



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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Patrick J. Ward, Clerk

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2017 MAY 26 A 11:04

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0024
86 DALE STREET
ROSEN, YIGAL &
SOPHIA

Petitioner, Yigal Rosen, applied to the Building Commissioner for permission to construct a second story addition and extend the garage. 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 7:00 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:

86 Dale Street – Construct second story addition and extend garage in an S-7 (Single-Family) Residence District, on May 18, 2017 at 7:00 PM in the 6th Floor Selectmen's Hearing Room (Petitioner: Yigal Rosen) Precinct 15

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 5.09.2.j and n: Design Review**
2. **Section 5.22.3.b.1.b: Exceptions to Floor Area Ratio(FAR) For Residential Units**
3. **Section 6.04.5.c.3: Design of All Off-Street Parking Facilities**
4. **Section 8.02.2: Alteration or Extension (Driveway)**
5. **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 homeowner and petitioner, Yigal Rosen.

Chairman Book called the hearing to order at approximately 7:00 p.m. Yigal Rosen waived the reading of the public notice.

Mr. Rosen stated that 86 Dale Street is a single-family home. Mr. Rosen stated that he and his wife want to build a second story addition to their home to better meet the needs of their growing family. Mr. Rosen presented to the Board photos of their home as well as homes nearby. Mr. Rosen argued that the proposal is not out of scale as there are a number of two-story homes in the surrounding neighborhood.

Mr. Rosen stated that they are seeking to add a second story addition and to extend the garage. Mr. Rosen stated that the current garage only fits one car and so this will help them have enough space for additional cars as well as storage.

In regards to support from the neighborhood, Mr. Rosen stated that they have received support from 11 neighbors. Mr. Rosen stated that the support includes the direct abutters who have no objection to this proposal and are in support of the Board granting the relief. Mr. Rosen stated that the proposal will be an improvement for their home as well as for the neighborhood.

Mr. Rosen next reviewed the zoning relief required. Mr. Rosen stated that they need a special permit for design review pursuant to **Section 5.09** of the Zoning By-Law. He reviewed the Planning Board report which reflects a positive discussion of the design review criteria for the project and recommendation for approval. In regards to floor area ratio (FAR), Mr. Rosen stated that they are seeking to increase the floor area to 111% of the allowed FAR pursuant to **Section 5.22.3.b.1.b** of the Zoning By-Law. Mr. Rosen stated that under this section, they may request to increase the floor area to 120% of the allowed FAR. In this case, he continued, they are requesting an increase to only 111%. Therefore, Mr. Rosen stated they feel their request is modest. Mr. Rosen further added that he believes the proposal meets the requirements under **Section 9.05** of the Zoning By-Law arguing: (1) the specific site is an appropriate location for such use because the structure will remain a single-family home; (2) the proposed use will not adversely affect the neighborhood because neighbors have expressed support for the requested relief; (3) there will be no nuisance or serious hazard to vehicles or pedestrians as the addition will not increase occupancy within the home; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) there will be no effect on the supply on housing available for low and moderate income people.

Mr. Rosen stated that, for these reasons, the Board grant the requested relief.

Zoning Board of Appeals Chairman Book asked if anyone wished to speak in favor of the application. No one spoke in favor of the proposal. Mr. Book asked if 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 5.09.2.j and n – Design Review: Any exterior addition for which a special permit is requested pursuant to *Section 5.22 (Exceptions to Maximum Floor Area Ratio Regulations)* requires a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. All the conditions have been met, and the most relevant sections of the design review standards are described below:

- a. Preservation of Trees and Landscape – The proposal does not require the removal of any trees or substantial landscaping. The addition will be built atop the existing structure. The extended garage will be constructed on an area already used as a driveway.
- b. Relation of Buildings to Environment – The proposed addition is not expected to have shadow impacts on neighboring properties.
- c. Relation of Buildings to the Form of the Streetscape and Neighborhood – The proposed addition has been designed to fit in with the neighborhood context. In addition, the size and scale of the addition is in proportion to that of the existing home and similar to other surrounding homes that have also added second story additions. The addition does not exacerbate any setbacks or change the footprint of the structure.

Section 5.22.3.b.1.b: Exceptions to Maximum FAR Regulations For Residential Units

Floor Area	Allowed	Existing	Allowed by Special Permit	Proposed	Finding
Floor Area Ratio (% of allowed)	.35 (100%)	.28 (80%)	.42 (120%)	.39 (111%)	Special Permit*/ Variance
Floor Area (s.f.)	3,391	2,734	4,076	3,816	

**Under Section 5.22.3.b.1.b, an exterior addition less than or equal to 20% of the gross floor area is allowed by special permit*

Section 8.02.2 – Alteration or Extension

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

Ms. Clark submitted the following comments from the Planning Board into the record: The Planning Board is supportive of this plan. The existing home is small and the homeowners will benefit from a second story addition. While there are numerous ranch homes on the street, many homes have undergone renovations to add a second floor. The addition will be an aesthetic improvement to the existing

structure and the materials will be within the existing character of the neighborhood. The expanded garage at the rear will not be visible from the street. Overall impact to abutters will be limited.

Therefore, Ms. Clark stated, that the Planning Board recommends approval of the site plan by Peter Nolan dated 1/13/2016 and the floor plans and elevations by RAV & Associates, Inc. dated 12/21/2016 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit site plan, floor plans and accurate existing and proposed 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 elevations stamped and signed by a registered architect or engineer; 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 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 Hussey stated that it is an appropriate proposal and was in favor of granting relief. Board Member Palermo agreed with Mr. Hussey. Chairman Book stated that the proposal meets the requirements for the requested relief by special permit under **Section 9.05** of the Zoning By-Law.

The Board then determined by unanimous vote that the requirements for relief by special permit from the application of the provisions of **Section 5.20** of the Zoning By-Law pursuant to **Sections 5.22.3.b.1.b** and **9.05** of the Zoning By-Law as requested by the Petitioner were met. The Board also determined the application meets the requirements for a special permit under design review pursuant to **Sections 5.09.2.j and n.**

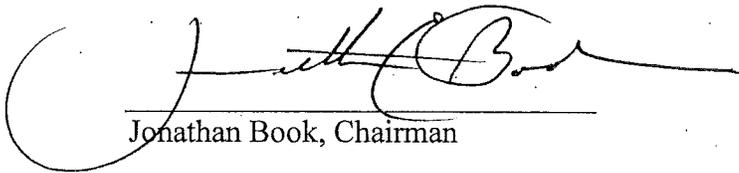
The Board made the following specific findings pursuant to said **Section 9.05**:

- 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 revised conditions:

- 1. Prior to the issuance of a building permit, the applicant shall submit site plan, floor plans and accurate existing and proposed 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 elevations stamped and signed by a registered architect or engineer; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

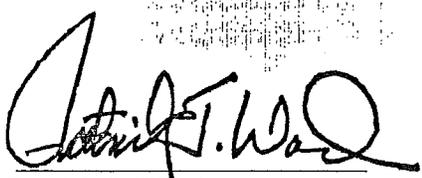
Unanimous Decision of
The Board of Appeals



Jonathan Book, Chairman

Filing Date: 5/26/17

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals