stated that the Building Department had no objection to the requested relief. He stated that the FAR

relief is minimal, it is really just a matter of determining the most appropriate relief to apply in order to allow for potential future floor area increases. He noted that the Petitioners settled on **Section 5.22.3.b.1.b**, which will allow for modest future exterior addition and/or basement conversion if desired. Finally, he stated that if the Board of Appeals finds that the standards for special permit relief under **Section 9.05** of the Zoning By-Law have been met, the Building Department will work with the Petitioners to ensure compliance with all building codes.

In deliberation, Board Member Liss believed that the proposal is a sound project and agreed that the requested relief is minimal. He noted that the appropriate By-Law Section was applied and the standards for a special permit relief was clearly met. For these reasons, Mr. Liss supported the proposal and recommended approval. Chairman Zuroff and Board Member Hussey concurred with these comments.

The Board then determined, by unanimous vote that the requirements for a special permit for **Sections 5.09.2.j, 5.22.3.b.1.b, and Section 8.02.2** of the Zoning By-Law pursuant to **Sections 5.09 and 5.22** of the Zoning By-Law were met. The Board made the following specific findings pursuant to said **Section 9.05**:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have any effect on the supply of housing available for low and moderate income people.

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

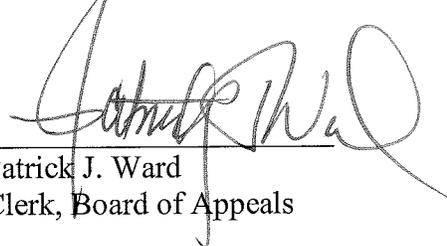
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Unanimous Decision of
The Board of Appeals

Filing Date: 8/12/15


Mark G. Zuroff, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

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