



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. 2014-0054  
75-77 BEACONSFIELD, LLC

Petitioner, 75-77 Beaconsfield, LLC, applied to the Building Commissioner for permission to construct dormers, a front and rear yard addition, and front and rear entry. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the property affected was that shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed September 23, 2014 at 7:00 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 Petitioner, 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 September 4, 2014 and September 11, 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:

**75 BEACONSFIELD RD – CONSTRUCT DORMERS, REAR ADDITION, AND FRONT AND REAR ENTRY in a T-6, Two-Family and Attached Single-Family, residential district, on September 23, 2014, at 7:00 PM in Room 408 of Brookline Town Hall (Petitioner: 75-77 BEACONSFIELD LLC; Owner: YEE RONALD W & JUDY G)**

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.b.2: Exceptions to Floor Area Ratio (FAR) for Residential Units**
3. **Section 5.43; Exceptions to Yard and Setback Regulations**
4. **Section 5.50; Front Yard Requirements**
5. **Section 5.51; Projections into the Front Yard**
6. **Section 5.70; Rear Yard Requirements**
7. **Section 5.71; Projections into the Rear Yard**
8. **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](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  
Jonathan Book  
Christopher Hussey**

At the time and place specified in the notice, the Zoning Board of Appeals held a public hearing. Present at the hearing was Chairman Jesse Geller and Board Members Christopher Hussey and Mark Zuroff. The case was presented by the attorney for the Petitioner, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was Scott Shuster, developer for 75-77 Beaconsfield, LLC, and architect Niles Sutphin, 197 8<sup>th</sup> Street Suite 2000, Charlestown, MA 02129.

Zoning Board of Appeals Chairman Jesse Geller called the hearing to order at 7:00 p.m. Attorney Allen stated that the Petitioner proposes to construct dormers, a front and rear yard addition, and front and rear entry.

Attorney Allen presented to the Board a background of the Petitioner and the proposal, stating the following: 75-77 Beaconsfield Road is a two-family dwelling built in 1924. Mr. Allen stated that the property is located near the intersection of Beaconsfield Road and Regent Circle. Attorney Allen stated that the existing two-and-a-half story structure will include a front and rear yard addition to accommodate 789 s.f. of new floor area. Mr. Allen stated that Unit 1 will occupy the first floor and basement and Unit 2 will occupy the second and third floor. Attorney Allen stated that the front entrance will be relocated and two uncovered rear yard porches will be constructed on the first and second floors.

Niles Sutphin, the Petitioner's architect having a business address at 197 8<sup>th</sup> Street Suite 2000, Charlestown, MA 02129, presented the elevations of the addition, discussed the design review process, and identified the location of the front entrance and the shed dormers.

Zoning Board of Appeals Member Mark Zuroff inquired about the dimensional relief for the front yard setback. Attorney Allen commented that the proposed front yard setback is more conforming than the existing condition. Mr. Allen stated that under Section 8.02.2 of the Zoning By-Law, the denial letter cited relief based on the pre-existing nonconformity.

Attorney Allen noted that the Planning Board voted 4-1 to recommend the proposal to relocate the front entrance and construct dormers, a front and rear yard addition, and uncovered porches in the rear yard. Mr. Allen stated that based on the Planning Board's feedback, the Petitioner redesigned the front façade in a manner consistent with the style of the existing neighborhood. Attorney Allen stated that the Planning Board requested a 6-over-1 window configuration instead of a 4-over-1 window configuration. Mr. Allen stated that the new configuration will be included in the revised drawings.

Attorney Allen stated that the maximum floor area under Section 5.22.3.b.2 of the Zoning By-Law is 4,593s.f.; the existing floor area is 4,131s.f. and the proposed floor area is 4,920s.f. Therefore, Mr. Allen stated that the existing floor area ratio is 89% and the proposed floor area ratio is a modest 17% increase for a total floor area ratio of 106%.

Attorney Allen next stated that the required front yard setback is 15 ft., existing front yard setback is 10 ft., and proposed front yard setback is 12 ft. Mr. Allen stated that the required rear yard setback for the deck is 30 ft., existing rear yard setback for the deck is 25 ft., and the proposed rear yard setback for the deck is 19 ft. Finally, Mr. Allen stated that the required rear yard setback for the house is 30 ft., existing rear yard setback for the house is 25 ft., and the proposed rear yard setback for the house is 25 ft. He noted that the front yard setback is more conforming than existing conditions and the rear yard setbacks will either remain unchanged or be less conforming than existing conditions.

In reviewing the applicable provisions of the Zoning By-Law, Attorney Allen stated that under Section 5.43 of the Zoning By-Law, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided. Mr. Allen stated that for the counterbalancing amenities, the Petitioner proposes to install significant landscaping on the property.

Finally, Mr. Allen noted that relief is required pursuant to Section 8.02.2 of the Zoning By-Law whereby a special permit is required under Section 9.05 of the Zoning By-Law to alter and/or extend a non-conforming structure.

Mr. Allen then commented that the proposed relief meets the requirements of said Section 9.05 as follows: (1) the specific site is an appropriate location because the proposed use will remain a two-family dwelling, which is consistent with other properties in the T-6 District and the proposed dormers are consistent with other homes in the neighborhood; (2) there will be no adverse effect on the neighborhood because the dormers will enhance the visual appeal of the dwelling and a majority of the

neighborhood supports the proposal; (3) no nuisance or serious hazard to vehicles or pedestrians exist because there will be no increase in traffic in the neighborhood and the Petitioner has improved work site conditions; (4) adequate and appropriate facilities will be provided for the proposed use; and (5) development will not have a significant adverse effect on the supply of 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.

