



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
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2017 JUL -5 A 8:41

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0032
52 PAYSON ROAD
CHERTOV ANDREY &
VOLKOVA NATALIYA

Petitioner, Andrey Chertov, applied to the Building Commissioner for permission to construct a one story addition at the rear. 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 June 15, 2017 at 7:50 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 June 1, 2017 and June 8, 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:

52 Payson Avenue – Construct a one story addition at the rear in a S-7 (Single-Family) Residence District, on June 15, 2017 at 7:50 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: 371-372 Harvard Street LLC) Precinct 16

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 5.09.2.j: Design Review**
- 2. Section 5.22.3.b.1.b: Floor Area Ratio**
- 3. 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*

Publish: June 1, 2017 and June 8, 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 Chris Hussey and Kate Poverman.

The case was presented by the designer, Ivan Hernandez, I.S. Hernandez Design Services, Boston, Massachusetts.

Chairman Book called the hearing to order at approximately 7:50 p.m. Mr. Hernandez waived a reading of the public notice.

Mr. Hernandez stated that the proposal at 52 Payson Road as a single story 330 square foot addition on the rear of the existing single family home. Mr. Hernandez stated that the addition will provide the family with more room.

Mr. Hernandez stated that the Petitioners are requesting special permit relief pursuant to Section 5.22.3.b.1.b. Mr. Hernandez argued that the proposed gross floor area is only 114%, which is under the maximum the Board may grant of 120% gross floor area.

As for Section 9.05, Mr. Hernandez argued: (1) the specific site is an appropriate location for such a structure; (2) the use as developed will not adversely affect the neighborhood; (3) there will be no nuisance or serious hazard to vehicles or pedestrians; (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.

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.i – 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-1). 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 within existing open rear yard space.
- b. Relation of Buildings to Environment – The proposed addition is not expected to have shadow impacts on neighboring properties due to its location within the existing L-shaped structure.

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 various additions. The addition does not exacerbate any setbacks and is not visible from the street.

Section 5.22.3.b.1.b – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.35 (100%)	.36 (103%)	.40 (114%)	Special Permit*
Floor Area (s.f.)	2,602	2,658	2,990	

** Under Section 5.22.3.b.1.b, the Board of Appeals may grant a special permit for an addition up to 120% of the allowable FAR in S and SC districts*

Ms. Clark stated that the Planning Board is supportive of this proposal for a rear one-story addition, which is within the limit allowed for increases to the FAR by special permit. Ms. Clark stated that the addition is not visible from the street and due to the large lot sizes and dense plantings it will also not be visible to any abutters.

Therefore, Ms. Clark stated that the Planning Board recommends approval of the site plan dated 12/15/2016 by George Collins and the floor plans and elevations dated 1/5/2017 by I.S. Hernandez

Design Services, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit site plan, floor plan 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 landscape plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of 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 building elevations; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Zoning Coordinator Ashley Clark delivered the comments of the Building Department. Ms. Clark stated that the Building Department has no objection to the requested relief. She noted that the proposal falls within the allowed bonus under **Section 5.22.3.b.1.b** of the Zoning By-Law for 120%. Finally, she stated that should the Board of Appeals find that the necessary requirements for special permit relief are met, the Building Department will work with the Petitioners to ensure compliance with all building codes.

The Board deliberated on the merits of the proposal.

Subject to the conditions provided below, the Board voted unanimously that the requirements have been met for the issuance of special permit relief from the application of the provisions of **Section 5.22** of the Zoning By-Law pursuant to the provisions of **Sections 5.09.2.j, 5.22.3.b.1.b** and **9.05** of the Zoning By-Law.

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.

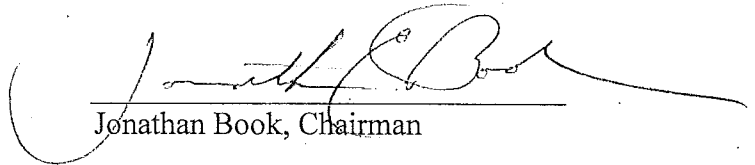
Accordingly, the Board voted unanimously to grant the requested relief subject to the following revised conditions:

1. Prior to the issuance of a building permit, the applicant shall submit site plan, floor plan 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 landscape plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of 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 building elevations; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

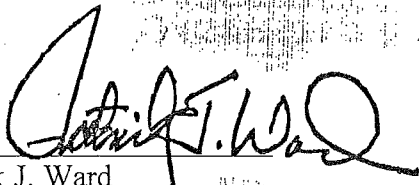
Unanimous Decision of
The Board of Appeals



Jonathan Book, Chairman

Filing Date: 7-5-17

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals