



BOARD OF APPEALS
Chair Jesse Geller
Christopher Hussey
Jonathan Book

RECEIVED
2013 FEB 20 AM 11:31
TOWN OF BROOKLINE
Town of Brookline
Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0016
OWNER: **Aaron and Sarah Price**

Petitioners, Aaron and Sarah Price, applied to the Building Commissioner for permission to construct a second floor rear addition at 10 Hart Street. The application was denied and an appeal was taken to this Board.

On March 6, 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 April 11, 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 April 4 and 11, 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: **PRICE SARAH N & AARON M**

Owner: **PRICE SARAH N & AARON M**
Location of Premises: **10 HART ST**
Date of Hearing: **April 11, 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:
5.43; Exceptions to Yard and Setback Regulations
5.60; Side Yard Requirements
5.70; Rear Yard Requirements
8.02.2; Alteration or Extension

of the Zoning By-Law to **enclose existing entry and construct second floor addition at rear.**
at **10 HART ST**

Said premise located in a **M1.0 (Apartment House) 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.

**Jesse Geller
Christopher Hussey
Jonathan Book**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Mark G. Zuroff, and Board Members Jonathan Book, and Chris Hussey. Petitioner Aaron Price presented the case.

Mr. Price said 10 Hart Street is a two-story single-family dwelling that was built in 1900. Hart Street is located off of Cypress Street. The structure has frontage along Hart Street, but is not oriented towards

the road, similarly to other structures in the area. Hart Street is comprised of primarily single-family dwellings that are similar in shape and overall bulk.

Mr. Price said he and his wife are proposing to construct a two-story addition at the rear of the existing single-family dwelling. The addition will add 186.1 square feet of floor area to the dwelling. The applicant is also proposing to construct a small entry porch from the rear entrance. The addition will increase the height of the building by 10.91 feet, and expand the footprint of at the rear of the house towards both side yards and the rear yard property lines, but will not extend any closer to the side lot than the existing house. Chairman Zuroff asked if there was neighborhood support. Mr. Price said he has documented support and there is also an abutter present to speak in favor. Mr. Zuroff asked what would be provided for counterbalancing amenities, Mr. Price said he is proposing to remove an existing chain link fence and retaining wall and re-landscape the small front yard.

The Chairman asked if anyone wished to speak in favor of the proposal. Meghan Rock of 8 Hart Street spoke in favor of the proposal. She said she whole heartedly supports the Price's proposal. The Chairman asked if anyone wished to speak in opposition. No one rose to speak.

The Chairman called upon Timothy Richard to deliver the comments of the Planning Board.

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.60 – Side Yard Setback

Section 5.70 – Rear Yard Setback

Dimensional Requirements	Required	Proposed	Relief
Rear Yard Setback	30 feet	27.3 feet	Special Permit* / Variance
Side Yard Setback (east)	7.5 feet	1 feet	Special Permit* / Variance
Side Yard Setback (west)	7.5 feet	4.6 feet	Special Permit* / Variance

*Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided.

Section 8.02.2 – Alteration or Extension: A special permit is required to alter and/or extend this non-conforming structure.

Mr. Richard said the Planning Board is supportive of the proposal to construct a two-story addition and deck at the rear of the property. The proposal will be similar in shape and height to the structure at 8 Hart Street. The footprint of the structure will be increased, but is not expected to negatively impact neighboring properties, and will not be visible from the street. The Board would like to see the applicant install some additional landscaping to serve as a counterbalancing amenity.

Therefore, the Planning Board recommends approval of the plans by Pegasus Design to Build, dated 12/7/2012, and the site plan by David A. Dwyer Jr., dated 1/7/13 subject to the following conditions:

1. Prior to the issuance of a building permit, a final landscaping plan shall be submitted 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 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 that indicates the lot size and floor area of the building; 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.

Mr. Richard delivered the comments of Michael Yanovitch, Chief Building Inspector. Mr. Yanovitch said the proposal is modest. He said the lot is very small but it is a 1.0 zone and the expansion falls within the allowable FAR. He also said the subject structure is one of the smaller structures on the street and the bulk of the structure is closer to the street than most of the other structures that abut it. Mr. Yanovitch said the Building Department has no objection to this request.

The Board deliberated on the merits of special permit relief. The Board also voted unanimously the requirements for a special permit for 5.43, and 8.02.2, 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:

1. Prior to the issuance of a building permit, a final landscaping plan shall be submitted 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 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 that indicates the lot size and floor area of the building; 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: April 27, 2013

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals



Mark G. Zuroff, Chairman