Alex Coleman, 244 Tappan Street, inquired about the height of the roof. Mr. Yanovitch stated that there is no change to the height of the existing structure.

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 to this 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 significant 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.
2. **Section 5.22.3.b.2 – Exceptions to Floor Area Ratio for Residential Units**

<b>Floor Area</b>	<b>Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Floor Area Ratio</b>	0.75	0.67	0.80	Special Permit*
<b>(% of allowed)</b>	100%	89%	106%	
<b>Floor Area (s.f.)</b>	4,593	4,131	4,920	

\*Under **Section 5.22.3.b.2**, the Board of Appeals may allow by special permit increases in gross floor area for properties in T, F, M-1.0, and M-1.5 districts by 20% over the permitted gross floor area.

3. **Section 5.43 – Exceptions to Yard and Setback Regulations**
4. **Section 5.50 – Front Yard Requirements**
5. **Section 5.51 – Projections into the Front Yard**
6. **Section 5.70 – Rear Yard Requirements**
7. **Section 5.71 – Projections into the Rear Yard** - The applicant is proposing to construct a deck on the second story in the rear, and is subject to meet the rear yard setback because

<b>Dimensional Requirements</b>	<b>Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Front Yard Setback - Porch</b>	15'	10'	12'	Special Permit*
<b>Rear Yard Setback - Deck</b>	30'	25'	19'	Special Permit*
<b>Rear Yard Setback – House</b>	30'	25'	25'	Special Permit*

\* Under *Section 5.43*, the Board of Appeals may waive setback requirements if a counterbalancing amenity is provided.

8. **Section 8.02.2 – Alteration or Extension** – A special permit is required to alter a non-conforming structure.

Mr. Richard stated that the Planning Board is supportive of this proposal to construct a two story addition in the rear. Mr. Richard stated the proposed additions will fit in with the character of the neighborhood. Mr. Richard stated the Planning Board does not anticipate that the proposal will negatively impact the streetscape and supports granting relief for additional floor area. Mr. Richard stated the relocated front porch and stairs will create a more attractive front façade that will be set back further from the front property line than the existing porch and stairs. Mr. Richard stated the Planning Board supports granting relief for the front and rear yard set back requirements. Mr. Richard stated the Planning Board recommends the applicant use 6 over 1 windows and install additional landscaping as a counterbalancing amenity. Therefore, the Planning Board, by a 4-1 majority, recommends approval of the plans by Sutphin Architects, dated 9/19/14, subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit final dimensioned elevations, indicating all proposed materials for the addition, 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 site plan and 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; 2) final floor plans and 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 requested that the first Condition include provision for use of the 6-over-1 window configuration should the Board approve the requested relief.

Zoning Board of Appeals Chairman Geller then called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department had no objections to the relief sought under this application and will make sure to work with the Petitioner to make sure that the construction complies with Section 9.05 of the Zoning By-Law.

Zoning Board of Appeals Member Christopher Hussey asked about the status of the building permit. Mr. Yanovitch stated that the Building Department issued an as of right interior demolition permit. Attorney Allen commented that the Petitioner submitted the building permit application for interior demolition based on the available dates to appear before the Planning Board and the Board of Appeals.

In deliberation, Zoning Board of Appeals Member Mark Zuroff stated that he was in support of the relief requested. Zoning Board of Appeals Member Christopher Hussey echoed support for the relief and concurred with the Planning Board's design request for a 6-over-1 window configuration.

Zoning Board of Appeals Chairman Jesse Geller asked Mr. Yanovitch about the scale of the addition. Mr. Yanovitch stated that the scale of the addition and the increase in floor area is comparable to the homes in the neighborhood. Attorney Allen noted that the density is consistent with the homes in the neighborhood.

Chairman Geller was in support of the relief requested. He particularly noted the Petitioner's keeping the neighborhood informed and being amenable to the Planning Board's recommendations during design review.

The Board then determined, by unanimous vote that the requirements for relief by special permit from the application of the provisions of Sections 5.09.2.i, 5.20, 5.50, 5.51, 5.70, 5.71 of the Zoning By-Law pursuant to Sections 5.43, 5.22.3.b.2, 8.02.2 and 9.05 of the Zoning By-Law were met. The Board made the following specific findings pursuant to said Section 9.05:

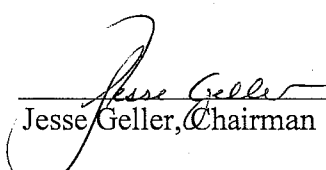
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

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

1. Prior to issuance of a building permit, the applicant shall submit final dimensioned elevations, indicating all proposed materials for the addition, including 6-over-1 windows, 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 site plan and 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; 2) final floor plans and 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.

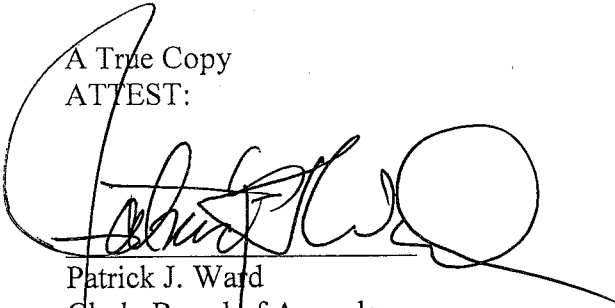
Unanimous Decision of  
The Board of Appeals

Filing Date: 12/2/14

  
\_\_\_\_\_  
Jesse Geller, Chairman



A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK

2014 DEC -2 A 9:28