



# TOWN OF BROOKLINE

## *Massachusetts*

### BOARD OF APPEALS

DIANE R. GORDON, Co-Chair  
HARRY MILLER, Co-Chair  
BAILEY S. SILBERT

333 Washington Street  
Brookline, MA 02445  
617-730-2010  
Fax: 617-730-2298

PATRICK J. WARD, Secretary

CASE NO. BOA060028

David A. Bagnani and Elizabeth S. Bagnani, owners of record of the land with the buildings thereon located at and numbered 48 Denny Road, Brookline, Massachusetts, title to which is recorded with Norfolk Registry of Deeds in Book 21420, Page 426, applied to the Building Commissioner for permission to construct an addition to the residence with a second level sundeck and upper level trellis arbor per plans filed. The Building Commissioner, by letter dated April 14, 2006, denied the application, from which the applicants appealed to this Board.

On May 11, 2006 the Board met and fixed Thursday, June 22, 2006 at 7:00 P.M. in the Selectmen's Hearing Room, Sixth Floor of Town Hall as the time and place for a public hearing on the appeal. Notice of the hearing was mailed to the petitioner, to the owners of properties deemed 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 in the Brookline Tab, a newspaper published in Brookline, on June 1, 2006 and June 8, 2006. The published notice appeared as follows:

TOWN OF BROOKLINE  
MASSACHUSETTS  
BOARD OF APPEALS

### 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:	DAVE AND BETTY BAGNANI
Location of Premises:	48 DENNY RD BRKL
Date of Hearing:	06/22/2006
Time of Hearing:	7:00 p.m.
Place of Hearing:	Selectmen's Conference Room, 6 <sup>th</sup> floor

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

- 1) 5.09.2.j; Design Review, Special Permit Required.
- 2) 5.20; Floor Area Ratio; Variance Required.
- 3) 5.22.3.a.2; Exceptions to Floor Area Ration Regulation

Of the Zoning By-Law to construct and addition with a second level sundeck and upper level trellis arbor per plans

at 48 DENNY RD BRKL

Said Premises located in a S-15 district.

*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.*

Diane R. Gordon  
Harry Miller  
Bailey Silbert

Publish: 06/01/2006, and 06/08/2006

At the time and place specified in the notice a public hearing was held by this Board. Present were Board Members, Diane R. Gordon, Chairman, Bailey S. Silbert and Enid Starr. James M. Kickham, attorney, of Brookline, appeared on behalf of the petitioners. Also present were the petitioner, David A. Bagnani and architects, David Linzee Amory and Christopher Brown.

Mr. Kickham stated that 48 Denny Road is located within a S-15 zoning district. The building is an existing detached single family residential building built in a colonial style within a district consisting principally of well-appointed single family residences in the Middlesex Road/Chestnut Hill area of the town. The land area consists of 15,175 square feet. The residence is two stories together with a basement and attic space. It has a two car garage attached at the northeast side of the residence, above which is useable space with an extended dormer over it. The ground and second level are used for residential purposes. The applicants propose to extend the kitchen area at the rear of the house into the rear yard so as to construct a modest interior sun room which will be integrated with the existing kitchen area and to install an outdoor deck above. They also propose to enlarge the second floor at

the recessed area in the front of the house between the garage and the main house by extending the dormer presently above the garage over to the northeast wall of the main house. Some minor architectural detailing will also be incorporated at the front of the house

The Building Commissioner determined that in order for the applicant to proceed with the construction, relief from those provisions of the Zoning By-Law cited above would be required by the grant of a variance and /or special permits.

Mr. Kickham stated that the land and house in its present state conform in all respects with all of the dimensional requirements set forth in the By-Laws, including, lot size floor area ratio, lot width and frontage, height, front, side and rear setbacks, landscaped open space and usable open space. The project, however, will only impact one of those dimensional requirements, namely, the gross floor area ratio. The present gross floor area is 3,709 +/- square feet where 3,794 square feet is allowed in order to maintain the permissible gross floor area ratio of .25. With a lot size of 15,175 square feet, the renovations will increase the gross floor area to 4,002 square feet and the gross floor area ratio to .26.

Although a variance is a required feature of the By-Law in order to address a deficiency in gross floor area under Section 5.20, relief from the requirement can be obtained by special permit under the exceptions set forth in Section 5.22.3.a.2. This section provides that a special permit may be granted to allow an increase of the gross floor area above the permitted gross floor area for an exterior addition in a S District provided that the increase does not exceed the permitted gross floor area by more than 20%. The applicants' proposal complies with this exception. The proposed gross floor area will be 4,002 square feet which will increase the permitted gross floor area ratio from .25 to .26. The increase of the gross floor area from 3,794 square feet to 4,002 square feet will result in an increase of 5.0%, well under the permitted 20%. Grant of a special permit, therefore, is appropriate.

In addition to the foregoing, the addition requires compliance with the provisions of Design Review under Section 5.09.2.j. The applicants have submitted a Community and Environmental Impact and Design Standards Statement as required by the By-Law to the agencies of interest. The statement indicates that the additions create no particular impact on the environment or design standards. The project is extremely modest in scope and has a positive effect. A special permit, therefore, is appropriate in this instance.

