



# *Town of Brookline*

## *Massachusetts*

BOARD OF APPEALS  
Jesse Geller, Chairman  
Jonathan Book  
Christopher Hussey

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

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2017 JUL -5 A 8:42

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2017-0033  
106 DAVIS AVENUE  
ANDERSON WILLIAM A  
& CAVEY MARY C

Petitioners, Catherine Cavey and William Anderson, 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 7:40 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:

**106 Davis Avenue – Convert from a one family dwelling to a two family dwelling by adding a basement unit in a T-5 (Two-Family and Attached Single Family) Residence District, on June 15, 2017 at 7:40 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: 371-372 Harvard Street LLC ) Precinct 6**

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 5.05: Conversion**
2. **Section 5.43: Exception to Yard and Setback Regulation**
3. **Section 5.60: Side Yard Requirements**
4. **Section 8.02.2: Alteration or Extension**
5. **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 [llgellineau@brooklinema.gov](mailto: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 Kate Poverman and Chris Hussey.

The case was presented by the Petitioners, Catherine Cavey and William Anderson. Ms. Cavey stated that the property is located within a zoning district that allows for two family homes. Ms. Cavey described the proposal and stated that the only exterior change with this proposal is the addition of a staircase and a new door into the basement.

Ms. Cavey then discussed their outreach with their abutters. She stated that they have submitted 20 letters of support from their neighbors. Ms. Cavey noted that they have spoken with additional neighbors who are also in support, though did not support a letter. Chairman Book confirmed with the Petitioners that the immediate neighbors at 110 and 102 Davis have submitted letters of support.

Mr. Anderson then discussed counterbalancing amenities. He stated that they are proposing to will be doing additional landscaping at the front of the house.

Chairman Book asked whether anyone wanted to speak in favor of the proposal. No one spoke in favor of the proposal.

Chairman Book asked whether anyone wanted to speak in opposition to the proposal. 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 5.05 – Conversion**

The Board of Appeals may waive dimensional requirements for a conversion from a one-family to a two-family provided all other requirements for conversions are met.

**Section 5.34 – Exception to Yard and Setback Regulation**

**Section 5.60 – Side Yard Requirements**

**Section 8.02.2 – Alteration or Extension** – A special permit is required to alter a nonconforming structure.

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief Required</b>
<b>Front Yard Setback</b>	15'	11.9'	11.9'	<b>Special Permit *</b>
<b>Rear Yard Setback</b>	30'	74.1'	74.1'	<b>Complies</b>
<b>Side Yard Setback (left)</b>	10'	3.1'	3.1'	<b>Special Permit *</b>
<b>Side Yard Setback (right)</b>	10'	10'	10'	<b>Complies</b>

*\* Under Section 5.43, the Board of Appeals may waive by special permit yard and/or setback requirements, if a counterbalancing amenity is provided.*

Ms. Clark stated that the Planning Board is supportive of this proposal to convert a one-family to a two-family dwelling in this two family district. She stated that the new basement unit will have only one bedroom. Ms. Clark also stated that the building footprint will not change and the parking requirement of three spaces is met in the existing driveway. She added that there should be minimal impact to abutters. Therefore, Ms. Clark stated that the Planning Board recommends approval of the site plan by Scott Cerrato, dated 3/16/2017, and architectural floor plans and elevations by Hamlin and Co., dated 3/22/2017, subject to the following conditions.

- 1) Prior to the issuance of a building permit, the applicant shall submit (3) 11x17 sets of the 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 as a counter balancing amenity, subject to the review and approval of the Assistant Director of Regulatory Planning.
- 3) Prior to 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 floor plans stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

Ashley Clark, Zoning Coordinator for the Town of Brookline, delivered the findings of the Building Department:

Ms. Clark stated that the requested relief is minor. Ms. Clark continued that the use of a two-family is as of right in this zoning district and the existing nonconformities need to gain relief by special permit. Ms. Clark stated that if the Board finds the proposal meets the requirement for the grant of a special permit, the Building Department will work with the petitioner to ensure compliance.

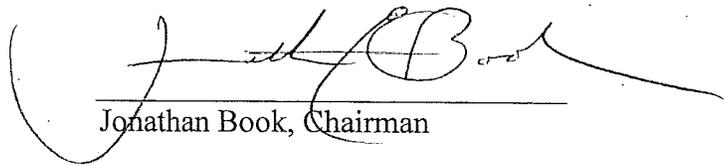
The Board then determined that the requirements for relief by special permit from the application of the provisions of Section 5.60 of the Zoning By-Law pursuant to Sections 5.43, Section 5.05 and Section 8.02.2 of the Zoning By-Law as requested by the Petitioners were met. The Board made the following 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 (3) 11x17 sets of the 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 as a counter balancing amenity, subject to the review and approval of the Assistant Director of Regulatory Planning.
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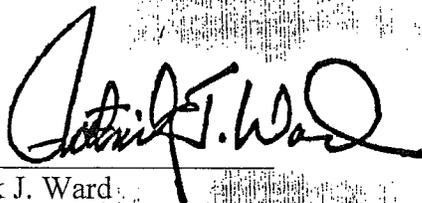
Unanimous Decision of  
The Board of Appeals



Jonathan Book, Chairman

Filing Date: \_\_\_\_\_

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals