



# *Town of Brookline*

## *Massachusetts*

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

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Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2015-0045  
OWNER: OMRI TRAUB  
3 VOGEL TERRACE, BROOKLINE, MA

Petitioner, Omri Traub, applied to the Building Commissioner for permission to remove an existing south facing gable dormer and construct a new shed dormer at 3 Vogel Terrace. 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed October 1, 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 September 17, 2015 and September 24, 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:

**3 VOGEL TERRACE – REMOVE EXISTING SOUTH FACING GABLE DORMER AND REPLACE WITH A SHED DORMER in a T-5, Two-Family and Attached Single-Family and, residential district, on**

**October 1, 2015, at 7:00 PM in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner: JEREMIAH FOSTER; Owner: TRAUB OMRI & FLORA E) Precinct 5**

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and additional zoning relief as needed:

- 1. Section 5.43: Exceptions to Yard and Setback Regulations**
- 2. Section 5.70: Rear Yard Requirements**
- 3. Section 8.02.2: Alteration of Rextension**

*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 Sneider**, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneider@brooklinema.gov](mailto:rsneider@brooklinema.gov).*

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

**Publish: September 17, 2015 & September 24, 2015**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Board Chairman Mark G. Zuroff and Board Members Christopher Hussey and Avi Liss. The project contractor, Jeremiah Foster (JFoster Homes, 134 East Main Street, Hopkinton, MA) presented project details to the Board on behalf of the Petitioner. Mr. Foster stated that the Petitioner is proposing to remove an 8-foot long dormer and install a 26 foot long shed dormer in its place. The existing single-family home does not conform to front or rear yard

setback requirements for the T-5 Zoning District. Mr. Foster stated that the proposed dormer will not extend beyond the existing roofline or building footprint, but does extend into the required rear-yard 15 foot setback. The new shed dormer will be located 12.5 feet from the rear lot line at the closest point. Mr. Foster further stated that the dormer length and window design were revised based on Preservation Commission and Planning Board recommendation.

Mr. Foster noted that counterbalancing amenities are required for the grant of this setback relief. The property owner has already removed an asphalt driveway and replaced with permeable pavers. Mr. Foster also described plans to install mulch beds, an arborvitae hedge along the rear lot line in question, and perennial flowers. Additionally, the new shed dormer will be constructed of historically accurate wood clapboard, replacing existing vinyl siding. Mr. Foster further stated that the property owner intends to convert all vinyl siding to this like wood clapboard.

Board Member Avi Liss noted that submitted plans by architect Charles Fox should be revised to include the accurate 3 Vogel Terrace address.

Board Chairman Zuroff questioned if dormer windows will be revised based on stated Planning Board recommendations. Mr. Foster confirmed that project plans provided to the Board include the final revised window design as suggested by the Planning Board.

Board Member Christopher Hussey questioned if the property owner is willing to accept a special permit condition that requires replacement of all vinyl siding rather than just the dormer itself. Mr. Foster stated that he is hesitant to adopt this condition if it is a requirement for the issuance of a building permit to construct the dormer in question. Mr. Foster confirmed that the property owner intends to replace all vinyl siding with clapboard, but this conversion will be phased for financial and construction timeline purposes.

Board Chairman Zuroff called for public comment in favor of, or in opposition to, the Petitioner's proposal.

No members of the public commented in favor or in opposition.

Board Chairman Zuroff requested that Jay Rosa deliver the findings of the Planning Board and the Building Department.

**FINDINGS**

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

**Section 5.50 – Front Yard Requirements**

**Section 5.70 – Rear Yard Requirements**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing Structure</b>	<b>Proposed Dormer</b>	<b>Relief Required</b>
<b>Front Yard Setback</b>	15'	10'	16.6'	Complies
<b>Rear Yard Setback</b>	30'	12.9'	14.4'	Special Permit*

*\* Under Section 5.43, the Board of Appeals may waive yard and/or setback requirements if counterbalancing amenity is provided.*

**Section 8.02.2 – Alteration or Extension**

A special permit is required to alter/extend the pre-existing non-conforming rear-yard setback.

