



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0019
48 WELLAND ROAD
KACZMAREK
CHRISTOPHER &
BRENNINKMEYER
MARY LIZ

Petitioners, Christopher Kaczmarek and Mary Liz Brenninkmeyer, applied to the Building Commissioner for permission to demolish an existing garage, construct a dormer and finish attic space. 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 May 18, 2017 at 7:15 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney (if any) 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 and May 4, 2017 and May 11, 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:

48 Welland Road to Construct a dormer and finish attic in an S-7 (Single-Family) Residence District, on May 18, 2017 at 7:15 PM in the 6th Floor Selectmen's Hearing Room (Petitioners: Christopher Kaczmarek & Mary Liz Brenninkmeyer) Precinct 6

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.

- 1. Section 5.20: Floor Area Ratio**
- 2. Section 8.02.2 Alteration and Extension**
- 3. Any Additional Relief the Board May Find Necessary**

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*

Publish: May 4, 2017 & May 11, 2017

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jonathan Book and Board Members Christopher Hussey and Lark Palermo.

The case was presented by the Petitioner, Christopher Kaczmarek. Also in attendance was the Architect, Timothy Burke 142 Berkeley St, Boston, Massachusetts, 02116

Chairman Geller called the hearing to order at 7:00 p.m. Mr. Burke waived a reading of the public notice.

Mr. Kaczmarek provided to the Board a background of the Petitioner's proposal. Mr. Kaczmarek stated that they would like to construct a dormer and finish attic space that is currently used as storage space into a small bathroom, bedroom and study. Mr. Kaczmarek described how the additional space will be an improvement for their growing family. Mr. Kaczmarek stated that the study will provide space to allow them to work from home and the bedroom will be for one of their children.

Mr. Kaczmarek then described the public support they have received. Mr. Kaczmarek submitted 27 letters from their neighbors indicating that they are in support of the proposal and agree that it is appropriate for the neighborhood. Mr. Kaczmarek noted that their direct abutters, who would be the most impacted, have also, submitted their support. Mr. Kaczmarek stated that the proposal fits the character of the neighborhood and added that there are similar dormers on the street. Finally, Mr. Kaczmarek stated that the proposed changes will not be visible from the public way, as it is located at the rear of the home.

Zoning Board of Appeals Chairman Book asked whether anyone wished to speak in favor of the application. No one spoke in favor of the proposal.

Mr. Book asked whether anyone wished to speak in opposition to the application. No one spoke in opposition to the proposal.

Ashley Clark, Zoning Coordinator for the Town of Brookline, delivered the findings of the Planning Board:

FINDINGS

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
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Floor Area Ratio (% of allowed)	.35 (100%)	.48 (137%)	.59 (169%)	Special Permit*
Floor Area (s.f.)	2,450	3,386	3,996	

* Under **Deadrick**, the Board of Appeals may allow an extension of an existing non-conformity if it finds there is no substantial detriment to the neighborhood.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a nonconforming structure or use.

Ms. Clark stated that the Planning Board is supportive of this proposal to finish the attic and add a dormer. Ms. Clark noted that the dormer will be added at the rear of the structure and will not be visible from the street; no changes to the footprint are proposed. As a result, the home will be virtually unchanged from the public way and the new attic space will add needed living space for the family and the design of the dormer will not be out of character with the existing home or the neighborhood.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the site plan dated 12/23/2016 by Michael P. Antonino and the floor plans and elevations dated 12/23/2016 by Timothy Burke Architecture, 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 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.

Deputy Building Commissioner Michael Yanovitch delivered the comments of the Building Department. Mr. Yanovitch stated that relief is available under G.L. c. 40A § 6 since the floor area is nonconforming, and they are not creating any new nonconformities. Therefore, Mr.

Yanovitch stated, the Building Department had no objection to the relief requested and, if the Board finds that 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 deliberated on the merits of the proposal. Board Member Palermo was in support of granting the relief. Board Member Hussey stated that he is supportive of the proposal as the Planning Board has found that the proposal will not be detrimental to the neighborhood. Board Chair Book stated that the letters submitted from the abutters specifically reference the appropriateness of the proposed improvements to the property and the neighborhood, which supports a finding that this proposal will not be substantially more detrimental to the neighborhood. Mr. Book stated the proposal is worthy of relief under G.L. c. 40A § 6 and **Section 8.02.2** of the Zoning By-Law.

The Board then determined by unanimous vote that the requirements for special permit relief from the application of the provisions of **Section 5.20** of the Zoning By-Law pursuant to G.L. c. 40A § 6 and **Sections 8.02.2** and **9.05** of the Zoning By-Law as requested by the Petitioners were met.

The Board made the following specific findings pursuant to said **Section 9.05**:

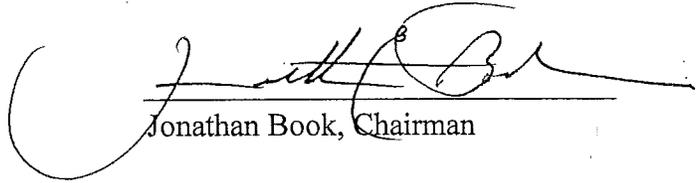
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

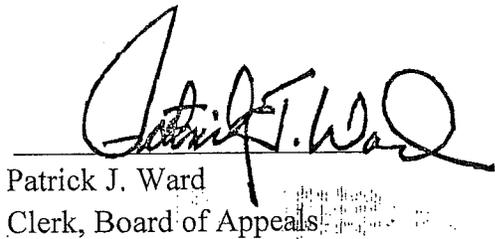
Filing Date: 5/26/17



Jonathan Book, Chairman

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals