



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline

Massachusetts

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2016-0019
OWNER: BENJAMIN COHEN
93 WOLCOTT ROAD, BROOKLINE, MA

Petitioner, Benjamin Cohen, applied to the Building Commissioner to construct a two-story rear addition at 93 Wolcott 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 May 5, 2016 at 7:00 p.m. in Town Hall Room 111 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 21, 2016 and April 28, 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:

93 WOLCOTT RD – CONSTRUCT AN ADDITION AT THE REAR in an S-15, Single Family, residential district, on May 5, 2016, at 7:00 PM in Town Hall Room 111 (Petitioner/Owner: COHEN-LEADHOLM BENJAMIN ARTERTON JAMISON) *Precinct 16*

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 5.43: Exceptions to Yard and Setback Regulations**
- 2. Section 5.60: Side Yard Requirements**
- 3. 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: April 21, 2016 & April 28, 2016

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Board Chairman Jesse Geller and Board Members Johanna Schneider and Steve Chiumenti. Chris Bonrigo, of 53 Telegraph Street in Boston, MA, waived the reading of public notice for the record and stated that he is present on behalf of project architect Scott Simpson. Mr. Bonrigo stated that the proposal before the Board is a simple two-story rear addition totaling 125 square feet that would create a powder room at the first floor and expand a full bathroom at the second floor. The first-floor powder room, totaling 25 square feet, would extend from an existing sunroom and the second floor full bathroom, totaling 100 square feet, would follow the

exact footprint of the powder room addition located below. This expanded floor area falls within the permitted maximum gross floor area for the subject property, and the addition will not extend the structure any closer to the southern side lot line. All proposed alterations would extend the structure vertically rather than beyond the footprint. Mr. Bonrigo confirmed that special permit relief is required for the pre-existing 9.3 foot side-yard setback and the Petitioner is proposing to install evergreen plantings along the property boundary with 101 Wolcott Road and window planter boxes as counterbalancing amenities for this requested zoning relief.

Board Member Johanna Schneider questioned whether or not the 9.3 foot side-yard setback is a pre-existing nonconforming condition. Mr. Bonrigo confirmed that the 9.3 foot side-yard setback is a pre-existing condition and that proposed alterations would not extend the structure any closer to the side lot line in question.

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

Lead Project Contractor Robert Farrier, of Robert Farrier Construction, submitted a letter expressing support for the project to the Board. Mr. Farrier stated that the letter was provided by Amy Blumenthal and Richard Geller of 101 Wolcott Road, and dated April 11, 2016.

Board Chairman Geller called upon Zoning Coordinator Jay Rosa to review the findings of the Planning Board and the Building Department.

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.60 – Side Yard Requirements

S-15 (Single-Family District)	Required	Existing	Proposed	Relief
Side-Yard Setback	15 Feet	9.3 Feet	9.3 Feet	Special Permit* Pre-Existing

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

Section 8.02.2 – Alteration or Extension

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

Mr. Rosa stated that the Planning Board unanimously supported the proposed two-story addition. The floor area increase is minimal and specifically intended to improve the interior functionality of the home. Mr. Rosa confirmed that Board Members supported the project design and building materials but did request that the petitioner incorporate a pitched roof for the single-story portion of the addition and submit final building elevations for the entire structure, which Mr. Farrier has incorporated into revised project plans submitted to the Board.

Therefore, the Planning Board recommended approval of the site plan submitted by Jay Jarosz, dated 2/15/16, and floor plans and elevations by Scott Simpson, dated 2/4/16, 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 updated 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 a final landscaping plan including all counterbalancing amenities, subject to review and approval by the Assistant Director for 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.

Mr. Rosa, acting on behalf of the Building Department, further stated that the Building Department also has no objection. The relief requested represents an extension of the pre-existing nonconforming side-yard setback and would not reduce this existing 9.3 foot side-setback of the rear bay. Additionally, the Petitioner has proposed landscaping and window planter boxes to serve as counterbalancing amenity for this setback relief, in accordance with Zoning By-Law **Section 5.43**.

The Board deliberated on the merits of special permit relief as requested. Board Member Schneider described the proposal as a modest project that will not exacerbate the existing nonconforming side-yard setback. Ms. Schneider noted that appropriate counterbalancing amenities are proposed, as required under By-Law **Section 5.43**. For these reasons, Ms. Schneider stated that she was in favor of granting special permit relief as requested.

Board Member Steve Chiumenti concurred with Ms. Schneider's comments and expressed support for the grant of special permit relief. Mr. Chiumenti requested clarification regarding the redundancy of relief requested under both **Sections 5.43** and **8.02**.

Mr. Rosa stated that special permit relief is indeed required to alter the pre-existing nonconforming structure itself under **Section 8.02.2**. The proposed addition would also result in new construction located within the required side yard, thus requiring counterbalancing amenities under the provisions of By-Law **Section 5.43**.

Board Chairman Geller stated that he was in support of the proposal, and the associated special permit relief. Mr. Geller further stated that the general requirements for the grant of a special permit are also satisfied in accordance with By-Law **Section 9.05**. Mr. Geller further clarified that Board approval pertains to the revised project plans dated 4/19/2016.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 9.05, 5.62, and 5.74 of the Zoning By-Law, granting relief from the provisions of Sections 5.60, 5.62, 5.70, and 5.74. 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 revised conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans, and updated 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 a final landscaping plan including all counterbalancing amenities, subject to review and approval by the Assistant Director for 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**



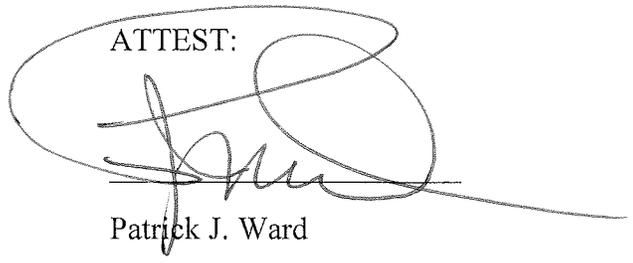
Jesse Geller, Chairman

Filing Date: 6/9/16
A True Copy

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK

2016 JUN -9 A 10:52

ATTEST:

A handwritten signature in black ink, appearing to read 'Patrick J. Ward', is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

Patrick J. Ward

Clerk, Board of Appeals