



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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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2016-0073
69 HIGHLAND ROAD

Petitioners, Sarah and Stephen O'Neill, applied to the Building Commissioner for a building permit to enclose a screened porch at 69 Highland 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 certified by the Board of Assessors of the Town of Brookline and fixed December 8, 2016 at 7:00 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 November 24, 2016 and December 1, 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:

69 Highland Road to enclose screened porch in side yard in a T-5 (Two-Family and Attached Single-Family) Residence District, on December 8, 2016 at 7:00 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: Sarah and Stephen O'Neill) Precinct 5

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 Regulation**
- 2. Section 5.60: Side Yard Requirements**
- 3. Section 8.02.2: Alteration or Extension**
- 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 programs and services of the Town of Brookline are invited to make their needs known to Lloyd Gellineau, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone (617) 730-2328; TDD (617) 730-2327; or e-mail at llgellineau@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 Chair Mark G. Zuroff, and Board Members Jonathan Book and Johanna Schneider. Michael Yanovitch was present on behalf of the Building Department and Ashley Clark was present on behalf of the Planning Department. The owners, Sarah and Stephen O'Neill and their architect were also present for the hearing.

Ms. O'Neill described the application to enclose a screen porch at 69 Highland Road. Ms. O'Neill stated they are seeking zoning relief for their side-yard setback under Section 5.43. Ms. O'Neill stated they would like to enclose the porch on the second floor and that there will be no change to the footprint of the existing building. Ms. O'Neill stated the windows will match the existing home and described the side of the enclosure that faces their direct abutter. Ms. O'Neill stated they have preserved a window from the dining room that is in the same vintage architecture of the house and will use it on the new enclosure. Ms. O'Neill stated this would offer privacy for their home and their neighbor. Ms. O'Neill added they plan to add more landscaping to an existing garden bed on the side yard.

Ms. O'Neill then described outreach with the neighbors. Ms. O'Neill stated she has spoken to several neighbors who have written in support of the project. Additionally, Ms. O'Neill stated public notices were sent out abutters, and they have not heard from anyone opposed.

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

Board Chair Zuroff 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

Floor Area	Required	Existing	Proposed	Finding
Side Yard Setback	7.5'	5.0'	5.0'	Special Permit*

*Under Section 5.43, the Board of Appeals may waive dimensional requirements in lieu of other dimensions if the applicant provides counters balancing amenities. In this case, the applicant is working on a landscaping plan.

Section 8.02.2 - Alteration or Extension

A special permit is required to alter this non-conforming structure.

PLANNING BOARD COMMENTS

The Planning Board is supportive of the proposal to enclose this existing second story screened porch. The enclosure will not be out of character with the neighborhood. Additionally, the siding and windows will match the existing house and the building footprint will not be altered.

Therefore, the Planning Board recommends approval of the plot plan by Paul Berger dated 11/22/1993 and site plans, elevations and sections by Dolle Architects, dated 6/2/2016, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans, elevations, 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 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) final floor plans and elevations and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Chair Zuroff 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 the side-yard setback condition is preexisting nonconforming, which will be intensified by installing the walls, however the relief is minimal. Mr. Yanovitch stated there is not significant effect on the FAR, as it is still within the allowable ratio. Mr. Yanovitch stated if the Board finds the

proposal meets the criteria for the grant of a special permit, the Building Department will work with the petitioner to ensure compliance.

The Board then deliberated on the merits of a special permit as requested. Mr. Book stated the relief is minimal and stated the preservation and installation of the historic window is a counterbalancing amenity because it is providing privacy for the neighbor. Ms. Schneider thought the preservation of the windows was a thoughtful detail and thought it was sensitive to both the architecture and to the neighbor. Chair Zuroff was in favor of granting the relief.

Accordingly, the Board voted unanimously to grant the requested relief under **§§ 9.05, 8.02.2, 5.43** of the Zoning By-Law, granting relief from the provisions of **§ 5.60** of the Zoning By-Law subject to the following amended conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans, elevations, and materials subject to the review and approval of the Assistant Director of Regulatory Planning.
2. The applicant shall install a window on the east wall facing the direct abutter, sourced from the dining room as a counterbalancing amenity, to both provide privacy between the neighbor, as well as preserve original architectural features of the home.
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) final floor plans and elevations and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals

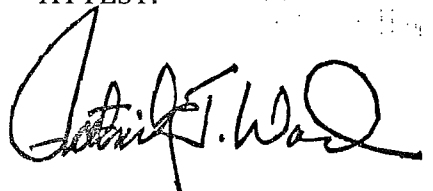
Filing Date: 12/15/16



Mark G. Zuroff, Chair

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals