

12/9/10 2:09 pm

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BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

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. 2010-0061**

Petitioners, Sara and Peter Fleiss, applied to the Building Commissioner for permission to construct additions including a covered porch, garage and walkways at their home at 76 Walnut Place. The application was denied and an appeal was taken to this Board.

On September 23, 2010 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 November 9, 2010 at 7:15 p.m. in the Selectmen's Hearing Room, 6th floor, Town Hall, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to the 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 October 19 and 26, 2010 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

**LEGAL NOTICE
TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEAL
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: Sara and Peter Fleiss
Owner: : Sara and Peter Fleiss
Location of Premises: 76 Walnut Place
Date of Hearing: November 09, 2010
Time of Hearing: 7:15 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. 5.43; Exceptions to Yard and Setback Regulations, special permit required.
2. 5.70; Rear Yard Requirements, house and covered porch, variance required.
3. 6.04.4.c; Design of All Off -Street Parking Facilities, curb cut width, variance required.
4. 6.04.5.c(3); Design of All Off -Street Parking Facilities, parking area setback, variance required.
5. 6.04.12; Design of All Off-Street Parking Facilities, special permit required.
6. 8.02.2; Alteration or Extension; special permit required.

Of the Zoning By-Law to construct additions on two facades as well as a covered porch structure and garage with walkway at 73 WALNUT PLACE BRKL.

Said premise located in a S-10 (single-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.

**Enid Starr
Jesse Geller
Robert De Vries**

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, Jonathan Book and Mark Zuroff. The petitioners, were represented Attorney Robert Allen of 300 Washington Street, Brookline, MA.

Mr. Allen described the home at 76 Walnut Place as a two and a half-story wood frame single family residence, constructed in the 1850s, with subsequent additions and alterations made to it beginning in the 1860s. He submitted as exhibits 1a,b, and c colored renderings of various views of the home. The mansard style is similar to Second Empire residential architecture and the dwelling is heavily detailed with a full height mansard roof encompassing the second floor. The property is located on a lot five times bigger than the minimum required in this S-10 district and is on a narrow meandering private way. Although it is in the Pill Hill Local Historic District, the Preservation Commission's jurisdiction is limited to those facades of the house visible from a public way which does not include Walnut Place, a private way. Only a small portion of the house is visible from the nearby public ways of Upland Road and High Street.

Mr. Allen said that his clients, Sara and Peter Fleiss, are proposing to make alterations and additions to the house including: extend two story projection on north side out 8 feet and rebuild stairs; construct new set of stairs with railings and new entry; construct one story addition on east and south elevations, approx. 10 x 20 feet; remove existing south porch section and replace with two story arched portico to match opposite side; construct a raised deck and pergola connected to new one story addition; construct a new two car garage on north side of house and connect to main house with pergola; remove existing chain link fence and replace with stockade fence up to 6 feet high, and approx. 85 feet in length, along east property line. Materials and cornice details of the additions will match existing details and materials. There is an existing circular driveway with two curb cuts, which will be enlarged. Mr. Allen said that there was a neighborhood meeting regarding the

proposal during which almost universal support was garnered. One neighbor on Upland Road voiced concern about a planned fence along her boundary and expressed concern about the landscape plan. He said that the neighbors were happy that visitors and vendors could continue to turn around in the petitioner's driveway. As to counterbalancing amenities, Mr. Allen submitted the proposed landscape plan, exhibit 2. He said there was ample opportunity for increased landscaping given the considerable size of the lot. He also said the petitioner was removing an unsightly chain-link fence that was approximately 85 feet long and replacing it with a wood fence that would vary in height but at no point be higher than 6 feet.

Mr. Joel Glusky of JCG Architecture LLC, 115 Parmenter Road, Framingham, MA described the specific design attributes of the various sections of the home. He went into considerable detail regarding the 85 foot fence along the boundary shared with an Upland Road neighbor.

Board Member Zuroff asked whether the deck could be further from the lot line. Mr. Glusky responded that there was a significant tree that could be compromised if the deck were moved back from the lot line.

The Chairman asked whether anyone wished to speak either in support or in opposition to the proposal. No one rose to speak.

Lara Curtis Hayes, Senior Planner, delivered the findings of the Planning Board.

