



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town Hall, 1st 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. 2014-0046
Owner: Elizabeth & John Olsen

Petitioners, **Elizabeth and John Olsen**, applied to the Building Commissioner for permission to construct a 302 square foot rear addition at **48 Devon Road**. 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 August 7, 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 July 17, 2014 and July 24, 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:

48 DEVON RD – CONSTRUCT TWO ADDITIONS in an S-10, Single-Family residential district, on

August 7, 2014, at 7:00 PM in the 6th Floor Selectmen's Hearing Room (Petitioner: OLSEN ELIZABETH B H& JOHN M III; Owner: OLSEN ELIZABETH B H& JOHN M III)

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 Regulations for Residential Units**
3. **Section 5.43; Exceptions to Yard and Setback Regulations**
4. **Section 5.70; Rear Yard Requirements**
5. **Section 8.02.2; Alteration or Extension**
6. **Modification, as necessary, of BOA decision #030024, May 8, 2003**

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 Sneurson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneurson@brooklinema.gov.***

Jesse Geller, Chair

Christopher Hussey

Jonathan Book

Publish: July 17, 2014 & July 24, 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. Property Owner, John Olsen, presented details of the proposed rear addition to the Board.

Mr. Olsen described 48 Devon Road as a four-bedroom, single-family dwelling built in 1890. The house is shingle-style and the roof is gambrel. A two-car garage (437s.f.) was built in 1926. Significant remodeling was done in late 2001 and early 2002, including rewiring, remodeling of the kitchen and baths, and boiler renovation. The house is located within the Chestnut Hill North Local Historic District.

The applicant is proposing to construct a 302 square feet one-story addition in the rear of the dwelling. The addition will allow the applicant to extend the kitchen area and have an enclosed and covered porch. The materials used for the addition will match the dwelling, and will be consistent with the existing style. The base of the addition will be constructed using stones and the exterior will have shingles to match existing. The windows for the enclosed porch and new kitchen area will be 15 over one, which is consistent with other windows on the dwelling.

The applicant is also planning to finish 850s.f. of existing basement space, which is allowed by right, up to 150% of the allowed floor area.

The Chairman called for public comment in favor of or in opposition to the applicant's proposal. No members of the public wished to comment.

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

FINDINGS

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)*. The most relevant sections of the design review standards are described below:

a. Preservation of Trees and Landscape – The property is well landscaped, and although some shrubbery will need to be removed, the addition's construction is not expected to significantly impact the landscape or vegetation.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood – The proposed additions are minor and they are not expected to be especially visible from the street.

Section 5.22.3.c – Exceptions to Floor Area Regulations for Residential Units

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.30 (100%)	.317 (106%)	.407 (136%)	Special Permit*
Floor Area (s.f.)	3,840	4,052	5,204	

*Under **Section 5.22.3.c**, the Board of Appeals may by special permit allow an increase in gross floor area of up to 350 square feet. The applicant is going to finish the 850 square feet of the basement of the existing dwelling, which is allowed by right up to 150% of the allowed floor area. This leaves 302 square feet of space for the external addition, which can be granted by special permit under **Section 5.22.3.c**.

Section 5.43 – Exceptions to Yard and Setback Regulations

It is recommended to waive the setback requirements as the dwelling is already non-conforming and is not encroaching on the current setback. One such counterbalancing measure could be to require additional planting of trees, shrubs and/or vegetation on the property.

Section 5.70 – Rear Yard Setback

Dimensional Requirements	Required	Existing	Proposed	Relief
Rear Yard Setback	30'	18.52'	18.52'	Special Permit*

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

Section 8.02.2 – Alteration or Extension

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

Mr. Richard said the Planning Board was supportive of this proposal to construct a rear addition and create a screened porch. Both are attractively designed and are expected to fit in with the existing design of the dwelling. The Board did not feel that this proposal will negatively impact the neighborhood, as the addition is in the rear.

Therefore, the Planning Board recommended approval of the site plan by HS&T Group, Inc. dated 4/29/2014, and plans by Patrick Ahearn, dated 7/17/2014, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans and elevations subject to the review and approval of the Preservation Commission Staff and 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 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.

The Chairman called upon Timothy Richard to deliver the findings of the Building Department. Mr. Richard stated that the Building Department was not opposed to the proposal because it complies with Floor Area Ratio increase requirements outlined in Zoning By-Law Section 5.22. The Building Department also intends to work with the applicant to ensure

compliance with building codes if the Board grants relief as requested.

The Board deliberated on the merits of special permit relief as requested. Board Members agreed that prior remodeling projects at the property do not prohibit the applicant from seeking F.A.R relief under Section 5.22 for this proposed addition. The Board commended the applicant for communicating plans with abutting residents, and was satisfied that proposed landscaping, intended to minimize visual impact, is a valid counterbalancing amenity in seeking this special permit relief. The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections, 5.09.2.i, 5.22.3.c, 5.43, 5.70, 8.02.2 and 9.05 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

Accordingly, the Board voted unanimously to approve 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 subject to the review and approval of the Preservation Commission Staff and 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.

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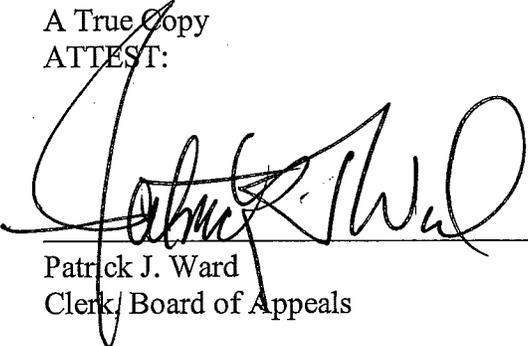
Unanimous decision of the

Board of Appeals

Filing Date: 12/11/14


Mark G. Zuroff, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

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