



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2015-0050
OWNER: JEFFREY & BONNIE KALISH
86 WILLARD ROAD, BROOKLINE, MA

Petitioner, Jeffrey Kalish, applied to the Building Commissioner for permission to construct a mudroom addition connecting a garage to a single-family home at 86 Willard 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 November 12, 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 October 29, 2015 and November 5, 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:

86 WILLARD RD – CONSTRUCT MUDROOM ADDITION CONNECTING GARAGE TO HOUSE in an S-10, Single-Family, residential district, on November 12, 2015, at 7:00 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner: Peter Sachs; Owner: KALISH JEFFREY SHERMAN BONNIE J)

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

- 1. Section 5.09.2.j: Design Review**
- 2. Section 5.22.3.c: Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units**
- 3. Section 5.43: Exceptions to Yard and Setback Regulations**
- 4. Section 5.60: Side Yard Requirements**
- 5. Section 5.70: Rear Yard Requirements**
- 6. 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.

*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 Sneider**, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneider@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 Board Chairman Jesse Geller and Board Members Johanna Schneider and Christopher Hussey. The project architect, Peter Sachs of Peter Sachs Architecture located at 20 Hunter Street, Newton, MA, introduced property owner Jeffery Kalish and presented project details to the Board. Mr. Sachs stated that the Petitioner is proposing to construct a single-story mudroom that will connect the rear of the existing single-family home to an existing detached garage. Zoning relief from rear and side yard setbacks, and floor area ratio (FAR) requirements

is requested in order to construct this mudroom. Mr. Sachs confirmed that these zoning non-conformities are pre-existing and the mudroom addition will simple extend these non-conformities. Mr. Sachs further stated that the garage footprint itself will not be altered, but that an attached garage, a sproposed, is required to meet setback requirements for a primary structure.

Mr. Sachs confirmed that the mudroom will be constructed in a style that is similar to the existing home. The existing belt course will be incorporated into the mudroom design and the mudroom roof will be constructed of metal or slate. Mr. Sachs also noted that the right elevation detailing the proposed mudroom view from Taylor Crossway was updated based on recommendations from the Planning Board.

Board Chairman Jesse Geller questioned if the mudroom will be visible from Taylor Crossway.

Mr. Sachs confirmed that existing hedges and landscaping will partially screen views of the mudroom, but the rear yard area of the property is visible from Taylor Crossway.

Chairman Geller requested that Mr. Sachs further describe proposed counterbalancing amenities for the requested setback relief, as required by Zoning By-Law **Section 5.43**.

Mr. Sachs reiterated the fact that existing plantings extend along both rear and side property lines. Mr. Sachs noted that a bluestone paver patio in the rear yard will be reconstructed as part of this proposal. Mr. Sachs believed that further installation of landscape plantings may be redundant.

Board Member Christopher Hussey stated that he visited the subject property and agreed that a “fair amount of plantings” do currently screen the rear yard area from abutting properties. Mr. Hussey also confirmed that a fence extends along a portion of the side property line facing Taylor Crossway.

Board Member Johanna Schneider agreed that landscape features are not always the most appropriate counterbalancing amenity, but affirmed that some form of appropriate counterbalancing amenity is required if special permit relief for these setback requirements is to be granted by the Board under **Section 5.43**.

Mr. Sachs believed that planting along the driveway and/or the side lot line along Taylor Crossway is not practical. Mr. Sachs suggested that smaller plantings around the reconstructed paver patio may be the most feasible. Plantings in this area will also serve to further screen the new mudroom, according to Mr. Sachs.

Board Members agreed that final proposed counterbalancing amenities must be reviewed and approved by the Planning Department. Mr. Sachs agreed to work with Planning Department staff members to establish appropriate plantings to serve as counterbalancing amenities.

Board Member Hussey questioned if a rear facing bay window included on submitted plans is a new feature that was accurately incorporated into final gross floor area calculations.

Mr. Sachs confirmed that the bay window is a new feature and will provide a bench seat. This bay window extends from the rear façade and does not require the extension of the structural foundation.

Mr. Hussey confirmed that this proposed window constitutes a further expansion of the non-conforming gross floor area and therefore must be included in final calculations. Mr. Hussey noted that FAR relief requested by the Petitioner under Zoning By-Law **Section 5.22.3.c** limits the total increase of gross floor area to 350 square feet.

Mr. Sachs agreed that a final gross floor area calculation should be submitted with final plans, and was confident that the resulting gross floor area following the construction of both the rear mudroom and bay window will remain below 350 total square feet.

Board Chairman Geller called for public comment in favor of, or in opposition to, the Petitioner’s proposal.

No members of the public commented on the Petitioner’s proposal.

Chairman Geller requested that Zoning Coordinator Jay Rosa review the findings of the Planning Board and the Building Department.

FINDINGS

Section 5.22.3.c – Exceptions to Maximum Floor Area Ratio (FAR)

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.60 – Side Yard Requirements

Section 5.70 – Rear Yard Requirements

The existing two-car garage footprint will not expand any closer to side and rear lot lines. Setback relief is required because the garage will be converted from detached to attached, and therefore must comply with setback requirements for a principle structure in the S-10 district.

Dimensional Requirements	Required	Existing (principle structure)	Existing (detached garage)	Proposed	Relief Required
Side-Yard Setback	10 feet	26.9 feet	4.8 feet	4.8 feet	Special Permit*
Rear-Yard Setback	30 feet	20.5 feet	4.6 feet	4.6 feet	Special Permit*
Gross Floor Area	3,432 sf 100%	4,405 sf 128.4%	n/a	4,698 sf 136.8%	Special Permit**

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

** Under **Section 5.22.3.c** the Board of Appeals may by special permit allow a floor area increase of up to 350 square feet if the resulting gross floor area of the building(s) is not more than 150% of the permitted gross floor area.

