



Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Christopher Hussey

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BROOKLINE

Town of Brookline
Massachusetts

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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. 2012-0054

Petitioners, Daniel and Elizabeth O'Connor, applied to the Building Commissioner to rebuild front entry, construct additions at the side and front, and construct a deck. The application was denied and an appeal was taken to this Board.

On September 6, 2012, 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 on October 18, 2012, at 7:15p.m. in the Selectmen's Conference Room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, 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 September 27 and October 4 2012, 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: **OCONNOR DANIEL F & ELIZABETH F**
Owner: **OCONNOR DANIEL F & ELIZABETH F**
Location of Premises: **299 BEVERLY RD**
Date of Hearing: **OCTOBER 18, 2012**
Time of Hearing: **07:15 PM**
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, special permit required.**
2. **5.22.3.b.1.b; Exceptions to Maximum Floor Area Ratio (FAR) For Residential Units, special permit required.**
3. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
4. **5.70; Rear Yard Requirements, variance required.**
5. **8.02.2 Alteration or Extension, special permit required**

Of the Zoning By-Law to Rebuild front entry, construct additions at the front and side and construct a deck

at **299 BEVERLY RD**

Said premise located in an S-7 (**Two-Family**) residence 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.

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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 Christopher Hussey and Jonathan Book.

Donald Gross, Architect of 267 Singletary Lane, Framingham, presented the case for the petitioner.

Mr. Gross said 299 Beverly Road is a single-family dwelling located on the corner of Beverly Road and Independence Drive, not far from Putterham Circle. The dwelling is a two-and-a-half story, gable-roofed structure, with a driveway leading off of Beverly Road to a lower level attached garage. 299 Beverly Road is similar in type and style to its immediate neighbors, which are also all single-family dwellings. Hancock Village, a multi-family development, is also nearby.

Mr. Gross said the proposal is to make various renovations to their home, and wish to construct two additions and a deck, as well as reconstruct the front entryway so that it is slightly wider and has a new landing. One addition, 7'6" wide by 5'6" deep, would be at the front corner of the dwelling where there is currently a landing and stairs for a secondary entry. This addition would provide for a new entry with storage space for the kitchen, as well as a small open porch and stairs. The second addition would be two stories and would be located at the rear of the house, widening an already existing bump out at the first level. This addition would be 16'6" by 6' deep and would provide for new bathrooms at the first and second levels, and would be tied into a new deck, 11' wide by 9' deep.

Mr. Gross said the petitioners have spoken to the abutters and they seem to have support. Chairman Starr asked Mr. Gross to describe the relief needed. He said the proposal adds about 200 Square feet of floor area but will be below the 120% allowed by special permit. He said the

petitioner proposes to add shrubs and landscaping to satisfy the requirements of counterbalancing amenities.

The Chairman asked if anyone present would like to speak in support of the proposal. No one rose to speak. The Chairman asked if anyone present wished to speak in opposition. No one rose to speak.

The Chairman called on Timothy Richard, Planner, to deliver the comments of the Planning Board:

FINDINGS

Section 5.09.2.j – Design Review: Any exterior addition for which a special permit is requested pursuant to *Section 5.22 (Exceptions to Maximum Floor Area Ratio Regulations)* requires a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. 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 proposal does not require the removal of any trees or substantial landscaping, as the additions do not extend significantly away from the existing building. Only grass would need to be removed.

- b. Relation of Buildings to Environment – The proposed additions are not expected to have shadow impacts on neighboring properties.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood – The proposed additions have been designed to be consistent with the style of the existing dwelling. Additionally, both abutting buildings have decks in their rear yards similar to what is being proposed with this application.

Section 5.22.3.b.1.b – Exceptions to Maximum Floor Area Ratio (FAR) Regulations For Residential Units

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio	0.35	0.359	0.389	Special Permit*
(% of allowed)	100%	103%	111%	
Floor Area (s.f.)	2,470	2,540.23	2,748.7	

*Under **Section 5.22.3.b.1.b**, the Board of Appeals may allow by special permit increases in gross floor area for single-family homes by exterior addition up to 120 percent of the allowed FAR.

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.70 – Rear Yard Setback

Dimensional Requirements	Required	Existing	Proposed	Relief
Rear Yard Setback	30'	11.1'	11.1'	Special Permit**
Deck	15'	N/A	7.5'	Complies

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

Section 8.02.2 – Alteration or Extension

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

Mr. Richard said the Planning Board is supportive of the proposed additions and renovations for this single-family dwelling. The additions are modest and will improve the home's livability for the residents. Due to the close proximity of the rear addition to the rear lot line, landscaping or some other counterbalancing amenity should be provided in order to help screen or beautify the area.

Therefore, the Planning Board recommends approval of the plans by D.L. Grose & Associates, dated 9/4/2012, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all salient dimensions and materials 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 final 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.

The Chairman then called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department has no issue with this request for relief and believes the proposal is the type of project for which By-Law section 5.22 was added. Mr Yanovitch said, if the Board finds the proposal worthy of relief he will work with the owner to ensure compliance with the Building Code and any conditions of the granted relief.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits and that the petitioner has satisfied the requirements necessary for relief under **Sections 5.09.2.j, 5.22.3.b.1.b, 5.43, 5.70, 8.02.2 and 9.05** of the Zoning By-Law and made specific findings pursuant to **Section 9.05** of the Zoning By-Law:

- 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.

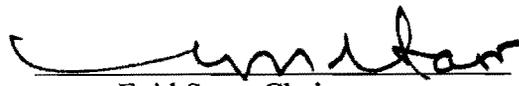
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all salient dimensions and materials 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 final landscape plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.

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TOWN OF BROOKLINE
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2012 DEC-5 A 11:38
Unanimous Decision of
The Board of Appeals


Enid Starr, Chairman

Filing Date: December 5, 2012

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TOWN OF BROOKLIN
TOWN CLERK
2012 DEC -5 A 11:3

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals