



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

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. 2014-0075
LAURA AND MICHAEL EHLERS
21 LOVELAND ROAD, BROOKLINE, MA

Petitioners, Laura and Michael Ehlers, applied to the Building Commissioner for permission to expand the existing front porch. 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 certified by the Board of Assessors of the Town of Brookline and fixed April 9, 2015 at 7:15 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 March 19, 2015 and March 26, 2015 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:

21 LOVELAND RD – EXPAND EXISTING FRONT PORCH in a T-5, Two-Family and Attached Single-Family, residential district, on

April 9, 2015, at 7:15 PM in the 6th Floor Selectmen's Hearing Room (Petitioner: EHLERS MICHAEL D & LAURA J; Owner: EHLERS MICHAEL D & LAURA J) Precinct 14

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 5.50: Front Yard Requirements**
- 3. Modification, as required, of BOA case number 2013-0020, March 6, 2013**

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

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 Avi Liss. 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 the Petitioners' architect, Piya Wiwatyukhan, Sousa Design Architects, 81 Boylston Street, 2nd Floor, Brookline, MA 02445.

Chairman Book called the hearing to order at 7:15 p.m. Attorney Allen stated that the Petitioners propose to construct a 50 s.f. covered porch in the front yard to the left of the front entrance.

Attorney Allen presented to the Board a background of the Petitioners and the property, stating the following: 21 Loveland Road was constructed in 2012 following an as-of-right subdivision. A prior

special permit for a rear garden shed was granted in 2013 and the applicant is now seeking front-yard setback relief in order to extend an existing porch.

Piya Wiwatyukhan described the 50 s.f. porch extension. He stated that the design will match the existing siding, color, material, railings, and roof shingles. He noted that the porch will provide an additional seating area and does not require alteration to the foundation. Furthermore, he stated that the proposed façade is consistent with the surrounding homes.

Board of Appeals Member Christopher Hussey noted that Planning Board documents highlighted inconsistencies between the floor plan and the site plan, which showed a gap between the existing stairs and the proposed porch extension. Mr. Rosa confirmed that the Board of Appeals received updated plans that remedied the gap noted by the Planning Board.

Mr. Book requested Attorney Allen to detail the counterbalancing amenities designed to offset the dimensional relief requested. Attorney Allen stated that the Petitioners plan to transplant the flowers and bushes to the front corner of the property and make a new bed surrounding an existing cherry tree. He stated that the Petitioners will also be planting new perennials on a strip of land between the sidewalk and the street.

Counsel for the Petitioners next discussed zoning relief required from the Board. Mr. Allen stated that **Section 5.50** of the Zoning By-Law requires a front yard setback of 15ft. and the proposal will create a non-conforming front yard setback of 11. ft. In addition, Mr. Allen stated that the denial letter issued by the Building Department cited **Modification, as required, of BOA Case No. 2013-0020, May 20, 2012**, which granted special permit relief to build an 80s.f. garden shed, but the proposal in no way impacts or overlaps with the relief granted in 2013.

Finally, Attorney Allen discussed relief under **Section 5.50** of the Zoning By-Laws where a special permit is required under **Section 9.05** of the Zoning By-Law: (1) the specific site is an

appropriate location where the porch is minimal and is not expected to detract from the neighborhood, the dwellings at 21 and 25 Loveland Road maintain identical front porches, and the abutting dwellings were constructed in 2012; (2) there will be no adverse effect on the neighborhood where a similar style already exists on the street and 4 abutting residents have expressed formal support for the front-porch proposal; (3) no nuisance or serious hazard to vehicles or pedestrians will be created; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) development will not have a significant adverse effect on the supply on housing available for low and moderate income people.

Zoning Board of Appeals Chairman Book asked if there was anyone present who wished to speak in favor of this application. Jannik Andersen, 32 Loveland Road, agreed that the Petitioners' proposal improves the streetscape and promotes positive neighborhood activity. Mr. Andersen noted that many area homes have similar covered front porches.

Zoning Board of Appeals Chairman Book asked if there was anyone present who wished to speak in opposition to the application. No one spoke in opposition to the proposal.

Jay Rosa, Zoning Coordinator for the Town of Brookline, delivered the findings of the Planning Board and the Building Department:

FINDINGS:

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.50 – Front Yard Requirements

Dimensional Requirements	Required	Proposed	Relief
Front Yard Setback	15 feet	11 feet	Special Permit*
Side Yard Setback (east)	7.5 feet	15.3 feet	Complies

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

Modification, as required, of BOA Case No. 2013-0020, May 20, 2012 - A special permit is required to modify BOA case #2013-0020. The applicant is seeking additional relief from dimensional requirements.

Mr. Rosa stated that the Planning Board is supportive of the proposal to construct a covered front porch at 21 Loveland Road. He stated that the design of the porch is consistent with the existing home and surrounding properties, and will have minimal impact on the neighborhood, which is evidenced by several letters in support. Therefore, the Planning Board recommended approval of plans submitted by Sousa Design, dated 3/12/15, and the site plan submitted by Peter Nolan, dated 3/4/15, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans, and elevations, subject to review and approval by the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, subject to review and approval by the Assistant Director for Regulatory Planning.
3. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval to ensure conformance to the Board of Appeals decision: 1) final floor plans and elevations, stamped and signed by a registered architect; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Rosa next delivered the findings of Mike Yanovitch, Interim Chief Building Inspector. He stated that the Building Department had no objection to the requested relief. He stated that the design is appropriate and the type of façade that the Town of Brookline promotes for moderately dense residential neighborhoods such as this. He noted that the requested relief is minimal. Finally, he stated that if the Board of Appeals finds that the standards for special permit relief under **Section 9.05** of the Zoning By-Law have been met, the Building Department will work with the applicant to ensure compliance with all building codes.

In deliberation, Zoning Board of Appeals Member Avi Liss stated that he is familiar with the property and believes the proposal is appropriate and will enhance the home/neighborhood. He stated that no adverse impact is evident and the abutters are in support of the proposed porch. For these reasons, Mr. Liss supported the relief requested. Mr. Hussey agreed that the porch is well designed and the project will enhance the façade by adding more substance to the front elevation. Mr. Hussey stated favor for the requested relief. Mr. Book concurred with these opinions.

The Board then determined, by unanimous vote that the requirements for a special permit for Section 5.50 of the Zoning By-Law pursuant to Section 5.43 of the Zoning By-Law were met, as well as Modification, as required, of BOA Case No. 2013-0020, May 20, 2012. The Board made the following specific findings pursuant to said Section 9.05:

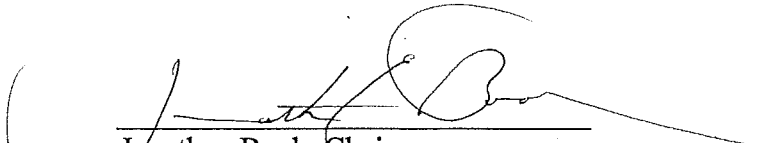
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

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

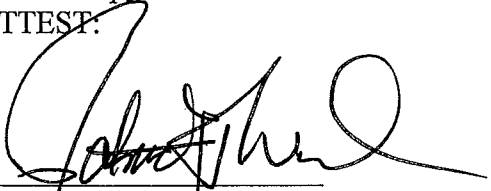
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Unanimous Decision of
The Board of Appeals

Filing Date: 6/17/15


Jonathan Book, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

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2015 JUN 17 P 2:18

