



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

RECEIVED  
TOWN OF BROOKLINE  
BUILDING DEPT.  
TOWN OF BROOKLINE  
*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. 080033**

Petitioner, Joseph Smith, applied to the Building Commissioner for permission to construct an addition to the home at 87 Seaver Street. The application was denied and an appeal was taken to this Board.

On July 10th 2008, 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 September 11th 2008, at 7:00 p.m. on the 2<sup>nd</sup> floor of the Main Library as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to its 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 August 28th and September 4th 2008 in the Brookline Tab, a newspaper published in Brookline. 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: MIRACLE TRUST**  
**Location of Premises: 87 SEAVER ST BRKL**  
**Date of Hearing: 09/11/2008**  
**Time of Hearing: 7:00 p.m.**  
**Place of Hearing: Main Library, 2<sup>nd</sup>. floor**

A public hearing will be held for a variance and/or special permit from  
**5.09.2.j; Design Review, Special Permit Required.**  
**5.20; Floor Area Ratio, Variance Required.**  
**5.22.3.b.1.b; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, Special Permit Required.**  
**5.43; Exceptions to Yard and Setback Regulations, Special Permit Required.**  
**5.70; Rear Yard Requirements, Variance Required.**  
**8.0202; Alteration or Extension, Special Permit Required of the Zoning By-Law to construct additions and renovations per plans at 87 SEAVER ST BRKL.**

Said Premise located in a **F-1.5** Single Family 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**  
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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chair, Enid Starr and Board Members, Rob DeVries and Kathryn Ham. The petitioner, Joseph Smith, representing Miracle Trust, was present as well as the architect, John Meyer and his associate, Ariane Risto, of Meyer and Meyer, Inc., 396 Commonwealth Avenue, Boston, MA 02215.

Mr. Meyer described the residence at 87 Seaver Street as a single family dwelling dating from approximately 1910. The house is a 2-story structure with an attached 2 car garage, walk-in basement and attic space. Its style is traditional with Tudor elements appearing in the main materials of brick veneer, slate roof and stone accent panels. The front elevation faces south onto Seaver Street and the west elevation faces a shared easement with the neighbors to the north. The existing family room rear wing consists of two walls of sliding glass doors and transoms, one wall of wood siding and transom windows, and a flat roof. This portion of the home was built in 1974 and is surrounded by a wood deck on the north and east sides.

Mr. Meyer said that the petitioner, Joseph Smith, wishes to demolish the 1974 addition and reconstruct the rear wing. The proposed addition will be built upon the same foundation. The habitable space of the new wing will be increased slightly onto the north deck area to incorporate a new fireplace. On the west façade, a brick veneer wall and traditional windows will face the easement. To the north, a brick chimney, windows and porch will use the proportions, materials and details of the main house. The east elevation faces into the back yard and 2 sets of French doors will open onto a stone patio. The roof is proposed to be slate with copper edging and ridge accents. The addition, approximately five feet wide by 14 feet deep, would align with and extend from the existing front wall of the dwelling's entryway, and then back to align with the dwelling's side wall. The entire roof would be removed and replaced and extended over the new addition. In addition, the front entry will be reconstructed. The existing sloped porch roof will be altered to incorporate a traditional eyebrow roof element. The front door system will be upgraded and re-centered within the current porch location. Also, the vestibule will be enlarged by using a portion of the exterior porch square footage. Columns, brackets, and rafter tails are designed to be in keeping with the historic aesthetic of the house. Mr. Meyer stated that he believed that his client

only needed special permit relief under Sections 5.09.2.i, 5.22.3.b.1.b and 8.02.2 of the Brookline Zoning By-Law.

The Chair asked whether anyone wished to speak in favor or in opposition to the proposal and no-one rose to speak.

Courtney Starling, Planner delivered the findings of the Planning Department. She said that relief was needed under 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)*. The applicant has 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***

The existing trees on the site shall not be disturbed by the proposed additions and renovations. The lot has several landscaped areas including vegetation along the west elevation of the rear wing. This particular zone will be disrupted to allow construction to occur.

