



**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Jonathan Book  
Christopher Hussey

# *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. 2014-0038  
JEFFREY & DANA ENGELMAN

Petitioners, Jeffrey and Dana Engelman, applied to the Building Commissioner for permission to construct a second-story 82 square foot rear addition. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed July 31, 2014 at 7:30 p.m. in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioners, to their 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 July 10, 2014 and July 17, 2014 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. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

**146 BEVERLY ROAD – Construct a second story addition at the rear for an additional 82 square feet in an S-10, Single-Family, residential district, on July 31, 2014, at 7:30 pm in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner/Owner: Jeffrey and Dana Engelman)**

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

1. **Section 5.09.2.j; Design Review**
2. **Section 5.22.3.c; Exceptions to Floor Area Ratio for Residential Units**
3. **Section 8.02.2; Alteration or Extension**

*Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: [www.brooklinema.gov](http://www.brooklinema.gov).*

*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 Town programs and services may make their needs known to **Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).***

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

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 Avi Liss and Johanna Schneider. The case was presented by the attorney for the Petitioners, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was Jeffrey and Dana Engelman, the owners of the property located at 146 Beverly Road, and Dennis Greenwood, the Petitioners’ architect.

Zoning Board of Appeals Chairman Geller called the hearing to order at 7:30 p.m. Attorney Allen presented to the Board a background of the Petitioners and the property, stating the following: The Petitioners propose to construct a second-story 82 square foot rear addition. The Petitioners purchased

the property in 2007 and seek to enhance the bedrooms on the second floor and have a real master bath. Attorney Allen stated that the property is a single-family colonial style home that was built in 1938. Attorney Allen stated that the neighborhood is comprised of single-family dwellings and that there is a large hill in the rear of all these properties on the side of Beverly Road, where the Petitioners' property is, so the ability for someone to see the proposed addition is limited. Attorney Allen stated that in 2005, the Zoning Board of Appeals granted a similar extension at 263 Beverly Road for a 147 square foot one-story addition. Attorney Allen stated that several neighbors support the project, which is evidenced by seven letters of support. Attorney Allen stated that the proposed 82 square foot addition includes: completing kitchen remodel, expanding the master bathroom, using the same dark clapboard siding that is on the rear portion of the dwelling, altering the second floor rear windows to make them more usable, and removing one of the chimneys to make space for the addition.

Attorney Allen stated that the Planning Board voted unanimously in support of the relief requested.

Attorney Allen stated that relief was triggered and met under Section 5.09.2.i because the proposed addition is not expected to have shadow impacts on neighboring properties nor will the addition be visible from the street. Attorney Allen stated that under Section 5.22.3.c, the Board of Appeals by special permit may allow an increase in gross floor area for single-family homes by exterior additions up to 350 square feet. Attorney Allen noted that the total FAR proposed is 140%, which is under the 150% allowed, and the total additional floor area proposed is 82 square feet, which is under the 350 square feet allowed.

Attorney Allen discussed relief under Section 8.02.2 of the Zoning By-Laws where a special permit is required under Section 9.05 of the Zoning By-Laws. As for Section 9.05, in looking at this conversion, (1) the specific site is an appropriate location because the property is located in an S-10

District that will keep its existing use as a single-family dwelling, and will be consistent with other existing single-family homes in the district; (2) there will be no adverse effect on the neighborhood because the rear addition will not be visible from the street and will match the façade at the rear of the dwelling, there is no opposition to this proposal, and the precedent set at 263 Beverly Road shows that the Board of Appeals granted similar special permit relief for an addition; (3) no nuisance or serious hazard to vehicles or pedestrians exists; (4) adequate and appropriate facilities will be provided for the proper operation; and (5) development will not have a significant adverse effect on the supply on housing available for low and moderate income people.

Zoning Board of Appeals Chairman Geller asked if there was anyone present who wished to speak in favor of this application. No one spoke in favor of the application.

