



**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

# *Town of Brookline*

## *Massachusetts*

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Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2015-0034  
OWNER: WILLIAM & TRACY MCNEAL  
255 RUSSETT ROAD, BROOKLINE, MA

Petitioners, William and Tracy McNeal, applied to the Building Commissioner for permission to construct two additions and an uncovered deck at the rear at 255 Russett 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 July 30, 2015 at 7:00 p.m. in the Selectmen's Hearing Room as the time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 9, 2015 and July 16, 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:

**255 RUSSETT RD – CONSTRUCT TWO ADDITIONS AND A DECK in an S-7, Single-Family, residential district, on  
July 30, 2015, at 7:00 PM in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner/Owner:  
MCNEAL WILLIAM D JR & TRACY J) Precinct 16**

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and other zoning relief as needed:

- 1. Section 5.09.2.j: Design Review (Single-Family)**
- 2. Section 5.22.3.c: Exceptions to Floor Area Ratio (FAR) for Residential Units**
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.70: Rear Yard Requirements (addition only)**
- 5. Section 8.02.2: Alteration or Extension**

*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  
Christopher Hussey  
Jonathan Book*

**Publish: July 9, 2015 & July 16, 2015**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Board Chairman Jesse Geller and Board Members Johanna Schneider and Jonathan Book. The petitioners’ attorney, Robert Allen of the Law Office of Robert L. Allen at 300 Washington Street presented project details to the Board. Attorney Allen stated that the petitioners recently purchased the subject property and intend to renovate the single-family home in order to improve the structural condition and reconfigure the interior usability for their family. Proposed modifications include replacing the existing rear deck with an enclosed mudroom,

extending a rear portion of the second story gabled roof to the south in order to create a master bedroom, and constructing a new uncovered deck and stairs off of the rear of the home.

Attorney Allen stated that abutting neighbors are in support of the project. The immediate abutter who shares driveway access with the subject property was also satisfied with project plans following a prior Planning Board meeting concerning this proposal. Attorney Allen believed that these modifications represent significant home improvements and needed structural repair. These additions are not easily visible from Russett Road and special permits are specifically required for design review, floor area ratio (FAR), and rear-yard setback for the enclosed mudroom. Additional gross floor area will increase the FAR from 109% of allowed to 123% of allowed, which is permitted by special permit provided under **Section 5.22.3.c** of the Zoning By-Law the resulting gross floor area increase is less than 350 square feet. Attorney Allen confirmed that all proposed alterations result in a gross floor area increase of 232 square feet.

Attorney Allen reviewed compliance with all relevant design review standards as supported by the Planning Board. Attorney Allen also believed that the standards for the grant of a special permit, under By-Law **Section 9.05**, are also satisfied because the as-built structure is appropriate for the site; there is no adverse impact on the neighborhood; there is no nuisance or hazard to vehicles/pedestrians; and adequate facilities are provided.

Board Member Book requested further details regarding proposed counterbalancing amenity for the requested setback relief as provided under **Section 5.43** of the Zoning By-Law. Attorney Allen confirmed that a deteriorating side-yard fence will be replaced to serve as counterbalancing amenity.

Board Chairman Geller requested that Jay Rosa review 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-l)*. All the conditions have been met, and the most relevant sections of the design review standards are described below:

- a. Preservation of Trees and Landscape – The additions are either located at the rear where there is already paved or grassy area or within the existing footprint. Most of the site’s substantial landscaping is located at the front of the home or along the property lines and is not expected to be affected by this proposal.
- b. Relation of Buildings to Environment – The proposal is modest in size and should not result in significant shadows on neighboring properties.
- c. Relation of Buildings to the Form of the Streetscape and Neighborhood – Since the proposed additions are substantially at the rear of the property, they are not expected to be very visible from the streetscape. Additionally, the overall design of the improvements is in keeping with the style of the rest of the home.
- d. Open Space – The rear yard is substantially shaded, and the rear deck should improve the functionality of the space. The home will continue to have sufficient open space for recreation.
- e. Circulation – The site’s circulation is not expected to change with this proposal. The basement-level garage is currently too small for most vehicles and does not have good access.

**Section 5.20 – Floor Area Ratio**

<b>Floor Area</b>	<b>Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Floor Area Ratio</b>	.35	.38	.43	Special Permit*
<b>(% of allowed)</b>	100%	109%	123%	
<b>Floor Area (s.f.)</b>	1,750	1,918	2,150	

\* Under **Section 5.22.3.c** the Board of Appeals may by special permit allow for an increase in floor area up to 150% of the allowed if the additional floor area is less than 350 s.f.

**Section 5.70 – Rear Yard Setback**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Rear Yard Setback (Addition)</b>	30’	35’	26’	Special Permit**
<b>Rear Yard Setback (Deck)</b>	15’	N/A	19.3’	Complies

\*\* Under **Section 5.43**, the Board of Appeals may by special permit 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. Rosa stated that the Planning Board unanimously supported the proposed additions and rear porch. Design guidelines are satisfied, and the majority of work remains within the existing footprint of the home, aside from the porch. The Planning Board did not anticipate any negative impact on abutting residents but did recommend the submission of a final landscaping plan to highlight counterbalancing amenities at the rear of the property.

Therefore, the Planning Board recommends approval of the site plan by Boston Survey Inc., dated 5/29/2015, and the plans and elevations by SOUSAdesign Architects, dated 6/17/2015 and 7/9/2015, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations 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 landscape plan indicating all counterbalancing amenities such as a fence 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 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.

Mr. Rosa stated that the Building Department also has no objection to the requested relief. There was initial abutter concern regarding surface parking area maneuverability and space. This parking surface is pre-existing and will not be altered in any way by this proposal. FAR noncompliance is also pre-existing and these additions are really aimed at improving the

interior functionality of the home with limited exterior alteration. Should the Board find that the standards for special permit relief are met, the Building Department will work with the petitioner to ensure compliance with all imposed conditions and building codes.

The Board deliberated on the merits of special permit relief as requested. Board Members were satisfied that required design review standards are met. Board Members Schneider and Book agreed that the project is well designed and meets standards for the grant of a special permit. Board Chairman Geller concurred as to the latter and stated that the proposed additions are not major.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 5.22.3.c, 5.43, and 9.05 of the Zoning By-Law, granting relief from the provisions of Sections 5.20, 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:

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

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

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations 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 landscape plan indicating all counterbalancing amenities such as a fence subject to the review and

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Unanimous decision of the

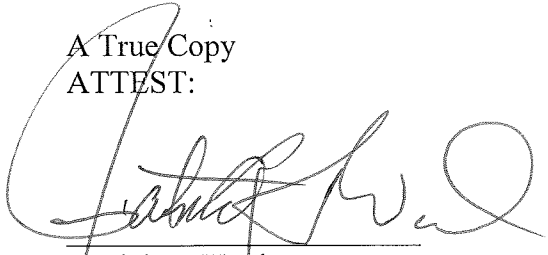
Board of Appeals

Filing Date: \_\_\_\_\_

8/12/15

  
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Jesse Geller, Chairman

A True Copy  
ATTEST:

  
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Patrick J. Ward  
Clerk, Board of Appeals