

BOARD OF APPEALS
Enid Starr, Co-Chair
Co-Chair Jesse Geller
Christopher Hussey

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TOWN OF BROOKLINE

Town of Brookline Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0007

Petitioners, Peter Flynn, applied to the Building Commissioner for permission to construct an addition at the rear of 53 Crowninshield Road. The application was denied and an appeal was taken to this Board.

On January 10, 2013 the Board met and 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 February 21, 2013 at 7:00 p.m. in the Selectmen's hearing room as the time and place of a hearing on 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 January 31, 2013 and February 7, 2013 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. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **FLYNN, PETER**

Owner: **FLYNN, PETER**
Location of Premises: **53 CROWNINSHIELD RD**
Date of Hearing: **February 21, 2013**
Time of Hearing: **7:00 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th Floor**

A public hearing will be held for a variance and/or special permit from:

1. **5.09.2.j; Design Review**
2. **5.22.3.c; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units**
3. **8.02.2; Alteration or Extension**

of the Zoning By-Law to construct a parking area **Construct an addition at the rear at 53 CROWNINSHIELD RD**

Said premise located in a **S-7 (Single-Family) Residential district.**

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

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 programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Enid Starr
Jesse Geller
Christopher Hussey**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Enid Starr, and Board Members Mark Zuroff and Christopher Hussey. The case was presented by Kent Duckham, architect, whose business address is 1319 Beacon Street, Brookline.

Mr. Duckham described the property as being located in north Brookline in an area that consists of primarily single family dwellings. The dwelling is located on the west side of Crowninshield Road

amongst structures that appear to have larger overall mass than the subject property. The 2 ½ story dwelling was built in 1917, with shingle siding.

Mr. Duckham said the applicant, Peter Flynn, is proposing to construct first and second story additions in the rear of the dwelling and the south side of the dwelling. The proposal includes a deck on the rear. There will be infill of several windows, and new windows installed throughout the dwelling. There are several window wells proposed at the basement level of the dwelling. The proposal will alter the siding of the dwelling from shingles throughout, to 3" clapboard on the first floor, with flared shingle siding on the second and third floor. He said the addition is under 350 square feet so the relief needed can be granted under section 5.22.2.c, which allow for addition up to 350 square feet as long as the resulting FAR does not exceed 150% of the allowable.

The Chairman asked whether anyone in attendance wished to speak in favor of or against the proposal. No one spoke in favor or in opposition to the proposal.

Polly Selkoe, Assistant Director of Regulatory Planning, delivered the findings of the Planning Board.

FINDINGS

Section 5.09.2.j – Design Review: Any exterior addition for which a special permit is requested pursuant to 5.22 to the design review standards listed under Section 5.09.4(a-m). All the conditions have been met, and the most relevant sections of the design review standards are described below:

- a) Preservation of Trees and Landscape: The proposed addition would not affect the landscape.
- b) Relation of Buildings to Environment: The proposed addition is not anticipated to cause

shadowing on neighboring buildings as the addition is not large and the height of the dwelling would remain unchanged. The addition should relate harmoniously to the landscape.

- c) Relation of Buildings to the Form of the Streetscape and Neighborhood: The proposed addition is consistent in style with the existing dwelling as well as with neighboring dwellings.
- d) Open Space: The applicant is proposing to make improvements to the landscaped areas in the rear yard.
- e) Circulation: The proposal will retain the existing driveway and is not anticipated to impact circulation.

Section 5.22.3.c – Exception to Maximum Floor Area Ratio (FAR) Regulations for Residential Units

Floor Area	Required	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.35 100%	.39 111%	.52 144%	Special permit*
Floor Area (s.f.)	2,093	2,325	2,667	

* Under Section 5.22.3.c, the Board of Appeals may grant a special permit for up to 350 square feet of additional floor area. The applicant is proposing to construct a 350 square foot addition which meets the requirement for a special permit.

Section 5.70 – Side Yard Setback

The applicant is proposing to install window wells on the two sides and front of the property. The existing dwelling is 4.1’ from the north side property line. The proposed window wells will expand the existing footprint of the building.

Dimensional Requirements	Required	Existing	Proposed	Relief
Side Yard Setback (north)	7.5’	4.1’	2.1’	Special

* Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The Planning Board suggests that the applicant install additional landscaping as a counterbalancing amenity.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure.

Ms. Selkoe Said the Planning Board supports the proposed addition to construct floor area on the first and second floor. The proposal entails a reasonable addition of 350 square feet in new floor area, particularly considering most of the other dwellings near the subject property appear to be larger. An accurate site plan showing the proposed window wells and the setback from the side lot line does still

need to be submitted. The Board recommends that the applicant install additional landscaping to serve as a counterbalancing amenity.

Therefore, the Planning Board recommends approval of the plans by Duckham Architects & Interiors, dated 12/28/12 and revised 2/13/13 for right elevation, and the plot plan prepared by Verne T. Porter Jr., PLS, dated 11/1/12 & revised 2/11/13, subject to the following conditions:

1. Prior to the issuance of a building permit, final plans and elevations, indicating all proposed setback dimensions, shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities to the Assistant Director of Regulatory Planning for review and approval.
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 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.

The Chairman then called on Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department has no objections to the requested relief. He said he believes this is the type of case that this particular section of relief was written into the Zoning By-Law for. He said the Building Department will work with the petitioner to insure compliance if the Board chooses to grant relief.

The Board then determined, by unanimous vote that the requirements of Section 9.05, Section 8.02.2, Section 5.09.2.j and Section 5.22.3.c 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.

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

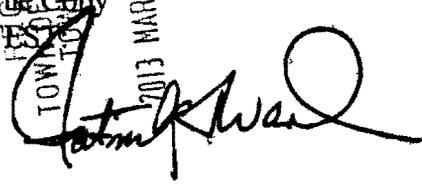
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Unanimous Decision of
The Board of Appeals

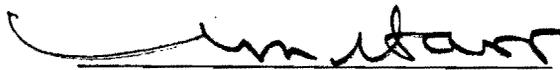
Filing Date: March 12, 2013

A True Copy
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Patrick J. Ward
Clerk, Board of Appeals


Enid Starr, Chairman