Zoning Board of Appeals Chairman Geller asked if there was anyone present who wished to speak in opposition to this application. No one spoke in opposition of the application.

Timothy Richard, Planner for the Town of Brookline, delivered the findings of the Planning Board:

#### FINDINGS:

1. **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-1)*. All the conditions have been met, and the most relevant sections of the design review standards are described below:
  - b. **Relation of Buildings to Environment** – The proposed addition is not expected to have shadow impacts on neighboring properties.
  - c. **Relation of Buildings to the Form of the Streetscape and Neighborhood** – The proposed addition has been designed to be consistent with the style of the existing dwelling. Furthermore, the addition will be in the rear and will not be visible from the street.
2. **Section 5.22.3.c – Exceptions to Floor Area Ratio for Residential Units**

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	0.30 100%	0.41 136%	0.42 140%	Special Permit*
Floor Area (s.f.)	2,248	3,125	3,207	

\*Under **Section 5.22.3.c**, the Board of Appeals may allow by special permit increases in gross floor area for single-family homes by exterior addition up to 350 square feet.

3. **Section 8.02.2 – Alteration or Extension**

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

Mr. Richard stated that the Planning Board is supportive of the proposed second-story rear addition. Mr. Richard stated that the Board finds the request to be simple and modest. Mr. Richard stated that the exterior of the addition will match the façade at the rear of the dwelling. Mr. Richard stated that the Board does not anticipate any negative impacts to the neighborhood or streetscape as a result of this proposal. Therefore, the Planning Board recommends approval of the plans by Sousa Design Architects, submitted 7/17/14, and the site plan by Boston Survey, Inc., dated 5/29/14 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans and elevations indicating all salient dimensions and materials subject to the review and approval of the Assistant Director of Regulatory Planning.
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.

Zoning Board of Appeals Chairman Geller then called upon Mr. Richard to deliver the comments of the Building Department. Mr. Richard stated that the Building Department had no objections to the relief sought under this simple proposed addition.

Board of Appeals Member Schneider asked whether there was any prior work done of this property. Mr. Richard stated there has not been any prior work done on this property.

In deliberation, Zoning Board of Appeals Member Liss stated that he was in support of the relief requested.

Zoning Board of Appeals Member Schneider echoed support for the relief requested.

Zoning Board of Appeals Chairman Geller stated that he was in support of the relief requested.

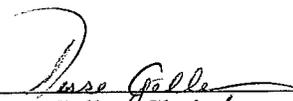
The Board then determined, by unanimous vote that the requirements for a special permit under Sections 5.09.2.j; 5.22.3.c; and Section 8.02.2 were met. The Board made the following specific findings pursuant to said Section 9.05:

- 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.

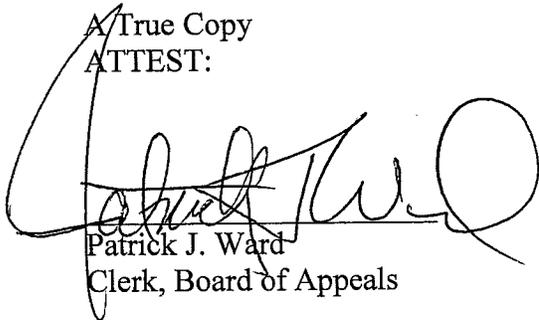
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

- 1. Prior to the issuance of a building permit, the applicant shall submit final floor plans and elevations indicating all salient dimensions and materials subject to the review and approval of the Assistant Director of Regulatory Planning.**
- 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.**

Unanimous Decision of  
The Board of Appeals

  
\_\_\_\_\_  
Jesse Geller, Chairman  
Filing Date: 9/21/14

A True Copy  
ATTEST:

A large, stylized handwritten signature in black ink, appearing to read 'Patrick J. Ward', is written over the printed name and title.

Patrick J. Ward  
Clerk, Board of Appeals

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK

2014 SEP 11 A 11:03