



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

RECEIVED  
*Town of Brookline*  
*Massachusetts*

Town Hall, 1<sup>st</sup> 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. 090047

Petitioners, Joshua and Orna Safer applied to the Building Commissioner for permission to construct an addition to their home at 223 Bonad Road. The application was denied and an appeal was taken to this Board.

On 16 July 2009, 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 27 August 2009, at 7:00 p.m. in the Selectmen's hearing room, 6<sup>th</sup> floor, Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to his 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 6 and 13 August 2009 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: JOSHUA SAFER & ORNA SAFER**

Location of Premises: **223 BONAD RD BRKL**  
Date of Hearing: **08/27/09**  
Time of Hearing: **7:00p.m.**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup> floor**

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

- 1. Table 5.01; Table of Dimensional Requirements, footnote # 1, Variance Required.**
- 2. 5.09.2.j; Design Review, Special Permit Required.**
- 3. 5.20, Floor Area Ratio, Variance Required.**
- 4. 5.22.3.b.1.b, Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, Special Permit Required.**
- 5. 5.43; Exceptions to Yard and Setback Regulations, Special Permit Required.**
- 6. 5.50; Front Yard Requirements Variance Required.**
- 7. 5.60; Side Yard Requirements, Variance Required.**
- 8. 8.02.1.a, Alteration or Extension, Special Permit Required of the Zoning By-Law to construct an addition to the existing garage and an addition to the northeast side of the residence per plans at 223 BONAD RD BRKL.**

Said Premise located in a S-7 (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, Jesse Geller and Board Members, Jonathan Book and Mark Allen. The petitioners, Joshua and Orna Safer who reside at 223 Bonad Road were accompanied by their designer, Jonathan Zuker. Mr. Safer presented the case before the Board.

Mr. Safer described his home at 223 Bonad Road as a single family two-story Tudor style home built in 1937. The home has an attached 1.5 car garage that is sunk slightly below grade with an attached archway providing access to the rear yard. There is a considerable amount of ledge and a sizable rock in the rear yard he said. The front yard is behind a retaining wall that runs along the driveway and Bonad Road. On the opposite side of his home is a screened porch. The neighborhood consists primarily of single-family residences similar in size to his property.

Mr. Safer said that he and his wife are proposing to construct an addition to the garage to allow for a two-car tandem arrangement, as well as a two-story addition to the side of the house that will extend above the screened in porch. The addition will be clad in stucco and vinyl siding to match the existing materials. The addition will increase the gross floor area of the 1,985 square foot house by 344 square feet to a total of 2,329 square feet of gross floor area and will be located on the northern façade of the house. The new windows will match the existing windows.

To adequately accommodate for two cars, Mr. Safer said that they are proposing to extend the garage 9' into the front setback. The addition to the garage will create an additional 112.5 square feet in the 394 square foot garage. The existing garage is aligned with the front façade of the house, but the proposed bump-out will create a roof area that will be used as a patio and will be connected to the front stoop. Mr. Safer said that as a counterbalancing amenity he will retain the existing bushes on the garage-side lot line at the request of his neighbor and provide additional plantings in that area as well.

Chairman Geller asked whether the Board Members had any question for Mr. Safer at this point and they replied that they did not.

Chairman Geller asked whether anyone in attendance wished to speak in favor of or against the proposal and no one rose to speak.

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

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). The applicant has not provided a Community and Environmental Impact Statement. The most relevant sections of the design review standards are described below:

- a) *Preservation of Trees and Landscape*: Although the proposed addition would be located near where there are currently trees planted along the lot line, it is not anticipated the trees will be disturbed by the addition.
- b) *Relation of Buildings to Environment*: The existing lot is relatively flat in the front and similar in size and shape as neighboring dwellings, with most of the lot’s landscaping located to the rear. The proposed addition is modest in size and is not expected to cause significant shadows on neighboring properties or public streets; the overall proposal is within the zoning district’s height limits.
- c) *Relation of Buildings to the Form of the Streetscape and Neighborhood*: The proposed addition is consistent in style, including its detailing and overall fenestration, with the existing dwelling as well as with neighboring dwellings. The addition is not expected to change the overall character of the existing dwelling, which is currently very similar to others in the immediate neighborhood.
- d) *Circulation*: The proposed addition will not interfere with the existing vehicular circulation on the lot, and will improve the visual appearance of the parking on site by allowing two vehicles to park in the garage.

