



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2016-0013
OWNER: MADHAV & SUNAINA ANAND
355 BUCKMINSTER ROAD, BROOKLINE, MA

Petitioners, Madhav and Sunaina Anand, applied to the Building Commissioner to construct a breezeway connecting the single-family dwelling to a two-car garage and to expand an existing mudroom at 355 Buckminster Road. 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 April 14, 2016 at 7:15 p.m. in the Selectmen's Hearing Room as the time and place of a hearing for the modification. 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 March 31, 2016 and April 7, 2016 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:

355 BUCKMINSTER RD – FINISH A PORTION OF THE BASEMENT, CONSTRUCT A MUDROOM ADDITION, AND CONNECT THE DETACHED TWO-CAR GARAGE TO THE SINGLE-FAMILY DWELLING VIA A RETRACTABLE BREEZEWAY in an S-25, Single-Family, residential district, on April 14, 2016, at 7:15 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: Frederick Soule) *Precinct 14*

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

- 1. Section 5.09.2.j: Design Review**
- 2. Section 5.22.3.b.1.c: Exceptions to Floor Area Ratio (FAR) for Residential Units**
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.70: Rear Yard Requirements**
- 5. Section 8.02.2: Alteration or Extension**
- 6. Modification, as necessary, of BOA case #3099 October 17, 1991**
- 7. Any Additional Relief the Board May Find Necessary**

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*

Publish: March 31, 2016 & April 7, 2016

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Board Chairman Mark G. Zuroff and Board Members Kate Poverman and Christopher Hussey. The project architect, Frederick Soule, requested a case continuance to

April 21, 2016 in order to incorporate breezeway design modifications that were suggested by the Planning Board at a prior public meeting. Mr. Soule stated that proposed breezeway was originally retractable but now would be a permanent structure.

Board Members voted unanimously approved the Petitioners request for a continuance to April 21, 2016.

At the time and place specified for continuance, this Board held a public hearing. Present at the hearing were Board Chairman Mark G. Zuroff and Board Members Johanna Schneider and Christopher Hussey. The project architect, Frederick Soule of Combined Energy Solutions located at 37 Ayer Road in Littleton, MA, presented project details to the Board. Mr. Soule introduced property owner Sunaina Anand and stated that the subject property is a Georgian Colonial single-family home located within the S-25 residential district. The lot covers 37,310 square feet and the current detached garage does not comply with zoning requirements because it presents a 0 foot side yard setback. Mr. Soule stated that the Petitioner is proposing to finish a modest portion of basement space and expand an existing mudroom from 9.5' x 5.5' in size to 9.5' x 11.5' in size. These alterations would result in a gross floor area increase of 594 square feet, and may be permitted by special permit under Zoning By-Law Section 5.22.3.b.1.c. Mr. Soule confirmed that special permit relief granted under this section must also be accompanied by design review at the Planning Board level. Mr. Soule noted that this proposal was heard by the Planning Board on two separate occasions in order to convert the breezeway itself from a retractable structure to a permanent structure at the request of the Planning Board. Mr. Soule further explained that the physical breezeway connection between the primary structure and the previously detached garage requires that the already noncompliant garage meet setback requirements for the principle structure rather than an accessory structure. Mr. Soule confirmed

that the existing garage footprint will not be altered therefore special permit relief is requested for the noncompliant garage setbacks under Zoning By-Law Section 5.43. Mr. Soule stated that the breezeway would improve access to the garage, particularly during inclement weather, and the petitioner is proposing a robust landscaping improvement plan that includes plantings along the garage area to serve as counterbalancing amenity for the requested relief from side and rear-yard setback requirements.

Board Member Christopher Hussey requested additional detail regarding the breezeway siding material and noted a discrepancy between the gross floor area included on floor plans versus the submitted Planning Board report. Mr. Soule described the breezeway siding as open glass material to provide adequate natural light. Glass panels can be opened and closed on a track system based on the weather. Mr. Soule also confirmed that the resulting gross area following proposed modifications would be 9,368 square feet.

Board Chairman Zuroff stated that all requested zoning relief may be permitted by special permit and confirmed that the statutory requirements for the grant of a variance are not required if the Board does find that the proposal is worthy of zoning relief.

Board Chairman Zuroff called for public comment in favor of, or in opposition to, the Petitioner's proposal. Property owner, Sunaina Anand, stated that letters in support of these exterior modifications were submitted to the Board prior to this hearing. Ms. Anand also wished to state for the record that her neighbors are largely in support of this project and she is not aware of any abutter opposition at this time.

Board Chairman Zuroff called upon Zoning Coordinator Jay Rosa to review the findings of the Planning Board.

FINDINGS

Section 5.60 – Side Yard Requirements

Section 5.70 – Rear Yard Requirements

Section 5.09.2.j – Design Review: All exterior additions that require a special permit under *Section 5.22 (Exceptions to Maximum Floor Area Ratio)* also require a special permit for design review. The most applicable standards are reviewed below:

a - Preservation of Trees and Landscape – The proposal involves some removal and replacement of landscaping to accommodate the paved area and structure.

b - Relation of Buildings to Environment – The addition is located to the rear of the building, and will retain the look of the existing dwelling, therefore it is not anticipated that the addition will negatively impact the existing environment. The breezeway design is compatible with architectural styles featured in the neighborhood.

c - Relation of Buildings to the Form of the Streetscape and Neighborhood – The proposed addition will not impact the streetscape as it is located to the rear side of the dwelling. The proposed roofline will not be very visible from the street. It is not anticipated that the addition will have a negative impact on the neighborhood.