Section 5.70 – Rear Yard Requirements (house and deck/trellis)

Dimensional Requirements	Required	Existing	Proposed	Relief
Rear Yd Setback – house addition	30'	29'	19'	Variance/Special Permit*
Deck/trellis	30'	N/A	10'	

* Under **Section 5.43**, the Board of Appeals may waive dimensional requirements by special permit for yards and setbacks if counterbalancing amenities are provided. The applicant is proposing to provide additional landscaping as a counterbalancing amenity.

Section 6.04.4.c – Design of All Off-Street Parking Facilities (Curb Cuts too wide)

Section 6.04.5.c.3 – Design of All Off-Street Parking Facilities (Front & Side Yard Setback)

The plan calls for a circular driveway with two curb cuts and the applicant has stated that he is not proposing to park cars on it, but rather in the garage. Even with parked cars in the straight portion of the drive they would meet the required 20 foot setback.

Proposed Driveway	Required/ Allowed	Proposed	Relief
Width of Curb Cuts (2)	20 feet	40 feet (20 feet each)*	Variance/ Special Permit*
Parking/Driveway Front Setback	20 feet	20-30 feet	Complies
Parking/Driveway Rear Setback	5'	5'	Complies

*Under **Section 6.04.12** the Board of Appeals may waive dimensional requirements for parking facilities to serve existing buildings.

Section 8.02.2 – Alteration or Extension

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

Ms. Curtis Hayes said that the Planning Board was supportive of this proposal to renovate this 1850 house with additions, a garage attached to the house via a walkway, and a deck with a trellis. These improvements will make the house more livable for the owners and their family. The Preservation Commission has also reviewed and approved the plans. The proposed design of the renovations, which includes details consistent with the style of the existing house, are attractive and are an enhancement to the house and additional landscaping will serve as a counterbalancing amenity for the setback relief that is required for the rear addition and deck/trellis. The Planning Board encouraged the applicant to work with their neighbors, particularly their abutter at 78 Upland Road, to create a landscape plan that will adequately screen the deck/trellis structure. The existing driveway for this structure is the only drive on Walnut Place that is sufficiently sized for large vehicles and trucks to turn around and neighbors have stated concern that they would be able to continue to do so. The Planning Board also notes that the applicants have agreed to continue to provide a turn-around for neighboring properties and feel that is also an amenity to the neighborhood. Finally, the Planning Board felt that the provision of a circular drive will be safer

than the current driveway for trucks to turn around and feels that the two separate curb-cuts are appropriate at this location. Therefore, the Planning Board recommends approval of the plans by JCG Architecture, dated 10/14/10, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations, indicating all materials, details, and dimensions, subject to the review and approval of the Assistant Director of Regulatory Planning and the Preservation Commission, where required.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to 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 plans and elevations certified by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair then called upon the Building Commissioner to deliver the comments of the Building Department. Mr. Shepard said he first noticed the subject property while on a site visit at an adjacent property. He said that the home is architecturally stunning and it as well as the grounds are well maintained. He said that since only a small portion of the house is visible from a public way, Preservation Commission involvement is limited yet the owner has sought the advice and garnered support from the Commission. He said that in his opinion the design of the proposed additions integrated well with the existing structure. Mr. Shepard said that as yet unspoken counterbalancing amenity was the preservation of such an architecturally significant home. He said that the Building Department is supportive of the relief requested as well as the recommended conditions of the Planning Board.

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 5.43, 5.70, 6.04.4.c, 6.04.5.c.3, 6.04.12, 8.02.2, and 9.05 of the Zoning By-Law and made the following 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 materials, details, and dimensions, subject to the review and approval of the Assistant Director of Regulatory Planning and the Preservation Commission, where required.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
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Unanimous Decision of the
Board of Appeals



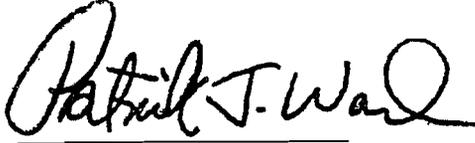
Enid Starr, Chairman

Filing Date: November 18, 2010

Twenty days have elapsed and no appeal has been filed.

A True Copy Attest:
Filing Date: December 09, 2010

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals



Patrick J. Ward
Town Clerk

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