



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
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2014-0017
Owner: Chi K. Lam

Petitioner, Chi lam, applied to the Building Commissioner for permission to construct an uncovered porch at 45 School Street. 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed May 15, 2014 at 7:00 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 May 1, 2014 and May 8, 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: **CHI K. LAM**

Owner: **CHI K. LAM**

Location of Premises: **45 SCHOOL STREET**

Date of Hearing: **MAY 15, 2014**

Time of Hearing: **7:00 PM**

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

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

Section 5.43: Exceptions to Yard and Setback Regulations

Section 5.70: Rear Yard Requirements

Section 8.02.2: Alteration and Extension

of the Zoning By-Law to **CONSTRUCT AN UNCOVERED PORCH** at **45 SCHOOL STREET**. Said Premises is located in a **M-1.0 (Apartment House) 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 Sneider, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneider@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 Jonathan Book, and Board Members Christopher Hussey and Mark Zuroff. The petitioner, Chi Lam presented the case on his own behalf.

Mr. Lam described 45 School Street is one dwelling in a row of four attached single-family dwellings on separate lots, with 45 School Street the furthest to the rear. The structures were built between the 1870s and 1880s. The Pierce School is located on the opposite side of School Street, and the Pierce Street Playground is located on the same block as 45 School Street.

The neighborhood consists of a mix of single and multi-family dwellings and is located in Brookline Village.

Mr. Lam said he is proposing to construct a 6' by 19' uncovered deck on the south side of the dwelling, similar to the deck on the abutting dwelling. The porch materials will be constructed with materials to match the neighbor's porch. The applicant had a building permit to renovate the entire building, which is why doors for the deck have been constructed. He subsequently requested a building permit for the deck and was informed that it would need Board of Appeals relief for the rear yard setback, since the building is last in the row of townhouses.

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 Lara Curtis Hayes, Senior Planner, to deliver the findings of the Planning Board:

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.60 – Rear Yard Setback

Dimensional Requirements	Required	Existing	Proposed	Relief
Rear Yard Setback	30'	5'-8'	5'	Special Permit*

* Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The Planning Board suggests that the applicant install additional landscaping as a counterbalancing amenity.

Ms. Hayes said the Planning Board is supportive of this proposal to construct a deck on the south side of the dwelling above the entry. The addition will allow the applicant to have outdoor space and will match the abutting deck. The porch is also consistent with the style of the

dwelling and is not expected to detract from the neighborhood. The Planning Board recommends that the applicant install additional landscaping as a counterbalancing amenity, required for the special permit.

Therefore, the Planning Board recommends approval of the elevation dated 4/24/14 and site plan by Antonino Land Surveyors, Inc., dated 10/25/13, subject to the following conditions:

1. Prior to the issuance of a building permit, final plans of the deck and railing details shall be submitted to the Assistant Director of 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 plans showing the deck and railing details 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. Ms. Hayes delivered Mr. Yanovitch's comments in his absence. 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, 5.43, 5.70 and 8.02.2 of the Zoning By-Law and to The Board made the following specific findings pursuant to Section 9.05 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:

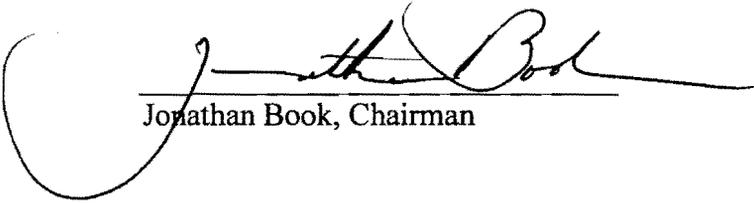
- 1. Prior to the issuance of a building permit, final plans of the deck and railing details and a landscaping plan showing all counterbalancing amenities shall be submitted to the Assistant Director of Regulatory Planning for review and approval.**

- 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 plans showing the deck and railing details and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

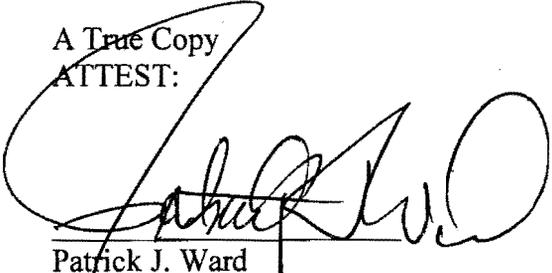
Unanimous Decision of
The Board of Appeals

Filing Date:

7/14/14


Jonathan Book, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2014 JUL 14 A 9:45