Section 5.22.3.b.1.c – Exceptions to Maximum Floor Area Ratio for Residential Units

[combination of interior conversion and exterior addition]

S-25 Zoning	Required/Allowed	Existing Includes Phase 1	Proposed [Phase 2]	Finding
Side Yard	20 ft	To main dwelling: 63 ft To detached garage: 0 ft	To attached garage: 0 ft	Special Permit*/ Variance
Rear Yard	50 ft	To main dwelling: 16.5 ft To detached garage: 0 ft	To attached garage: 0 ft	Special Permit*/ Variance
Floor Area Ratio (% of allowed)	130%	117%	125.5%	Special Permit**/ Variance
Floor Area (s.f.)	9,701 sf (130% of 7462 sf)	8774 sf	9,368 sf Conversion...277 sf Breezeway...257 sf Mudroom.....60 sf	

* Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements and grant a special permit if a counterbalancing amenity is provided.

****Under Section 5.22.3.b.1.c,** the Board of Appeals may grant by special permit an increase in floor area for “a combination of an interior conversion and exterior addition that is less than or equal to 30% of the permitted gross floor area, provided that the additional floor area attributable to exterior construction (which shall include the floor area included within dormers, penthouses, cupolas, and the like) does not exceed 35% of the additional floor area allowed by special permit.”

Note: The exterior addition totals 317 sf, which is well under the “35% threshold” specified for exterior additions under Sec. 5.22.3.b.1.c.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter or extend a non-conforming condition.

Mr. Rosa stated that the Planning Board unanimously recommended approval of the new breezeway and slightly expanded mudroom. The connecting breezeway is not easily visible from surrounding properties to the north and west due to existing landscaping and large caliper trees. Mr. Rosa further stated that the applicant worked with the Planning Board to revise the breezeway design with the intent to maintain an attractive streetscape and incorporate as much natural light as possible. Mr. Rosa confirmed that Board Members also supported proposed counterbalancing amenities in the form expanded landscaping, the installation of more decorative driveway paving, and the installation of a trench drain to control water runoff.

Therefore, the Planning Board recommended approval of the site plan by professional land surveyor Bruce Bradford of Everett M. Brooks Co. dated 4/8/2016 and the floor plans and elevations prepared by registered architect Frederick Soule of Combined Energy Systems, Inc. dated 4/8/2016, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit 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 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.

Board Chairman Zuroff requested that Deputy Building Commissioner Michael Yanovitch deliver the opinion of the Building Department. Mr. Yanovitch stated that the Building Department also has no objection to the requested relief and he confirmed that all setback relief may be granted by special permit if counterbalancing amenities are provided, and all floor area relief may be granted by special permit if pertinent design review standards are satisfied.

The Board deliberated on the merits of special permit relief as requested. Board Member Hussey stated that he was satisfied that all relevant standards for the grant of a special permit are met and he was in favor of the proposal.

Board Member Johanna Schneider concurred with Mr. Hussey and further stated that the subject lot is oversized and the minimal exterior alterations are well screened by existing and proposed landscaping. Ms. Schneider believed that the proposal was worthy of setback relief as requested and she referenced support for the project from abutting residents.

Board Chairman Zuroff concurred with Board Member comments and specifically referenced project compliance with the requirements for the grant of a special permit in accordance with Zoning By-Law Sections 9.05 and 5.43.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under **Sections 9.05, 5.09.2.j, and 5.43** of the Zoning By-Law, granting relief from the provisions of **Sections 5.60, 5.70, 5.22.3.b.1.c, and 8.02.2**. 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.
- The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

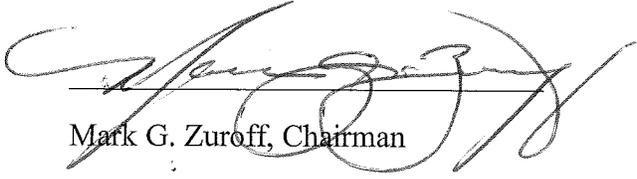
Accordingly, the Board voted unanimously to grant special permit relief, subject to the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall submit 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 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.**

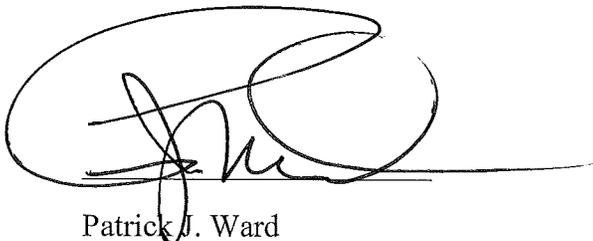
**Unanimous decision of the
Board of Appeals**

Filing Date: 5/20/16

A True Copy


Mark G. Zuroff, Chairman

ATTEST:


Patrick J. Ward

Clerk, Board of Appeals

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