



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline

Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2014-0058

Owner: 82 Highland Condominium LLC

Petitioner, 82 Highland Condominium LLC, applied to the Building Commissioner for permission to enclose a second-story at 82 Highland Road. The application was denied and an appeal was taken to this Board.

The Board 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 September 18, 2014 at 7:45 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 August 28, 2014 and September 4, 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:

82 HIGHLAND RD – REBUILD REAR PORCHES AND ENCLOSE SECOND FLOOR in an M-1.0, Apartment House, residential district, on September 18, 2014, at 7:45 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner: JEREMIAH FOSTER; Owner: 82 HIGHLAND CONDOMINIUM)

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

- 1. Section 5.43; Exceptions to Yard and Setback Regulations**
- 2. Section 5.70; Rear Yard Requirements**
- 3. Section 8.02.2; Extension and Alteration**

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.

*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.***

Jesse Geller, Chair

Christopher Hussey

Jonathan Book

Publish: August 28, 2014 & September 4, 2014

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Mark G. Zuroff, and Board Members Jonathan Book and Johanna Schneider. Contractor, Jeremiah Foster presented the case on the petitioner’s behalf

Mr. Foster described 82 Highland Street as a three-family, triple decker that was built in 1915. This structure, along with 86 and 90 Highland Road, is one of three structures that were

constructed in the same time period and are similar in style, size and use. The property is located at the intersection of Highland and Jamaica Roads and is across the street from the Harry Downes Field.

The petitioners said they are proposing to enclose the existing second-story porch. The porch will match the enclosed porch on the third floor. The enclosure will not extend beyond the existing footprint.

The Chairman asked if anyone wished to speak in favor or in opposition of the proposal. No one present elected to do so.

The Chairman called upon Timothy Richard, planner, to deliver the comments of the Planning Board:

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.70 – Rear Yard Setback

Dimensional Requirements	Required	Existing	Proposed	Relief
Rear Yard Setback	60'	47'	47'	Special Permit*

*Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided.

Section 8.02.2 – Alteration or Extension: A special permit is required to alter and/or extend a non-conforming structure.

Mr. Richard said the Planning Board is supportive of the proposal to enclose the existing porch and create a new sunroom. The porch will match the enclosed porch on the third floor and will not negatively impact the neighborhood. The Board is supportive of granting the setback relief

required and recommends that the applicant install additional landscaping as a counterbalancing amenity.

Therefore, the Planning Board recommends approval of the plans by Charles Fox, dated 7/7/2014, subject to the following conditions:

1. Prior to the issuance of a building permit, final elevations shall be submitted, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, a final landscaping 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 final site plan stamped and signed by a registered engineer or land surveyor that indicates the lot size and floor area of the building; 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.

The Chairman called upon Timothy Richard, to deliver the comments of the Building Department. Mr. Richard said the Building Department has no objections to the request. He went on to say the proposal is very well designed and the relief is minimal and if the Board finds the proposal meets the requirements for the grant of a special permit, the Building Department will work with the petitioner to ensure compliance with the building code as well as the Town of Brookline Zoning By-Law.

The Board deliberated on the merits of special permit relief as requested. The Board agreed that rear porch safety improvements and front façade improvements are valid counterbalancing amenities for the minimal level of zoning relief requested by the applicant. The Board stated that these structural design improvements are consistent with surrounding

multi-family residential buildings and stand to improve rainwater runoff that currently impacts pedestrian safety on Highland Road. The Board voted unanimously that the requirements 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. 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:

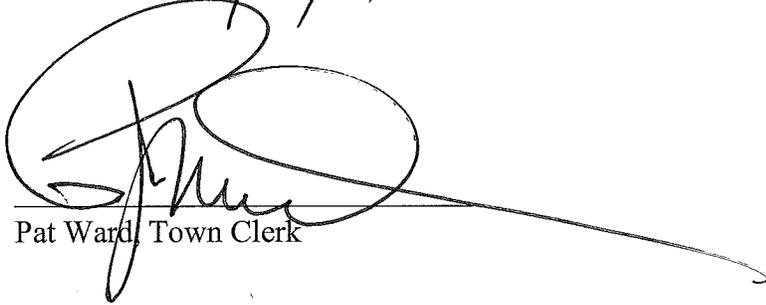
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Unanimous decision of the

Board of Appeals

Filing Date:

11/12/14



Pat Ward, Town Clerk



Mark G. Zuroff, Chairman

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