



# *Town of Brookline*

## *Massachusetts*

BOARD OF APPEALS  
Jesse Geller, Chairman  
Jonathan Book  
Christopher Hussey

Town Hall, 1<sup>st</sup> 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. 2017-0038  
61 WOLCOTT ROAD  
SOARES MATTHEW V,  
KNOWLTON KATHERINE A

Petitioner, Matthew Soares, applied to the Building Commissioner for permission to construct a rear addition. 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 22, 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 June 8, 2017 and June 15, 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:

61 Wolcott Road to construct a three-story rear addition in a S-15 (Single-Family) Residence District, on June 22, 2017 at 7:00 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: Matthew Soares) 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 5.43: Exception to Yard and Setback Regulation
2. Section 5.60: Side Yard Requirements
3. Section 8.02.2: Alteration or Extension
4. 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*

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

The case was presented by the Petitioners, Matthew Soares and Katherine Knowlton.

Chairman Zuroff called the hearing to order at approximately 7:45 p.m. Mr. Soares waived the reading of the public notice.

Mr. Soares stated that 61 Wolcott Road is in a S-15 residential zoning district.

Mr. Soares reviewed the design of the proposal. He stated that the addition is located in the rear yard and includes a carport space on the first floor as well as additional living space to better accommodate his family. Mr. Soares stated that the design is consistent with the style of the existing house and is in scale with the surrounding neighborhood. Mr. Soares added that the addition does not require the removal of any trees or existing landscaping as it is located along the same side yard setback as existing house and does not extend significantly away from the rear of the house.

Mr. Soares stated that he has spoken with the direct abutters on either side of the property and that there have been no objections. Mr. Soares disputed the accuracy of the letter submitted by the rear abutter regarding the stewardship of their lot. He stated that no trees have been removed from the lot; work has been done to mitigate damage caused by winter moths to save the existing trees.

Mr. Soares stated that they have not contributed to any runoff and the proposal will decrease runoff as its being built on an existing area of black top and they are proposing to add semipermeable pavers to a portion of the black top to mitigate any runoff. Mr. Soares submitted a signature in support from the abutters to the right of the property that will be most impacted by the proposal.

Mr. Soares then described the zoning relief being requested. Mr. Soares stated that the proposed addition requires relief from Zoning By-Law Section 5.60. Mr. Soares discussed zoning relief under Section 5.43 of the Zoning By-Law, where the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. Mr. Soares stated that they are proposing to replace some of the black asphalt with semi permeable pavers to address runoff concerns.

Mr. Soares argued the proposal meets the requirements pursuant to Section 9.05 stating that: (1) specific site is appropriate location for the addition (2) use not adversely affect the neighborhood (3) there will not be nuisance or serious hazard to vehicles or pedestrians (4) will not affect the availability of affordable housing.

Upon inquiry from Chairman Zuroff, Ms. Knowlton stated that they have consulted many experts who need to do more analysis once the addition is approved on what the appropriate measure would be to manage the run off. Mr. Soares stated that they will work with a contractor to ensure there are enough semipermeable pavers as well as dry wells if necessary to mitigate runoff.

Chairman Zuroff stated the Board has taken note of the rear abutter’s objection. The Board discussed the possibility of erecting a fence along the rear property line to help screen the two properties. After discussion, it was established that the Petitioners felt the landscaping screening will grow in and be enough to screen and do not want to put a fence at the rear.

Chairman Zuroff asked if anyone wished to speak in favor of the application. No one spoke in favor of the proposal. Mr. Zuroff 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 5.43 – Exceptions to Yard and Setback Regulations**

**Section 5.60 – Side Yard Setback**

| <b>Dimensional Requirements</b> | <b>Required</b> | <b>Existing</b> | <b>Proposed</b> | <b>Relief</b>    |
|---------------------------------|-----------------|-----------------|-----------------|------------------|
| <b>Side Yard Setback</b>        | 15’             | 10’             | 10’             | Special Permit** |

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

**Section 8.02.2 – Alteration or Extension**

A special permit is required to alter a pre-existing non-conforming structure or use.

Ms. Clark stated that the Planning Board is supportive of this addition as it will be located at the rear of the home and will not be visible from the street or in close proximity to neighbors. Ms. Clark

noted that the existing non-conforming setback will remain the same and the addition is in line with the existing structure. Ms. Clark continued that the proposal will add useful parking, outdoor space and living space for the homeowners.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the site plan by Thomas Rovero, dated 4/25/2017 and architectural plans by Thomas Rovero, dated 4/25/17 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit (3) 11" x 17" copies of final 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 (3) 11" x 17" copies of a final 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 stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Ms. Clark then delivered the comments of the Building Department. Ms. Clark stated that a drainage plan is required when there is at least 2,500 square footage of new building or impervious surface or if a proposal covers greater than 25% of the lot. 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 then deliberated on the merits of the proposal. Board Member Hussey stated that he would like a condition added requiring a drainage plan prior to the issuance of a certificate of occupancy. The Board discussed the rear property line and encouraged the Petitioners to explore the addition of trees or foliage that will help with drainage as well as screening.

The Board then determined, by unanimous vote 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, 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 revised conditions:

1. Prior to the issuance of a building permit, the applicant shall submit (3) 11" x 17" copies of final 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 explore additional screening at the rear of the property and shall submit (3) 11" x 17" copies of a final landscape plan indicating all counterbalancing amenities including a drainage plan 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 stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

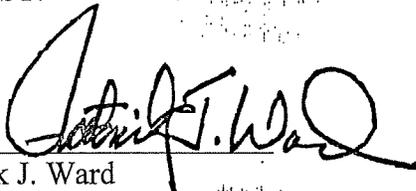
Unanimous Decision of  
The Board of Appeals



Mark G. Zuroff, Chairman

Filing Date: 8/11/17

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals