



BOARD OF APPEALS  
Diane R. Gordon, Co-Chair  
Harry Miller, Co-Chair  
Bailey S. Silbert

# *Town of Brookline*

## *Massachusetts*

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Brookline, MA 02445-6899  
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Patrick J. Ward, Secretary

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. BOA060065

Petitioners, Anne and Robert Fuhlbrigge, applied to the Board of Appeals to construct an addition to their home at 42 Brook Street.

On November 2, 2006, the Board of Appeals 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 December 14, 2006, at 7:00 p.m. in the Selectmen's Hearing Room on the sixth floor of the Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, 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 November 23 and 30, 2006 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is 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: **Anne and Robert Fuhlbrigge**  
Location of Premises: **42 Brook Street**  
Date of Hearing: **12/14/2006**  
Time of Hearing: **07:00 p.m.**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup>. Floor**

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

- 1) 5.43; Exceptions to Yard and Setback Regulations, Special Permit Req.**
- 2) 5.70; Rear Yard Requirements, Variance Req.**
- 4) 8.02.2; Alteration or Extension; Special Permit Req.**

Of the Zoning By-Law to construct dormers and renovations per plans at **42 BROOK ST., BRKL.**

Said Premise located in a **T-5** 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 S. Silbert**

At the time and place specified in the notice, a public hearing was held by this Board.

Present at the hearing was Chair, Harry S. Miller and Board members Bailey Silbert and Enid

Starr. Mr. Robert Fuhlbridge, resident owner of the subject property, introduced the case before

the Board. Mr. Fuhlbrigge stated he needed relief from **§5.70**, Rent Yard Setback and **§8.02.02**,

Alteration or Extension of pre-existing, non-conforming structures. Mr. Rick Ames of Next Phase Studios, 179 Green Street, Jamaica Plain, MA 02130, presented the project to the Board. He stated that the owners desired to make various alterations to their dwelling. He described the project as not extending the existing footprint of the structure. The home is an attached, single family dwelling in a neighborhood of similar homes. The proposed project consists of the building of a 43 square foot addition on the second floor and constructing two new shed dormers on the third floor, one on the front and one to the rear. He stated the additions would accommodate the additional space needs of the growing family. They also would like to make changes to the side and rear of the building including reconfiguration of the rear egress.

It was noted that a special permit under **Section 5.43** to waive dimensional requirements may be granted provided that counterbalancing amenities are provided. The Petitioners proposed providing landscaping as the counterbalancing amenity for this purpose, as would be set forth in a plan to be submitted.

The Chair then asked whether anyone wished to speak in favor or opposition to the proposal. Mr. Thomas Robinson of 31 Brook Street (across the street) and his son both spoke in support of the proposal as did Ms. Shelly Reed of 44 Brook Street (the attached property next door).

Planner Lara Curtis then reviewed the comments and recommendations of the Planning Board: She stated that the Planning Board has no objections to the proposal and that it does not expect any significant impacts to the neighborhood. The Board noted that the proposal would create a lack of symmetry between the attached buildings, but that it is not expected to cause any detrimental impacts, visually or by shading, to the neighboring properties. Ms. Curtis stated that

the Planning Board recommends approval of the proposal as set forth in the plans prepared by Next Phase Studios Inc., dated 9/26/06, including the revised front and rear elevations of the same date, subject to the following conditions:

1. Prior to the issuance of a building permit, final plans and elevations with material specifications must 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 must be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. The siding for the dormers and the addition must be the same as that portion of the building immediately adjacent to the alteration.
4. The roof shingles for the addition must match those of the existing structure.
5. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) final building elevations stamped and signed by a registered architect; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair called on Frank Hitchcock representing the Building Department. Mr.

Hitchcock stated that the only relief needed was for the rear yard, not because the proposed renovated structure was any closer to the rear lot line but because it was already non-conforming and therefore required relief under §8.02.2 and §5.43. Mr. Hitchcock stated that the Building Department had no objections to the proposal, the relief requested, or the conditions recommended by the Planning Board.

Board member Bailey Silbert asked the applicant about the counterbalancing amenities they intended to provide in accordance with the relief requested. The petitioner proposed general landscaping, among other options, and Mr. Silbert reminded the applicant that a landscape plan would have to be reviewed and approved by the Assistant Director for Regulatory Planning.

The Chair then asked Mr. Fuhlbrigge if he wished to make a closing statement and he declined.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant the relief requested under **Sections 5.43 and 8.02.2** of the Zoning Bylaw and makes 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 plans and elevations with material specifications must 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 must be submitted to the Assistant Director of Regulatory Planning for review and approval.**
- 3. The siding for the dormers and the addition must be the same as that portion of the building immediately adjacent to the alteration.**
- 4. The roof shingles for the addition must match those of the existing structure.**

5. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) final building elevations, stamped and signed by a registered architect; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of  
The Board of Appeals

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2006 DEC 29 A 11:02

Filing Date:

A True Copy:

ATTEST



Patrick J. Ward  
Clerk, Board of Appeals

  
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Harry S. Miller

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