**Section 5.20 – Floor Area Ratio**

| Floor Area                             | Allowed      | Existing   | Proposed    | Findings                     |
|--|--------------|------------|-------------|------------------------------|
| <b>Floor Area Ratio (% of allowed)</b> | 0.35<br>100% | .31<br>87% | .36<br>101% | Variance/<br>Special permit* |
| <b>Floor Area (s.f.)</b>               | 2,269        | 1,985      | 2,329       |                              |

\* Under Section 5.22.3.b.1.b, *Exceptions to Maximum Floor Area Ratio*, the Board of Appeals may grant, by special permit, to allow for an exterior conversion that is less than or equal to 20% of the permitted gross floor area.

**Section 5.50 – Front Yard Setbacks**

**Section 5.60 – Side Yard Setbacks**

| Setbacks                 | Required | Existing | Proposed | Findings                     |
|--------------------------|----------|----------|----------|------------------------------|
| <b>Front Yard</b>        | 20'      | 21.3'    | 15.9'    | Variance/<br>Special permit* |
| <b>Side Yard (north)</b> | 7.5      | 7.5'     | 7.3'     |                              |
| <b>Side Yard (south)</b> | 7.4      | 2.3'     | 2.3'     |                              |

\* Under Section 5.43, *Exceptions to Yard and Setback Regulations*, the Board of Appeals may substitute, by special permit, other dimensional requirements for yards and setbacks if counterbalancing amenities are provided. The applicant has indicated landscaping will serve as their 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 that the Planning Board was supportive of the proposed additions. The addition to the side of the home is nicely integrated with the existing screened in porch and is consistent with the overall character of the home. The extension of the garage will be an improvement to the existing non-conforming parking situation at this site and will provide screening for the parking of the second vehicle even though it will remain in the front setback. The Planning Board noted that the neighboring homes at 227 and 233 Bonad Road both have garages that are bumped out in a similar configuration as this proposal with terraces above the garage. The Planning Board feels the proposed garage addition in the front is well integrated into the overall aesthetic of the house, and should increase the utility of the front porch giving a more neighborly appearance. Therefore, she said, the Planning Board recommends approval of the plans prepared by Magnetism Design and dated 5/18/09, and the site plan prepared by Dennis O'Brien and dated 2/12/09, subject to the following conditions:

1. Prior to the issuance of a building permit, final elevations, indicating all materials, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit, a final landscaping plan indicating all counterbalancing amenities shall be submitted to the Assistant Director for 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 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.

Michael Shepard, Building Commissioner, delivered the comments from the Building Department. Mr. Shepard represented that the subject home is very similar to many others on the street. He said that the proposal is modest, that it will take a car that is currently parked in the driveway and put it in the extended garage. Mr. Shepard stated that the addition appeared well designed and was in proportion to the façade of the house. He said that the Building Department was supportive of the relief as well as the conditions proposed by the Planning Board.

Chairman Geller asked Mr. Shepard whether he was satisfied with the FAR calculations for the home given the exclusions for garage space and Mr. Shepard responded that he was. Mr. Geller asked for the measured dimension of the balance of driveway space once the addition is done in order to verify that sufficient space existed to avoid encroachment over the sidewalk. Mr. Shepard responded that the plan indicated that there would be approximately 16' left from the garage to the front lot line.

The Board, having heard all the testimony, deliberated on the merits of the application. Board Member Allen commented on the possibility of infringing upon the sidewalk if someone chooses to park in the driveway and requested that, if the Board approves the requested relief, this concern be addressed in the conditions. The Board Members unanimously agreed that the project was modest and well designed and appropriate for the requested relief. Mr. Book and Mr. Allen said that they desired slight modifications to the conditions. The Board then determined, by unanimous vote that the requirements of Section 9.05 of the Zoning By-Law, Section 5.43 of the Zoning By-Law and Section 5.22.3.b.1.b of the Zoning By-Law have been satisfied and that it is desirable to grant Special Permits in accordance with Section 5.09.2.j of the Zoning By-Law, Design review, said Section 5.22.3.b.1.b, Exceptions to Floor Area Ratio, Section 8.02 of the

Zoning By-Law, to alter a pre-existing, non-conforming structure and said **Section 5.43** to waive the requested setback requirements subject to provision for appropriate counterbalancing amenities and makes 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:

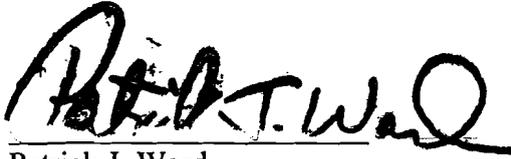
- 1. Prior to the issuance of a building permit, final elevations, indicating all materials, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 2. Prior to the issuance of a building permit, a final landscaping plan indicating all counterbalancing amenities shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 3. At no time shall the petitioners allow vehicles parking in the driveway to encroach on the public sidewalk.**
- 4. 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

Filing Date: September 4, 2009

  
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Jesse Geller, Chairman

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals

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12/21/09

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