**b. *Relation of Buildings to Environment***

The proposed rear wing addition will be built with materials similar to that of the existing residence. The roof of the addition will use the same slope and proportions of the rest of the home. By designing the addition in the same location as the current structure, deck and porch, the scale of the exterior improvements respects the residence and the surrounding neighborhood.

**c. *Open Space***

The existing landscaped open space area remains the same in the proposed design. The rear wing addition will be located in the same place as the existing rear wing and wooden deck in order to have a negligible impact on the total amount of usable open space. At the front door improvement, the added square footage occurs within the existing covered entry area.

**d. *Circulation***

There will be no impact on circulation as a result of the proposed design.

**e. *Stormwater Drainage***

Stormwater will be collected from the new sloped roof by gutters and downspouts. Existing surface drainage will remain the same for the rest of the lot.

**f. *Heritage***

The Brookline Preservation Commission issued a letter of non-significance to the owner for the demolition of the 1974 wing (attached). The Commission found that it was not historically or architecturally significant.

**g. *Microclimate***

The proposed project will not have an adverse affect on light, air or water resources. Some noise will be created during the construction process but will comply with the Town's noise control bylaw. Temperature levels will not be adversely affected by the project.

**h. *Energy Efficiency***

The proposed additions and renovations will utilize energy efficient technology and renewable energy sources as much as possible.

**Section 5.22.3.b.1.b – Exceptions to FAR Regulations for Residential Units:** A special permit is required for an external addition where the resulting gross floor area is not more than 120 percent of the permitted gross floor area.

Floor Area	Required	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	0.25 100%	0.257 102.8%	0.2718 108.7%	Special permit*
Floor Area (s.f.)	4,000	4,054	4,282	

\* See Section 5.22.3.b.1.b above. A special permit may be issued by Board of Appeals to allow up to 120% percent of the permitted gross floor area.

**Section 5.43 – Exceptions to Yard and Setback Regulations**

**5.70 – Rear Yard Requirements**

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
Side Yard Setback	15 feet	11.8 feet	11.8 feet	Complies*
Rear Yard Setback	40 feet	50.4 feet	40.9 feet	Complies

\* Under Section 5.40, Building walls that are not parallel to the lot line shall not be narrower at any point than three-fourths the required width or depth.

**Section 8.02.2 – Alteration or Extension**

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

Ms. Starling reported that the Planning Board had no objection to the proposed addition as it is attractively designed and is not expected to have a detrimental impact on the neighborhood. The addition is designed to integrate well with the existing structure, and will likely improve the dwelling’s overall appearance. The Planning Board would like to emphasize that the existing landscaping that screens the rear addition should be retained, and if removed during construction, should be replaced. Therefore, the Planning Board recommends approval of the plans prepared by Meyer and Meyer Architects dated 7/22/08, and the site plan prepared by Everett M. Brooks Co. and last dated 6/19/08, 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, 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 Chair called upon Michael Shepard, Building Commissioner, to deliver the Building Department report. Mr. Shepard stated that the proposal was a modest addition in keeping with the scale of the home. He stated that although the petitioner was cited for side and rear setback relief it was not needed. He said that the Building Department is supportive of the proposal and is in agreement with the conditions recommended by the Planning Department.

The Chair asked whether the petitioner had any additional testimony and Mr. Meyer said they did not.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant special permits in accordance with Sections 5.09.2.i, 5.22.3.b.1.b and 8.02.2 of the Zoning By-law and made the following findings pursuant to 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.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

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. Should any landscape material in the rear yard be damaged as a result of the construction, it shall be replaced, subject to the review and approval of the Assistant Director for 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.

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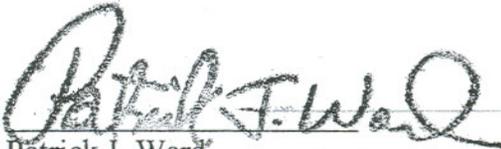
2008 SEP 25 P 2:36



Enid Starr

Filing Date: September 25, 2008

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals