



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

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

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0030
60 FERNWOOD ROAD
ODONNELL THOMAS F
III, WING-ODONNELL
CHRISTINA

Petitioner, Thomas O Donnell, applied to the Building Commissioner for permission to construct a two story addition of 116 square feet at 60 Fernwood 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 June 15, 2017 at 7:30 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:

60 FERNWOOD ROAD – Construct a two story addition totaling 116 square feet in a S-40 (Single-Family) Residence District, on June 15, 2017 at 7:30 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: Tad and Christina O’Donnell) Precinct 15

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 5.20: Floor Area Ratio**
- 2. Section 8.02.2: Alteration or Extension**
- 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, Michael Szalaji from On the Boards Design, 69 Massachusetts Avenue, Cambridge, Massachusetts, 02139.

Chairman Book called the hearing to order at approximately 7:30 p.m. Mr. Szalaji waived a reading of the public notice.

Mr. Szalaji stated that the Petitioner is seeking dimensional relief to construct a 116 square foot two-story addition at the rear of the existing residence at 60 Fernwood Road. Mr. Szalaji stated that the addition will result in an increase of a preexisting nonconforming FAR by .2%.

Mr. Szalaji then reviewed the design of the proposal. He stated that the addition fits within an existing alcove between the existing main house and an existing side wing at the rear of the structure. He argued that the design respects the character of the existing home both in terms of its location, as well as the proposed materials. Mr. Szalaji added that the brick will match what is currently on the second story portion, and the first floor will match the existing clapboard siding on the left side of the house.

Upon inquiry from Board Member Poverman, Mr. Szalaji stated that the basement will not it will be used as crawl space for mechanicals.

Board Member Hussey raised a concern over the relief being requested and stated that he thought **Section 5.22.3.b.1.b** would be appropriate as the requested FAR bonus is 115%, under the maximum allowed bonus of 120% instead of Massachusetts General Laws Chapter 40A, Section 6, as interpreted by Deadrick. Chairman Book and Board Member Poverman agreed the former source of relief was appropriate in this case, should the Board vote to grant the requested relief.

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 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.15 (100%)	.171 (114%)	.173 (115%)	Special Permit*
Floor Area (s.f.)	6,961	7,934	8,050	

** 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 for a rear two-story addition and noted that the increase to the FAR is minimal. Ms. Clark added 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 concluded, the Planning Board recommends approval of the site plan dated 7/5/1981 by John Hennessy and the floor plans and elevations dated 4/13/2017 by On the Boards Design, 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.

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 is a modest addition on a pre-existing non-conforming structure. Ms. Clark continued that **Section 5.22.3.b.1.b** is the appropriate section for relief. 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. Board Members Poverman and Hussey stated that relief was minor and were in support of granting relief pursuant to Section 5.22.3.b.1.b. Chairman Book considered the design of the proposal and felt that the impact on the streetscape is minimal as the proposal will not be visible from the street. Mr. Book stated that relief for the proposal may be granted under the Zoning By-Law as it complies with all the requirements regulating Section 5.22.3.b.1.b¹.

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 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.

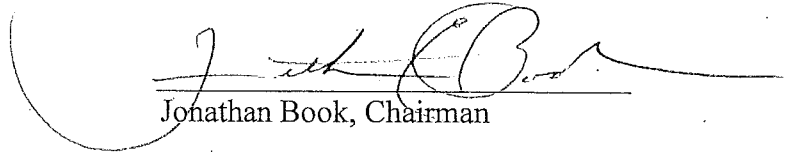
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

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.

¹ §5.22.3.a states that the Board of Appeals may allow, by special permit, a maximum gross floor area greater than permitted gross floor area for an existing residential building on a single lot, subject to the procedures, limitations, and conditions specified in §5.09, §§ 9.03 to 9.05.

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.

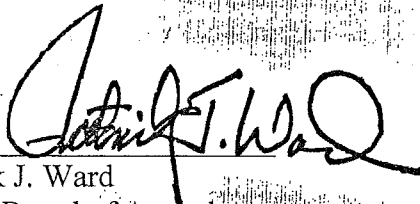
Unanimous Decision of
The Board of Appeals



Jonathan Book, Chairman

Filing Date: 7-5-17

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals