



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. 2016-0038
Owner: Mahasti Dadgar

Petitioner, Mahasti Dadgar, applied to the Building Commissioner for permission to construct an addition in the front yard (rear of property) at 24 Holland 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 7, 2016 at 7:00 p.m. in the Selectmen's hearing room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney 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 June 23, 2016 and June 30, 2016 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:

24 HOLLAND RD – CONSTRUCT ADDITION IN THE FRONT YARD, in an S-15, Single-Family, zoning district, on July 7, 2016, at 7:00 PM in 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: DADGAR ARDASHIR & MASHASTI N) Precinct 14

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

- 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. Any Additional Relief the Board May Find Necessary**

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
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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller, and Board Members Christopher Hussey and Mark Zuroff. The project’s designer, Robert Wheeler, presented the case on the Petitioner’s behalf and waived the reading of public notice for the record.

Mr. Wheeler described the lot at 24 Holland Road as unique due to a nonconformance triggered by a requirement to measure the setback from a private way rather than the southern lot line. Mr. Wheeler stated it is for this reason that the petitioner requests zoning relief in the form

of a special permit in order to construct an addition in the front yard. Mr. Wheeler additionally stated that the petitioner was proposing plantings as a buffer screen and as shown on a landscaping plan as a counterbalancing amenity under **Section 5.43** of the Zoning By-Law for granting the requested setback relief. He noted that the plantings were satisfactory to an abutter who expressed concerns regarding appropriate screening.

The Chairman asked if anyone wished to speak in favor of or in opposition to the proposal. No one present elected to do so.

Board Chairman Geller requested that Zoning Coordinator Ashley Clark review the findings of the Planning Board.

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.50 – Front Yard Requirements

Section 5.43 – Side Yard Requirements

Dimensional Requirements	Allowed	Existing	Proposed	Relief
Front-Yard Setback (Beecher Rd. Private Way)	25 feet	28.5 feet	8.5 feet	Special Permit*
Side-Yard Setback	15 feet	26 feet	15.25 feet	Complies
Floor Area Ratio	4,051.4 s.f. .25	2,438 s.f. .15	3,241.37 s.f. .2	Complies

* Under **Section 5.43**, the Board of Appeals may waive setback requirements if a counterbalancing amenity is provided.

Ms. Clark stated that the Planning Board was in support of the relief as requested. Ms. Clark added the Planning Board felt the proposed exterior addition is designed in a manner that complements the 1960’s modern architectural style of the existing structure by incorporating an angled roof with a modest pitch. The expanded floor area is intended to improve the interior functionality of the dwelling in a manner that also minimizes the loss of usable open space.

Additionally, the unique nature of the bisected lot triggers the noncompliant front yard setback because the setback distance must be measured from the private way itself rather than the southern lot line. Ms. Clark further stated that the Planning Board asked the applicant to provide to the Board of Appeals the basement floor plans indicating the square footage of habitable space, if any.

Therefore, the Planning Board recommended approval of the site plan submitted by Paul J Tyrell, dated 3/15/2016, and floor plans and elevations submitted by Bob Wheeler, dated 4/18/2016, subject to the following conditions:

1. Prior to the issuance of a building permit, the Applicant shall submit a final site plan, floor plans including the basement, and elevations including final building materials, subject to review and approval by the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a Building Permit, the applicant shall submit a final landscape plan showing screening of the addition from the rear abutter, subject to review and approval by 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 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.

Board Chairman Geller requested that Deputy Building Commissioner Michael Yanovitch review the findings of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the relief requested and felt the relief sought was modest.

The Board deliberated on the merits of special permit relief as requested and 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. The Board made the following specific findings pursuant to Section 9.05 of the Zoning By-Law:

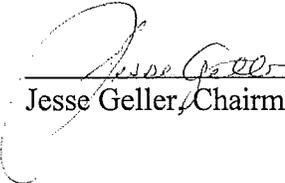
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

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

- 1. Prior to the issuance of a building permit, the Applicant shall submit a final site plan, floor plans including the basement, and elevations including final building materials, subject to review and approval by the Assistant Director for Regulatory Planning.
- 2. Prior to the issuance of a Building Permit, the applicant shall submit a final landscape plan showing all counterbalancing amenities, including the screening of the addition from the rear abutter, subject to review and approval by 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 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



Jesse Geller, Chairman

Filing Date: _____

Patrick J. Ward, Clerk, Board of Appeals