



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

# *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. 2015-0035  
OWNER: EILEEN ENNIS  
362 CLYDE STREET, BROOKLINE, MA

Petitioner, Eileen Ennis, applied to the Building Commissioner for permission to raise and reconfigure the roof above the existing garage at 362 Clyde Street. 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 27, 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 August 13, 2015 and August 20, 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:

**362 CLYDE ST – RAISE AND RECONFIGURE ROOF ABOVE THE GARAGE TO EXPAND HABITABLE SPACE in an S-15, Single-Family, residential district, on August 27, 2015, at 7:00 PM in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner/Owner: ENNIS EILEEN J) Precinct 15**

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

- 1. Section 5.43: Exceptions to Yard and Setback Regulations**
- 2. Section 5.60: Side Yard Requirements**
- 3. 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 Sneurson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneurson@brooklinema.gov](mailto:rsneurson@brooklinema.gov).***

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

**Publish: August 13, 2015 & August 20, 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 Christopher Hussey, and Avi Liss. The petitioner, Eileen Ennis of 362 Clyde Street, Brookline, MA, waived a reading of public hearing notice for the record and presented project details to the Board. Ms. Ennis stated that she is requesting side-yard setback relief in order to raise the existing roof above the garage (approximately 3 ft. at the front and 7.5 ft. at the rear). The new roof ridge will not extend beyond the height of the existing southern portion of the home. The current floor area above the

garage is finished space but underutilized. This additional head room will allow for a master bedroom and bathroom. This portion of home was damaged during the winter and Ms. Ennis characterized the proposal as repair and renovation. The gross floor area of the structure will not be altered as a result of proposed roof modifications.

Board Chairman Geller requested that the applicant describe proposed counterbalancing amenities as required under Zoning By-Law Section 5.43.

Ms. Ennis suggested that a trellis and climbing plants and flower boxes along the northern façade is the most viable planting option due to limited space and natural light along the side lot line.

Board Member Hussey noted gross floor area discrepancies between various submitted floor plans and the Planning Board report. Mr. Hussey acknowledged that zoning relief from floor area ratio (FAR) requirements is not triggered by this proposal but final submitted plans must include definitive floor area calculations for the living space located above the garage.

Board Chairman Geller called for public comment in favor of, or in opposition to, the applicant’s proposal. No members of the public commented in favor or opposition.

Board Chairman Geller requested that Jay Rosa deliver the findings of the Planning Board.

**FINDINGS**

**Section 5.43 – Exceptions to Yard and Setback Regulations**

**Section 5.60 – Side Yard Requirements**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief Required</b>
<b>Side- Yard Setback</b>	15’	7.3’	7.3’	Special Permit*

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

**Section 8.02.1 – Alteration or Extension**

A special permit is required to extend the pre-existing non-conforming side-yard setback.

Mr. Rosa stated that the Planning Board unanimously supported this proposed roof configuration. Mr. Rosa noted that the Planning Board believed that the requested relief to extend a pre-existing non-conforming side yard setback is minimal. From a design standpoint, the new roof is simplified from the existing which also helps to prevent buildup of ice and snow. The overall massing is consistent with abutting homes along Clyde Street, particularly to the north, and the most impacted abutter has submitted formal support.

Therefore, the Planning Board recommended approval of the plans by Richard A. Volkin, dated 5/18/2015 and revised 7/31/2015, and the site plan by William McGovern, dated 5/18/2015, 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 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 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 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 Chairman Geller requested that Michael Yanovitch provide comments on behalf of the Building Department. Mr. Yanovitch agreed that requested relief is minimal and represents an extension of a pre-existing non-conformity rather than a new non-conformity. Overall project impact is minimal and beneficial to the immediate neighborhood. Mr. Yanovitch

commented that if the Zoning Board finds 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 Member Hussey stated support for the proposal and recommended two modifications to the conditions proposed: 1) Condition 1 should include floor area calculations; and 2) Condition 3 should allow for final floor plans and elevations to be stamped/signed by a registered engineer.

Board Member Liss agreed and noted that the alterations presented by the applicant do not extend the existing footprint of the structure. Mr. Liss also felt that the project is an appropriate improvement to the structure and neighborhood.

Board Chairman Geller concurred with the other Board Members' conclusion that the application qualifies for the relief requested and added that appropriate counterbalancing amenity has been proposed as provided for by Zoning By-Law Section 5.43, and conditions for the approval of a special permit (§9.05 a-d) are also satisfied. Mr. Geller also stated that proposed alterations will improve the interior functionality of the structure.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 5.43 and 9.05 of the Zoning By-Law, granting relief from the provisions of Sections 5.60 and 8.02.1 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.

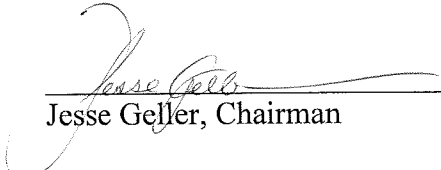
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

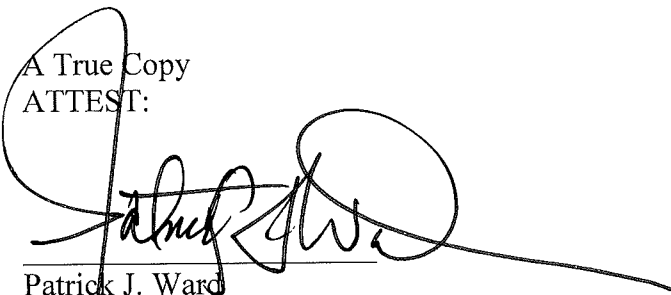
Accordingly, the Board voted unanimously to grant special permit relief, subject to the following revised conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans, including floor area calculations for the proposed living space above the garage, 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 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 elevations stamped and signed by a registered engineer or 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: 9/25/15

  
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Jesse Geller, Chairman

A True Copy  
ATTEST:  
  
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Patrick J. Ward  
Clerk, Board of Appeals

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2015 SEP 25 A 9:10