



# Town of Brookline Massachusetts

BOARD OF APPEALS  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

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Patrick J. Ward, Clerk

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2016 SEP 27 A 9:57

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2016-0049  
20 SEARLE AVENUE

Petitioners, Jenny and Ian Roffman, applied to the Building Commissioner for a building permit to construct a dormer at 20 Searle Avenue. 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 certified by the Board of Assessors of the Town of Brookline and fixed August 25, 2016 at 7:15 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for 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 August 11, 2016 and August 18, 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: **20 SEARLE AVE-CONSTRUCT DORMER in an T-5** (Two-Family and Attached Single-Family) Residence District on August 25th, 2016 at 7:15 PM in the 6th Floor Selectmen's Hearing Room (Petitioner: Mary McKee; Owner: ROFFMAN IAN & JENNIFER) Precinct 6

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

1. **Section 5.43: Exceptions to Yard and Setback Regulations**
2. **Section 5.60: Side Yard Requirements**
3. **Section 8.02.2: Extension or Alteration**
4. **Any additional relief the board finds 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](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*

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 Kate Poverman. Michael Yanovitch was present on behalf of the Building Department and Ashley Clark was present on behalf of the Planning Department. The owners, Jenny and Ian Roffman, and architect, Mary McKee were present.

Ms. McKee presented the application to construct a dormer at 20 Searle Avenue. Ms. McKee described the conditions of the side yard setbacks and the impact the proposed dormer will have. Ms. McKee stated their proposal is to put a dormer on the third floor so the applicant can construct a bathroom. Ms. McKee stated that there is a two car wide driveway separating the house and the fence, which provides a wide buffer between the

owner's house and their direct abutter. Ms. McKee stated that the proposed dormer is three feet away from the property line and described work that had taken place to remove an existing fire escape and garage. Ms. McKee also referenced a letter of support from their abutter for this proposal.

Board Chairman Geller inquired about proposed counter balancing amenities required pursuant to **Section 5.43** for side yard setback relief to offset the impacts of the third story dormer. Ms. McKee stated that the petitioners will provide landscaping as a counterbalancing amenities as evidenced on a landscaping plan.

Board Chairman Geller confirmed with Michael Yanovitch that no relief was required in connection with the parking in the front yard.

Board Chairman Geller called for public comment in favor of, or in opposition to, the Petitioner's proposal. There was no public comment.

Board Chairman Geller called upon Zoning Coordinator Ashley Clark from the Planning Department to review the findings of the Planning Board:

**FINDINGS**

**Section 5.43 – Exceptions to Yard and Setback Requirements:**

**Section 5.60 – Side Yard Requirements:**

The dwelling is currently **1.5 feet from the west side property line**, which does not conform to current setback regulation. The addition will not increase the footprint of the structure; however setback relief is required due to the work that is being performed on the existing nonconforming dwelling.

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
<b>Side Yard Setback</b>	7.5 feet	1.9 feet	1.9 feet	Special Permit/ Variance*

\*The dwelling has a pre-existing non-conforming front setback that is not being altered with this proposal.

**Section 8.02.2** – Alteration or Extension

A special permit is required for alterations to a dimensionally nonconforming structure.

Ms. Clark stated the Planning Board supports the proposed addition, which will allow for an additional 78.4 square feet of floor area. The addition will not further encroach on the side yard setback, as the dormer addition will be even with the existing wall on the second story of the dwelling. The structure is currently in violation of the side yard setback on the west side of the property, but will not be affected by the proposed addition. Ms. Clark noted that the Board supports granting relief to the side yard setback.

**Therefore, the Planning Board recommended approval of the site plan and drawings by Mary McKee Design, dated 1.31.16, for a 78.4 square foot third story dormer subject to the following conditions.**

1. Prior to the issuance of a building permit, the applicant shall submit a final plan, floor plans and elevations indicating all dimensions and materials 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 landscape plan indicating all counterbalancing amenities.
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 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. Mr. Yanovitch stated that in his opinion this is a so-called **Massachusetts General Laws Chapter 40A, Section 6**

finding and the relief requested is minor. Mr. Yanovitch stated that should the Board grant relief, the Building Department will work with the Petitioner to ensure compliance.

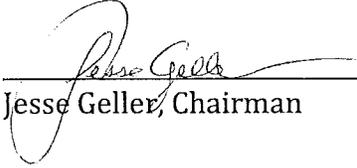
The Board then deliberated on the merits of a special permit relief requested. Board Members Hussey and Poverman were in support of granting the relief. Chairman Geller stated the proposal meets the requirements for special permit relief under **Section 9.05** and **Section 5.43** with the submission of a landscaping plan indicating counter balancing amenities.

Accordingly, the Board voted unanimously to grant the requested special permit relief under **Section 5.43**, **Section 8.02.2** and **Section 9.05** of the Zoning By-Law, from application of the provisions of **Section 5.60**, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final plan, floor plans and elevations indicating all dimensions and materials 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 landscape plan indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning.
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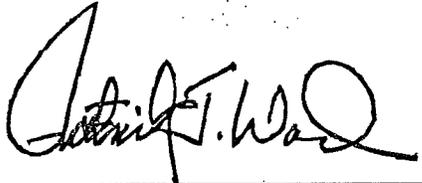
**Unanimous Decision of  
The Board of Appeals**

Filing Date: 9/27/16

  
\_\_\_\_\_  
Jesse Geller, Chairman

A True Copy

ATTEST:



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