Section 5.09.2.j – Design Review: Any exterior addition for which a special permit is required pursuant to §5.22 is subject to design review standards listed under Section 5.09.4 (a-m). All design review standards have been met, with the most relevant design review sections described below:

- a. **Preservation of Trees and Landscape** – No tree removal is required in order to construct the rear addition and bluestone paver patio. Existing mature hedges and plantings along the side and rear lot lines in question will not be altered and therefore will continue to serve as visual screening for abutting residents. Small-scale plantings located between the existing garage and primary structure will be removed but are minimally visible from surrounding public ways.

b. Relation of Buildings to Environment – The proposal is modest in both size and height and will not generate significant shadows on neighboring properties.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood – The proposed addition is minimally visible from both Willard Road and Taylor Crossway because it is substantially located at the rear of the property. Additionally, the overall design of the mudroom is in keeping with the style of the existing home and neighborhood.

d. Open Space – All minimum usable and landscaped open space requirements are currently satisfied and will be maintained following construction of the proposed mudroom. The majority of this open space is located in front and side yards, which are unaltered by this proposal.

e. Circulation – The current driveway and garage will not be altered by this proposal resulting in identical vehicular circulation on the property.

k. Heritage – Removal and/or disruption of character defining architectural elements is minimized insofar as practical. Proposed mudroom building materials are intended to match the existing home (brick veneer) and update roofing (metal) in a manner that is complementary of the existing home.

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 this mudroom addition. Board members were satisfied that all relevant design review standards are met and the requested setback relief is modest. The Board supported either slate or metal roofing material, whichever the applicant settles on. Mr. Rosa confirmed that the Planning Board did recommend the submission of a revised right elevation, which Mr. Sachs has provided. In general, the Planning Board also felt that the mudroom is well design will generate very little impact on abutting residents.

Therefore, the Planning Board recommended approval of plans submitted by Peter Sachs, dated 6/30/15 and 7/29/15, and the site plan submitted by John Hamel, dated 8/3/15, 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 complete elevations, subject to the review and approval of the Assistant Director for 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 the review and approval of the Assistant Director for 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 further stated that the Building Department also has no objection to the relief as requested. Mr. Rosa confirmed that requested setback and FAR relief both arise from the extension of pre-existing non-conformities. Mr. Rosa also noted that letters in support of the Petitioner's proposal have also been submitted by the two immediately impacted abutters. 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 Member Hussey supported this request for setback and FAR relief. Mr. Hussey also supported the Planning Board's finding that relevant design review standards are satisfied. Mr. Hussey recommended that final submitted plans prior to the issuance of a building permit should include a final calculation of gross floor area, including the rear facing bay window, to ensure that the proposed floor area increase does not exceed 350 total square feet and 150% of the permitted floor area, in accordance with Zoning By-Law Section 5.22.3.c.

Board Member Schneider concurred with Mr. Hussey's comments. Ms. Schneider stated that the Petitioner's proposal is worthy of relief. Ms. Schneider was also in favor of a stand-alone special permit condition requiring the submission of revised gross floor area calculations. Ms. Schneider also noted that counterbalancing amenities for the requested setback relief can take the form of non-landscape features.

Board Chairman Geller also supported this request for zoning relief. Mr. Geller recommended the installation of landscaped features to further alleviate the visual impact of the proposed addition. Mr. Geller noted that the rear location of the addition results in minimal impact on abutting residents. Mr. Geller further agreed that the proposal meets the standards for special permit relief in accordance with By-Law Sections 9.05 and 5.43.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under Sections 5.43, 5.09.2.i, and 9.05 of the Zoning By-Law, granting relief from the provisions of Sections 5.22.3.c, 5.60, 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 revised conditions:

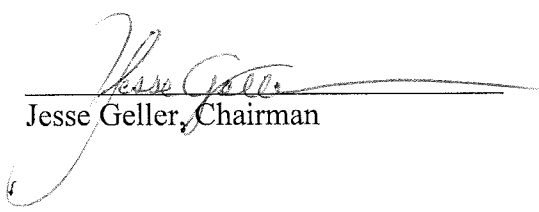
- 1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans, and complete elevations, subject to the review and approval of the Assistant Director for Regulatory Planning.**

2. Prior to the issuance of a building permit, the applicant shall submit a final gross floor area calculation table to ensure that the total increase in floor area for the mudroom addition and the rear facing bay window does not exceed 350 square feet, subject to the review and approval of the Assistant Director for Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director for Regulatory Planning.
4. 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.

Unanimous decision of the

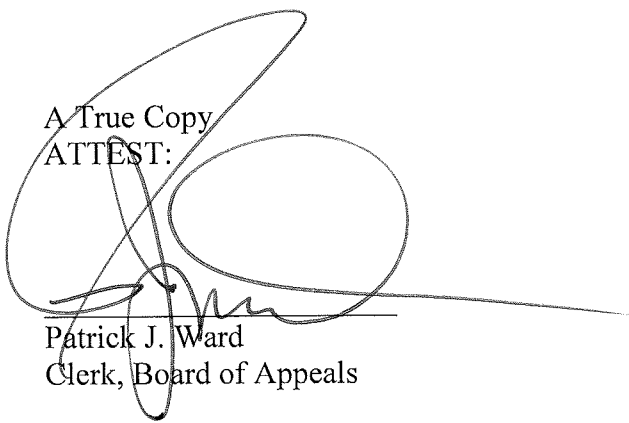
Board of Appeals

Filing Date: 1/12/16



Jesse Geller, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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