



# Town of Brookline Massachusetts

BOARD OF APPEALS  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

Town Hall, 1<sup>st</sup> Floor  
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Brookline, MA 02445-6899  
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Patrick J. Ward, Clerk

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2017 APR 28 A 10:58

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2017-0002  
OWNERS: BRAD MONGEON  
GIOVANNI MONICA  
35 OAKLAND ROAD

Petitioner, Brad Mongeon, applied to the Building Commissioner for a building permit to construct a dormer and expand an existing dormer of the dwelling structure located at 35 Oakland 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 March 23, 2017 at 7:20 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 Petitioners, 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 March 9, 2017 and March 16, 2017 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:

**35 Oakland Road – Construct a dormer and expand an existing dormer in an M-1.0(Apartment House) Residence District, on March 23 at 7:20 PM in the 6<sup>th</sup> Floor Selectmen’s Conference Room (Petitioner/Owner: Brad Mongeon) *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 5.60: 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](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 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 [lgellineau@brooklinema.gov](mailto:lgellineau@brooklinema.gov)*

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

**Publish: March 9 & March 16**

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.

The case was presented by the Petitioner, Brad Mongeon. Mr. Mongeon stated that he and his wife live on the second floor of a two family home they own and that they are looking to

expand their house because their family is growing. Mr. Mongeon described the proposal and stated that the petitioners tried to match the architectural style of the neighborhood with their design. Mr. Mongeon stated that the existing home is over 100 years old and currently does not meet the side yard setbacks. The current proposal, he continued, is not changing the existing footprint. Mr. Mongeon stated that the proposal does not exceed the allowed FAR and just special permit relief from the side yard setback requirements is required since they are exacerbating the side yard setback nonconformity. Mr. Mongeon noted that they have already done a lot of work to the exterior of the home and referred to a list of signatures from the abutters in support of the proposal. Mr. Mongeon stated that for a counterbalancing amenity, the petitioners will add more landscaping on the left side of the house, which will include ground cover, a small dogwood, and the removal of some scraggly forsythia.

The Board discussed the letters of support submitted. Board Chairman Geller asked whether the most proximate abutter at 1 Vogel Terrace had been contacted. Mr. Mongeon stated that he was unable to reach this abutter.

Board Chairman Geller called for public comment in favor of, or in opposition to, the Petitioner's proposal. No one spoke in favor of or in opposition to the application.

Board Chairman Geller called upon Ashley Clark, Planner, for the Town of Brookline, to deliver the findings of the Planning Board.

**FINDINGS**

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

**Section 5.60 – Side Yard Requirements**

<b>Dimensional Requirements</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Side Yard Setback (Right) (DORMER)</b>	10'	6.8'	6.8'	Special Permit*/Variance

<b>Side Yard Setback (Left) (DORMER)</b>	10'	7.7'	7.7'	Special Permit*/ Variance
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\*Sec. 5.43 - The dwelling has pre-existing non-conforming side setbacks that are not being altered with this proposal. Setback relief is required due to the work that is being performed on the existing nonconforming dwelling.

**Section 8.02.2** – Alteration or Extension

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

Ms. Clark stated that the Planning Board supports the proposed addition of a new dormer and the expansion of two dormers, which will add livable space to the third floor for the applicants' family. Ms. Clark added the new space will include a master bedroom, walk-in closet and bathroom, totaling 562 square feet and the addition will not further encroach on the side yard setback, since the dormer additions will be even with the existing façade on the second story of the dwelling. Ms. Clark noted that similar dormers can be found on surrounding homes in the neighborhood at 36 Oakland Road, 1 Vogel Terrace and 3 Vogel Terrace. Ms. Clark concluded that the Board supports granting relief to the side yard setback with the provision of a counterbalancing amenity as required by Section 5.43 and the resulting FAR is about 3,550 square feet in this M-1.0 district where 4,000 square feet is allowed.

**Therefore, the Planning Board recommends approval of the plot plan by David Benny dated 12/9/2016 and the floor plans and elevations by Yael Getz Schoen dated 12/20/2016, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations 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 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 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.

The Chairman then called upon Michael Yanovitch, Deputy Building Commissioner, to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the relief. Mr. Yanovitch continued that should the Board find the proposal meets the criteria for the grant of special permit relief, the Building Department will work with the applicant to ensure compliance.

The Board then determined, by unanimous vote that the requirements for a special permit relief from application of Section 5.60, of the Zoning By-Law pursuant to Section, 8.02.2, 5.43 and 9.05 of the Zoning By-Law were met. The Board made the following specific findings pursuant to said Section 9.05:

- 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.
- e. Development will not have any effect on the supply of housing available for low and moderate income people.

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 and elevations 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 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 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.

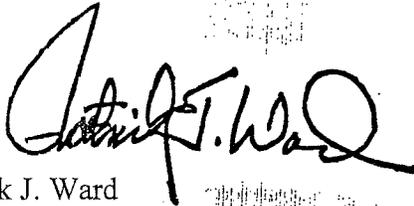
Unanimous Decision of  
The Board of Appeals

Filing Date: 4-28-2017

  
Jesse Gellet, Chairman

A True Copy

ATTEST:



Patrick J. Ward

Clerk, Board of Appeals