



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

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2011-0061

Petitioner, Leigh Hochberg, applied to the Building Commissioner for permission to construct an addition to his home at 47 Salisbury Road. The application was denied and an appeal was taken to this Board.

On November 10, 2011, 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 January 5, 2012, 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 December 15 and 22, 2011, 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: **HOCHBERG, LEIGH R**
Owner: **HOCHBERG, LEIGH R**
Location of Premises: **47 SALISBURY ROAD**
Date of Hearing: **January 05, 2012**
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. **5.20; Floor Area Ratio, variance required.**
2. **5.22.3.c; Exceptions to Maximum Floor Area Ratio for Residential Units, special permit required.**
3. **5.09.2.j; Design Review, special permit required.**
4. **8.02.2; Alteration or Extension, special permit required**

of the Zoning By-Law to construct open porches to the rear of the home at **47 SALISBURY 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

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 Christopher Hussey. The case was presented by the attorney for the petitioner, Robert L. Allen Jr., 300 Washington Street, Brookline MA 02445. Also in attendance was the petitioner, Leigh Hochberg, and his contractor, Jeremiah Foster of J Foster Homes, 30 Lake Street, Wrentham, MA 02093.

Mr. Allen described the property at 47 Salisbury Road as a 2 ½ story single family home that was constructed in 1908. The home has a gambrel roof, with dormers that were added in 1937, and is clad in shingles. There was also a single story ell addition constructed on the rear of the structure circa 1950. The property is located near the Washington Square commercial district and the surrounding neighborhood is comprised primarily of single family homes.

Mr. Allen said that his client is currently performing extensive renovations at this property and is proposing to construct 14' x 3.4' kitchen addition on the side/rear of the home totaling 47.6 square feet of new floor area. The second floor of the home on this section of the house is cantilevered over the first floor which the applicant is proposing to infill. The applicant is also proposing to rebuild the existing vestibule adjacent to the proposed kitchen addition as the foundation for the vestibule is currently splitting away from the house. Although it is shown differently on the site plan, the applicant intends the side wall of the new addition to be built flush with the rebuilt vestibule (the site plan shows a slight projection; however the D-1 plan shows the correct proposed conditions). The new addition will be clad in wood shingles painted to match the existing house.

Mr. Allen submitted photographs of the home and the Board entered them into the record as exhibit #1. Mr. Allen also submitted four letters of support for the relief from neighbors either directly abutting or in close proximity to the Hochberg residence. The Board entered the letters into the record as exhibit #2.

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

Courtney Synowiec, Planner, delivered the findings of the Planning Board.

Section 5.09.2.i – 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 proposed addition is not anticipated to disturb the existing landscape or any trees as it is located under the cantilevered second story.
- b) Relation of Buildings to Environment: The proposed addition is not anticipated to cause shadowing on neighboring buildings.
- 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. The infill addition improves the symmetry of the rear façade and offsets some of the mass created by the previous ell addition.
- d) Open Space: The proposed addition should not have a detrimental impact on the open space on this site.
- e) Circulation: The proposal will retain the existing driveway and garage and is not anticipated to impact circulation.

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.35 100%	.49 142%	.51 144%	Special Permit*
Floor Area (s.f.)	2,310 s.f.	3,290 s.f.	3,337.6 s.f.	

* Under Section 5.22.3.c, the Board of Appeals may grant a special permit for up to 150% of the permitted gross floor area provided the addition is less than 350 square feet. The applicant is proposing to construct a 47.6 square foot addition.

Section 8.02.2 – Alteration or Extension

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

Ms. Synowiec reported that the Planning Board was supportive of this proposal. The construction of the addition will address a number of structural issues on this corner of the house by redistributing the load from the roof and also does not require any setback relief. The new addition will give the rear façade a more symmetrical appearance by balancing out some the mass of the ell addition. The Planning Board applauded the efforts of the applicant to renovate the structure and their efforts to preserve the character of the exterior of the home while

improving the functionality of the interior. Therefore, the Planning Board recommended approval of the requested relief referencing the plan by Lana Kirby Design, dated 9/25/11, subject to the following conditions:

1. Prior to the issuance of a building permit, final plans and elevations indicating all salient dimensions and materials 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; 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 Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard noted that the work being done to date on the property was of top caliber. He said that the structural issues wrought by the addition of the dormer were being addressed by the addition. He said that the increased square footage was somewhat small and the project in his opinion would have a positive effect on the property but also the neighborhood in general. Mr. Shepard reported that the Building Department was supportive of the requested relief.

The Board, having heard all the testimony, deliberated on the merits of the application. Board Member Hussey inquired about the structural issues referenced in Attorney Allen's testimony. Mr. Foster, the contractor explained that at some point in the past the dormer was added on the roof of the home. When this was done, the support for the gambrel portion of the roof was compromised. He explained that by bringing the load down to the new foundation, this problem would be ameliorated.

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:

- 1. **Prior to the issuance of a building permit, final plans and elevations indicating all salient dimensions and materials 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; 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

TOWN OF BROOKLINE
PLANNING BOARD CLERK
2012 JAN 30 11:00 AM

Filing Date: January 30, 2012


Mark G. Zurroff, Chairman

A True Copy

ATTEST:



Patrick J. Ward

Clerk, Board of Appeals