Ms. Polly S. Selkoe, Assistant Director for Regulatory Planning with the Department of Planning and Community Development, appeared on behalf of the Department. She stated that the Department has no objection to the sundeck and dormer additions and that they are compatible with the existing structure, do not require yard setback relief and will have minimal impact on abutting properties and the surrounding neighborhood. The Department, she said, recommends approval of the plans entitled "Bagnani Residence" prepared by

Amory Architects dated June 8, 2006, subject to the following conditions:

“Prior to obtaining a building permit, the applicants shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: a) a final site plan, stamped and signed by a registered architect or land surveyor. b) final building elevations stamped and signed by a registered architect, and c) evidence that the Board of Appeals decision has been submitted to the Registry of Deeds”.

Mr. Frank Hitchcock appeared on behalf of the Building Commissioner. He set forth the applicable provisions of the Zoning By-Law and stated that all of the relief necessary can be granted under special permits. The Building Commissioner, therefore, has no objection to the conversion.

Public input was received by letters of support from those abutters who are most impacted by the addition, namely, Pamela and Frank Anthony of 36 Denny Road, Linda and Peter Leahy of 60 Denny Road and John K. Wyon of 143 Fairway Road , all of whom directly abut the applicants' property.

This Board, after hearing, has carefully considered the proposal and along with a review of the plans submitted, the presentation by the petitioner, the comments and report of the Department of Planning and Community Development, the comments on behalf of the Building Commissioner and the input from interested parties, finds as follows.

48 Denny Road consists of a single family house on a quiet well-appointed, landscaped residential street. It is located within a S-15 Zoning District which is principally made up of two-story single family houses on relatively spacious lots. The land area is 15,175 square feet. The property at present conforms to all of the dimensional requirements as set forth in Section 5.01. The house is two stories in height with a basement and minimal attic space. There is a two car garage attached to and incorporated with the house with a usable room above on the second floor, serviced by dormer windows. The area of the house between the garage and the main house is recessed in the front and has minimal use for passage and for closet space.

The conversion proposed by the applicants seeks to enlarge the kitchen area at the rear of the house by incorporating a sun room which will project into the rear yard. An open sundeck will be installed above. The recessed area in the front of the house between the garage and main house will be enlarged on the second floor by extending the dormer currently over the garage only to the side of the main portion of the house and installing a window in that extension, thereby making the interior more useful for residential use. The proposal will also incorporate some modest architectural elements in the front of the house.

All of these renovations require minimal relief from this Board, namely two special permits, one relating to design and environmental impact review under Section 5.09.2.j and one relating to the adoption of exceptions to the gross floor area ratio requirements under Section 5.22.3.a.2, which modifies the more strict requirement of a variance under Section 5.20.

The Board finds that relief by special permits under Section 5.09.2.j and Section 5.22.3.a.2 is appropriate. The standards for environmental impact and design review are fully met, particularly where the greater construction will occur fully to the rear of the house and the front addition will merely extend the present dormer over to the side of the main house. The increase in the gross floor area over that permitted, namely, 4,002 square feet rather than 3,794 square feet results in an increase of gross floor area of 5.0 % which is well below the 20 % permitted under Section 5.22.3.a.2

The requirements for the granting of special permits under Section 9.05 have been amply met. The site for this small renovation and addition of an interior sunroom at the rear of the house with an open roof deck above, along with the expanded area on the second floor between the garage and the main house by extension of the dormer and the addition of a window is appropriate. The minimal enlargement of portions of the house will not meaningfully affect the neighborhood and will not create any adverse effect. The creation of nuisances and or hazards to vehicular or pedestrian use is totally nonexistent.

The conditions set forth below as recommended by the Department of Planning and Community Development are reasonable and are adopted by this Board.

For the reasons set forth above, this Board grants the following relief from the provisions of the Zoning By-Law:

1. Special permit granted under Section 5.09.2.j relating to compliance with the Standards for Environmental Impact and Design Review Standards.
2. Special Permit under Section 5.22.3.a.2 to substitute the required gross floor area of 3,794 square feet with the square footage proposed of 4,002.

The aforesaid relief is subject to following conditions:

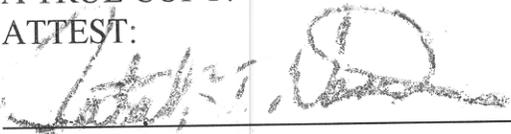
Prior to obtaining a building permit, the applicants shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: a) a final site plan, stamped and signed by a registered architect or land surveyor. b) final building elevations stamped and signed by a registered architect, and c) evidence that the Board of Appeals decision has been submitted to the Registry of Deeds.

UNANIMOUS DECISION OF THE  
BOARD OF APPEALS

  
\_\_\_\_\_  
Diane R. Gordon, Chairman

Date of Filing: July 19, 2006

A TRUE COPY:  
ATTEST:

  
\_\_\_\_\_  
Patrick Ward, Clerk  
Board of Appeals

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2006 JUL 19 P 4:24

Date: 5/2/04

As neighbors of the property at 48 Denny Road we support the application for the permit to build the rear sun room addition and front dormer extension. The owners have reviewed the project with us and we have no objections to the plans.

Sincerely;

A handwritten signature in cursive script that reads "Linda Leahy".

Name: LINDA & PETER LEAHY

Address: 60 DENNY ROAD