



BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town of Brookline

Massachusetts

Town Hall, 1st Floor
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Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2014-0011
**Owner: Dingfang Lui and
Xiao Hu**

Petitioners, Dingfang Lui and Xiao Hu, applied to the Building Commissioner for permission to construct a two story addition at the rear of 73 Dale Street. The application was denied and an appeal was taken to this Board.

The Board met and administratively 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 April 3, 2014 at 7:30 p.m. in the Selectmen's hearing room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney 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 March 20, 2014 and March 27, 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. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **DINGFANG LIU**

Owner: **DINGFANG LIU AND XIAO HU**

Location of Premises **73 DALE STREET**

Date of Hearing: **April 3, 2014**

Time of Hearing: **7:30 PM**

Place of Hearing: **SELECTMEN'S HEARING ROOM, 6TH FLOOR**

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

Section 5.09.2.j: Design Review

Section 5.22.3.b.1.b: Floor Area Ratio

Section 5.43: Exceptions to Yard and Setback Regulations

Section 5.70: Rear Yard Requirements

of the Zoning By-Law to **CONSTRUCT A TWO STORY ADDITION AT REAR FOR AN ADDITIONAL 660 SQUARE FEET OF FLOOR AREA at 73 DALE STREET.** Said Premises located in an **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 Office of the Town Clerk at 617-730-2007 or check the meeting calendar at: 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 programs and services of the Town of Brookline are invited to 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.***

**Jesse Geller
Jonathan Book
Christopher Hussey**

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 Christopher Hussey and Jonathan Book. The petitioner, Dinfang Liu, with the assistance of his architect, Adam Glassman, presented the case.

Mr. Liu described 73 Dale Street as a single family, two-story home located on the Dale Street cul-de-sac north of the intersection of Dale Street and Country Road. The immediate neighborhood consists of a mixture of homes with the easterly side of Dale Street consisting of primarily two-story split level houses with a garage underneath the first floor, and the westerly

side consisting primarily of single story ranch homes. The majority of homes in this neighborhood are on small and, in some cases, narrow lots.

The applicants, Dingfang Liu and Xiao Hu, propose to construct a new two-floor addition at the rear of their home. The new addition will replace the existing porch and allow the addition of an expanded basement; a reconfigured kitchen and dining area and new office on the first floor; a fourth bedroom and small library on the second floor, as well as expanded attic space. The proposed addition will add another 679.5 square feet of habitable space to the property as a whole and increase the total FAR of this property from .27 to .4185. The allowed FAR in this district is .35, and the maximum FAR allowed by special permit for an exterior conversion is .42.

The applicant seeks relief by special permits.

The Chairman asked if anyone wished to speak in favor of the proposal or in opposition to the proposal. There was no one present to speak.

The Chairman called upon Tim Richard, Planner, to deliver the findings of the Planning Board:

Section 5.09.2.j – Design Review: Any addition to a structure for which a special permit is requested pursuant to Section 5.22, requires a special permit under Section 5.09.

Preservation of Trees and Landscape: The rear yard is primarily landscaped with grass, with a mature pine tree on left and a row of arborvitae on rear property line. The addition will not require the removal of trees or a change in grade.

Relation of Buildings to Environment: The addition is consistent with the rest of the building's massing, and is not expected to cause any shadows on neighboring properties.

Relation of Buildings to the Form of the Streetscape and Neighborhood: The addition will not cause a significant change to the streetscape.

Open Space: The property will continue to have an adequate landscaped rear yard after the addition is complete.

Section 5.22.3.b.1.b – Exceptions to Floor Area Ratio (FAR) for Residential Units

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.70 – Rear Yard Requirements

Dimensional Requirements	Allowed	Existing	Proposed	Relief
Floor Area Ratio	.35	.265	.418	Special Permit*
FAR Percentage	100%	75.8	119.	
Floor Area (sf)	1551	1175	1854	
Rear Yard Setback	30'	30.2	20.6	Special Permit**

*Under Section 5.22.3.b.1.b, the Board of Appeals may grant by special permit an increase in floor area above the permitted gross floor area for an exterior addition that is less than or equal to 20% of the permitted gross floor area;

** Under Section 5.43, the Board of Appeals may waive by special permit yard and setback requirements if a counterbalancing amenity is provided.

Mr. Richard said the Planning Board is not opposed to the proposed project. Although a large addition, the overall finished structure will be in keeping with the scale and development pattern of the immediate surrounding neighborhood. Once the project is completed, the rear yard will still have adequate usable open space, as required by zoning by-law. However, the Planning Board questioned the use of skylights in the expanded attic, when the plans and the proposed floor area ratio do not indicate that this area will be living space. Although the applicant does not intend to remove the existing pine tree in left side yard, the Board recommends that efforts be made to protect this tree during construction. The Board further recommends that the applicant provide additional landscaping as a counterbalancing amenity.

Therefore, the Planning Board recommends approval of the plans by Adam Glassman, dated 2/28/ 2014 and revised March 17, 2014, and the site plan by Peter Nolan, dated 3/27/14 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations 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 a final landscape plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of 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 revised site plan stamped and signed by a registered engineer or land surveyor; 2) final 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 Chairman then called upon Michael Yanovich, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovich stated that the Building Department had no objections to the relief sought under this application. The relief requested is minimal, the use is compatible with the area, and the Building Department will work with the Petitioner if relief is granted to ensure all codes are complied with.

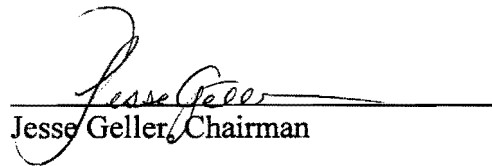
The Board deliberated on the merits of special permit relief as requested. The Board voted unanimously that the requirement have been met for the issuance of a special permit under Sections 5.09.2.i, 5.22.3.b.1.b, 5.43, 5.70 and 8.02 of the Zoning By-Law. The Board made the following specific findings pursuant to Section 9.05 of the of the Zoning By-Law:

- 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 plans and elevations 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 a final landscape plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of 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 revised site plan stamped and signed by a registered engineer or land surveyor; 2) final 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

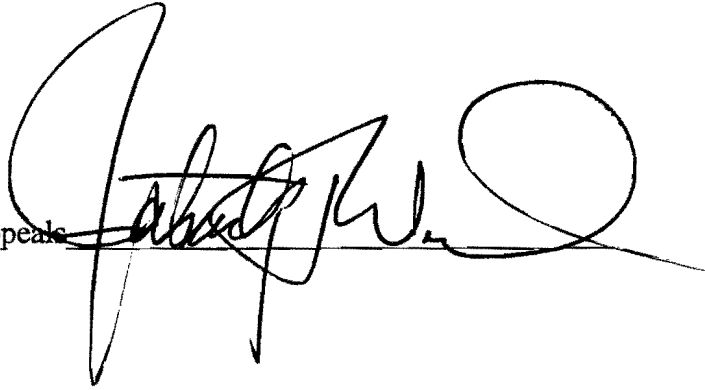
Filing Date: 7/14/14

A True Copy

ATTEST:

Patrick J. Ward

Clerk, Board of Appeals

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

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2014 JUL 14 P 3:21