Mr. Rosa stated that The Planning Board unanimously supported this request for relief to construct a shed dormer. Mr. Rosa confirmed that the dormer design and length have been revised several times based on Preservation Commission and Planning Board recommendations. Mr. Rosa believed that Mr. Foster did a strong job to incorporate elements of this feedback into final plans. Mr. Rosa concluded his statements by confirming that the dormer will not extend beyond the existing building footprint and requested relief represents an alteration of the pre-existing non-conforming rear yard setback. Therefore the Planning Board recommended approval of plans submitted by Charles Fox, dated 9/22/15, and the site plan by Frank Iebba, dated 9/23/15, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor 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 landscaping 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 with dimension labels stamped and signed by a registered architect; 3) a Certificate of Appropriateness issued by the Preservation Commission; and 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Rosa stated that The Building Department also has no objection to the requested relief. This necessary relief is minimal and the petitioner has proposed various counterbalancing amenities in accordance with Zoning-Bylaw Section 5.43. Mr. Rosa stated that if the Board finds that the standard for special permit relief is met, the Building Department will work with the petitioner to ensure compliance with all imposed conditions and building codes.

Board Chairman Zuroff questioned if a submitted plot plan is required if the existing building footprint will not altered. Mr. Rosa stated that submission of a final plot plan is standard for all requested setback relief. Additionally, the petitioner has already submitted a plot plan during the special permit review process.

The Board deliberated on the merits of special permit relief as requested. Board Member Hussey stated that the proposed dormer and requested zoning relief are fairly straight forward. Mr. Hussey believed that the standards for special permit relief are satisfied and therefore

supported the requested relief. Mr. Hussey reiterated that a condition to replace all vinyl siding, or maintaining an open building permit to complete siding improvements for the entire structure are options to further encourage planned home improvements.

Board Chairman Zuroff stated that he is also hesitant to include the replacement of all vinyl siding as a condition prior to the issuance of a building permit, but stated that he is in favor of including language that clearly outlines the property owner's intent for further siding replacement in the final record for this special permit request.

Board Member Liss concurred with other Board Member's comments and further stated that he believed that proposed counterbalancing amenities fulfill the requirements of Zoning By-Law **Section 5.43**. Additionally, Mr. Liss agreed that the proposed dormer represents an improvement to the property.

Board Chairman Zuroff stated support for the project and relief as requested. Mr. Zuroff stated that the project address shall be updated on final submitted plans to clearly depict 3 Vogel Terrace. Mr. Zuroff also stated for the record that the Petitioner intends to engage in ongoing home repair including removal of all vinyl siding to be replaced with wood clapboard. Mr. Zuroff also confirmed that the final submission of a certified plot plan shall be waived as a condition of this special permit. Mr. Zuroff also agreed that special permit standards, specifically Zoning By-Law **Section 9.05** and **5.43** are satisfied.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under **Sections 5.43**, and **9.05** of the Zoning By-Law, granting relief from the provisions of **Section 5.70** 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 special permit relief, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final floor 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 landscaping 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) final floor plans and elevations with dimension labels stamped and signed by a registered architect; 2) a Certificate of Appropriateness issued by the Preservation Commission; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous decision of the

Board of Appeals

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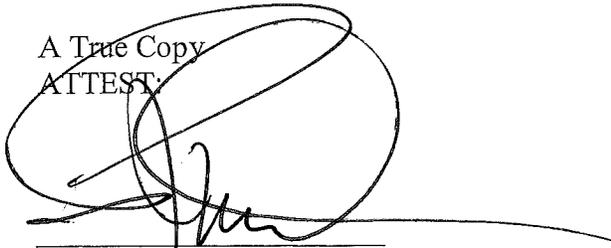
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10/27/15

  
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Mark G. Zuroff, Chairman

A True Copy  
ATTEST

  
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Patrick J. Ward  
Clerk, Board of Appeals