



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. 2014-0080  
OWNER: Dr. JAMES AND ELEANOR HERZOG

Petitioners, James and Eleanor Herzog, applied to the Building Commissioner for permission to modify the conditions included in Zoning Board of Appeals case #03006 in order to maintain home office use within the carriage house at 230 Warren Street. The request for modification 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 January 22, 2015 at 7:00 p.m. in the Selectmen's conference room as the time and place of a hearing on the modification request. 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 January 1, 2015 and January 8, 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:

**230 WARREN ST – MAINTAIN A PROFESSIONAL MEDICAL OFFICE WITHIN A CARRIAGE HOUSE (NOT WITHIN THE PLACE OF RESIDENCE) in an S-40, Single-Family Residential District on January 22, 2015, at 7:00 PM in the 6<sup>th</sup> Floor Selectmen’s Conference Room (Petitioner: HERZOG JAMES H & ELANOR W; Owner: HERZOG JAMES H & ELEANOR W) Precinct 14**

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

**1. Modification of BOA Case # 03006, March 4, 2003**

*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: January 1, 2015 & January 8, 2015**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Board Chair Mark G. Zuroff, and Board Members Jonathan Book and Christopher Hussey. Property owners James and Eleanor Herzog presented the proposed modification details to the Board.

Dr. Herzog stated that both variance and special permit relief was granted on March 3, 2003 to convert the upper floor of the carriage house at 230 Warren Street to a home office for his adult and child psychology practice. Conditions attached to the granted zoning relief included a ten-year sunset clause, clear patient visitation hours, and medical office use that is limited to Dr. Herzog's practice only. Carriage house renovations were completed in 2005, and since that time no complaint regarding the office use has been shared with Dr. Herzog or the Town of Brookline, to the best of Dr. Herzog's knowledge. Dr. Herzog stated that he is now seeking to modify condition five of Zoning Board of Appeals case #03006, which established that the, "relief granted herein shall terminate after ten years unless the Board of Appeals, after public hearing, votes to extend the same."

Board Chair, Mark G. Zuroff, stated that he has no opposition to the applicant's request and felt that it is reasonable to extend previously granted zoning relief that permits accessory office use at 230 Warren Street for another ten years.

Mr. Zuroff called for any public comment in favor of, or in opposition to the applicant's request. No members of the public wished to comment.

Mr. Zuroff called upon Jay Rosa (Zoning Coordinator) to deliver the opinion of the Planning and Community Development Department. Mr. Rosa stated that the department supports this request to modify Zoning Board of Appeals case #03006. As stated by the applicant, the department has no record of complaint regarding the office use. No structural or use alterations are proposed, and initial concerns raised by the most impacted abutter at 222

Warren Street have been alleviated as a result of additional unmodified conditions that prohibit any alteration to office operations, size, and employees.

Board members discussed the appropriateness of extending necessary zoning relief for an additional ten-year period versus removing the sunset clause from the original case conditions entirely.

Mr. Zuroff called upon Michael Yanovitch to deliver the opinion of the Building Department. Mr. Yanovitch agreed that the office use has no adverse impact on the neighborhood, and extensive renovation and landscaping accompanied the original carriage house conversion. The Building Department intends to work with the applicant to continue to ensure compliance with all relevant building codes if the modification is approved. Mr. Yanovitch suggested the removal of the sunset clause because existing conditions limit the office use to Dr. Herzog himself rather than the property.

The Board deliberated on the merits of special permit and variance modification as requested. The Board was satisfied that the carriage house office use continues to meet the conditions for zoning relief and agreed to strike condition number five from the record by citing the fact that remaining conditions adequately prevent any alteration to the current structure and office operations.

Accordingly, the Board voted unanimously that the requirements had been met for the modification of Zoning Board of Appeals case #03006, subject to the following revised conditions:

1. The accessory office shall be open only on weekdays from 7:45 a.m. to 1:00 p.m. and from 3:00 p.m. to 6:45 p.m., and Saturdays from 8:00 a.m. to 12:00 noon.
2. There shall be no non-resident employees.
3. There shall be no group therapy sessions.
4. The petitioners shall not knowingly permit visitation to the office by clients who can reasonably be expected to present a threat of criminal or violent activity to the surrounding neighborhood.
5. The petitioners will not make any changes to the façade of the carriage house which faces Warren Street.
6. The special permits granted herein are limited to the use of Dr. James Herzog only and they do not run with the land.

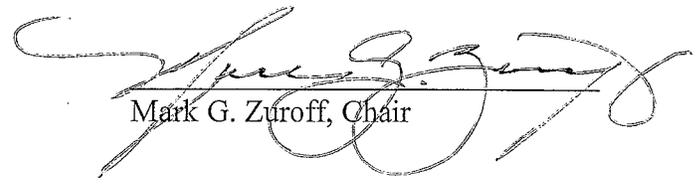
**Unanimous decision of the**

**Board of Appeals**

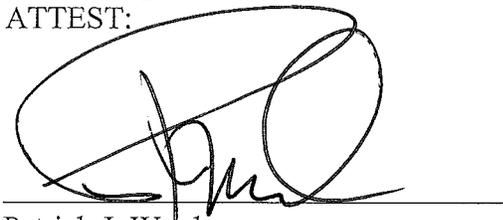
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2015 OCT 19 A 10:54

Filing Date: 10/19/15

  
Mark G. Zuroff, Chair

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals