



**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. 2015-0051  
OWNER: TANUJA & SRIRAM GOPAL  
84 LAWTON STREET, BROOKLINE, MA

Petitioner, Sriram Gopal, applied to the Building Commissioner for permission to remove a roof overhang above the front entry way and install a second-story front deck at 84 Lawton 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 November 12, 2015 at 7:05 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:

**84 LAWTON ST – REMOVE ENTRYWAY ROOF AND REPLACE WITH DECK in a T-5, Two-Family and Attached Single-Family, residential district, on November 12, 2015, at 7:05 PM in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner/Owner: GOPAL TANUJA D & SRIRAM)**

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 5.43: Exceptions to Yard and Setback Regulations**
- 2. Section 5.50: Front Yard Requirements**
- 3. Section 5.60: Side Yard Requirements**
- 4. 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 Sneider**, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneider@brooklinema.gov](mailto: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 Petitioner, Sriram Gopal of 84 Lawton Street, waived the reading of public hearing notice for the record and presented project details to the Board. Mr. Gopal stated that he applied for, and was granted, a building permit in 2015 to replace the front brick staircase for the two-family dwelling at 84 Lawton Street. Mr. Gopal also applied for a building permit to replace the existing roof overhang located above this front entry in order to install a front deck at the second story to be supported by two columns. The existing front window to this deck will

also be replaced with a door. Mr. Gopal stated that the footprint of this second story deck is approximately 5'- 8" by 9'- 8" and closely mirrors the footprint of the landing for the recently installed front staircase. Mr. Gopal confirmed that front and side setback relief is required to install this deck because it will extend pre-existing non-conforming setbacks.

Board Member Schneider questioned if the as-built front deck will simply extend pre-existing non-conforming setbacks for the structure, or if the deck will marginally increase these non-conformities.

Mr. Gopal stated that the deck will only extend the pre-existing non-conformities upward but will not extend the principle structure closer to side and front lot lines.

Board Chairman Geller requested that Mr. Gopal further describe proposed counterbalancing amenities for the requested setback relief as required by Zoning By-Law **Section 5.43**. Mr. Gopal stated that he did not propose specific counterbalancing amenities but is open to suggestions from the Board. Mr. Gopal stated that a small front yard area already includes bushes and landscaped space. Mr. Gopal also stated his hesitance to install plantings along the driveway area because they might obstruct driver sight lines.

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

No members of the public spoke in favor of the Petitioner's proposal.

Mee Hong of 78 Lawton Street stated that she objects to the further extension of the front entry at 84 Lawton Street. Ms. Hong stated that the existing front staircase partially blocks sight lines when exiting the shared driveway between 78 and 84 Lawton Street properties. Ms. Hong also expressed concern that an existing downspout diverts water runoff directly into this same shared driveway. Ms. Hong stated that this is of particular concern during winter months. Ms.

Hong submitted pictures to the Board illustrating the existing condition of the shared driveway. Ms. Hong also stated that the new design of the front staircase differs from all other front stairs in the immediate area because it does not include side walls.

Chairman Geller asked Mr. Gopal if the new front staircase is wider than staircases found on abutting properties along Lawton Street. Mr. Geller also questioned if the current asphalt driveway has been altered in any way.

Mr. Gopal confirmed that his new front stairs are indeed wider because there is no side wall design that is common in the neighborhood but noted that despite this wider staircase, the front stairs are still “flush” with the side of the structure. Mr. Gopal also confirmed that previously permitted work did not alter the driveway in any way.

Board Member Schneider questioned if the downspout that diverts water toward the shared driveway is new. Mr. Gopal stated that the downspout in question is pre-existing but he does intend to install new gutters immediately around the proposed deck.

Chairman Geller stated that he is sympathetic to the abutter concern on these points but noted that the pre-existing stairs and downspout are not included in the application now before the Board.

Chairman Geller requested that Jay Rosa review 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**

**Section 5.60 – Side Yard requirements**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed Deck</b>	<b>Relief Required</b>
<b>Front-Yard Setback</b>	15 feet	6.7 feet (existing landing)	6.1 feet	Special Permit*

<b>Side-Yard Setback</b>	10 feet	4.1 feet	3.9 feet	Special Permit*
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\* Under **Section 5.43**, the Board of Appeals may by special permit waive yard and/or setback requirements if 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 this second story front porch. Similar porch designs are found on several homes in the immediate vicinity. Board Members also supported the use of metal railings and composite wood. Therefore, the Planning Board recommended approval of plans submitted Artios Architects, dated 10/22/2015, and the site plan submitted by Norman Lipsitz, dated 9/23/2015, 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 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 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.

Mr. Rosa further stated that the Building Department also has no objection. Requested relief is minimal and again represents the extension of pre-existing non-conforming setbacks. Mr. Rosa also noted that the petitioner has already replaced the ground level staircase that was in poor condition, which may be considered as an appropriate counterbalancing amenity for the requested setback relief.

The Board deliberated on the merits of special permit relief as requested. Board Member Hussey suggested that a reconfiguration of gutters or the installation of a drywell may alleviate water runoff issues mentioned by abutting residents.

Board Member Schneider stated that the zoning relief requested by the Petitioner is modest. Ms. Schneider also agreed that any adverse impact associated with existing stairs and downspouts are beyond the proposal currently being considered by the Board. Ms. Schneider believed that standards for special permit relief under By-Law Sections 9.05 and 5.43 are satisfied.

Board Member Hussey and Board Chairman Geller concurred with Ms. Schneider's comments and commended abutting residents for alerting the Board to potential adverse impacts associated with existing and proposed alterations to the front entry at 84 Lawton Street. Mr. Geller also noted that all final proposed counterbalancing amenities must be reviewed and approved by the Assistant Director for Regulatory Planning.

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 5.50, 5.60, 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 a final site plan, floor plans, and 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.
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Unanimous decision of the

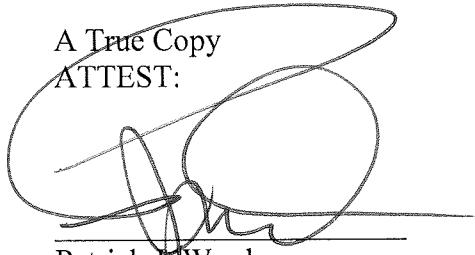
Board of Appeals

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

*1/12/16*

  
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Jesse Geller, Chairman

A True Copy  
ATTEST:

  
\_\_\_\_\_  
Patrick J. Ward  
Clerk, Board of Appeals

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