



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0004
DOCTOROFF ADAMS &
CHRISTINA R
30 WILLISTON ROAD,
BROOKLINE, MA

Petitioners, Adam and Christina Doctoroff, applied to the Building Commissioner for permission to construct a two hundred square foot kitchen 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 August 24, 2017 at 7:00 PM., 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 Petitioners, 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 August 10, 2017 and August 17, 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:

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30 WILLISTON RD, BROOKLINE - CONSTRUCT 200 SQUARE FOOT ADDITION TO FIRST FLOOR in a(n) S-7 SINGLE-FAMILY on 08/24/2017 at 7:00 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: DOCTOROFF ADAM S & CHRISTINA R) *Precinct 13*

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:

§5.09.2.J – DESIGN REVIEW

§5.22.3.C - EXCEPTIONS TO FLOOR AREA RATIO (FAR) FOR RESIDENTIAL UNITS

§8.02.2 – ALTERATION AND EXTENSION

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: 08/10/2017 & 08/17/2017

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 Jesse Geller. Also present at the hearing was Planner and Zoning Coordinator, Ashley Clark.

The case was presented by Architect Eben Kunz, Kunz Associates 38 Greenwich Park, Boston Massachusetts, 02118.

Chairman Zuroff called the hearing to order at 7:00 p.m. Mr. Kunz waived the reading of the public notice.

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Mr. Kunz stated that the property is located in the S-7 District. Mr. Kunz stated that the neighborhood is composed of large single family homes that are similar in style.

Mr. Kunz stated that the Petitioner has lived in the home with their family for approximately eight years and have completed extensive renovation work on the interior of the home. Mr. Kunz stated that the Petitioner is proposing to construct a 200 square foot one-story kitchen addition at the rear of the home. Mr. Kunz stated that the proposal includes a rear entrance, mudroom area, new windows and skylights overlooking the yard and new deck. Mr. Kunz stated that this addition creates needed space in the kitchen to allow for an island as well as more dining space.

Mr. Kunz then described the Planning Board meeting and stated that the Planning Board was very supportive of the design and did not recommend any changes. Mr. Kunz added that the direct abutter on Salisbury Road is in support of the proposal and the Petitioner has agreed to work with the neighbor to ensure landscaping is installed to provide screening as preferred.

Mr. Kunz argued that the requested relief may be granted pursuant to Massachusetts General Laws Chapter 40 A, Section 6. Mr. Kunz continued that case law (Deadrick v. Board of Appeals of Chatham, 85 Mass. App Ct. 539) has further established that an owner can however expand an existing nonconformity via a special permit granted under Massachusetts General Laws Chapter 40 A, Section 6, provided there is a finding that such expansion causes no substantial detriment. Mr. Kunz stated the existing FAR is 0.63 and will be increasing to 0.64.¹ To support his argument that the proposal will not create any substantial detriment to the neighborhood, Mr. Kunz stated that the proposal meets all setback requirements as well has received support from the immediate neighbors via letters submitted letters of the town.²

¹ Brookline, Massachusetts, Zoning By-Law art. V § 5.01 states that the maximum Floor Area Ratio allowed is 0.35.

² See Exhibit A: Letters of Support

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Mr. Kunz then described relief under **Section 9.05** of the Zoning By-Law stating: (1) the specific site is an appropriate location because the expansion of the existing kitchen to the north and west maintains its original location and allows the Petitioner to preserve the original layout of the home; (2) the use as developed will not adversely affect the neighborhood because the addition will have the same siding, roofing materials, colors and style to blend in with the original house; (3) there will be no nuisance or serious hazard to vehicles or pedestrians as the proposal is intended to improve the living conditions for the family and there will be no change of occupancy in the home or to its parking on site; (4) adequate and appropriate facilities will be provided for the proper operation of the proposed use; and (5) the developed as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Chairman Zuroff then asked whether anyone was present to speak in support of the proposal. No one spoke in opposition to the proposal.

Chairman Zuroff then asked whether anyone was present to speak in opposition to the proposal. No one spoke in opposition to the proposal.

Chairman Zuroff then called upon Ashley Clark, Planner & Zoning Coordinator, to deliver the findings of the Planning Department.

FINDINGS

Section 5.09.2.j – 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:

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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 side yard space where a deck currently exists.

b. Relation of Buildings to Environment – The proposed addition is not expected to have shadow impacts on neighboring properties due to its size and location.

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.c – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.35 (100%)	.63 (180%)	.64 (183%)	Special Permit*
Floor Area (s.f.)	3,434	6,152	6,350	

**Under Section 5.22.3.c, the Board of Appeals may grant a special permit for an addition of less than 350 square feet and less than 150% allowed GFA.*

Ms. Clark stated that the Planning Board is supportive of this proposal for a rear addition; the size of the addition is small and due to its location and the property’s sizable rear yard, the addition will be largely shielded from the nearest abutter. Ms. Clark noted that there is existing tree screening and that the Planning Board recommends that the applicant add additional plantings to further screen the new addition and deck from the neighbor on Salisbury Road.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the site plan dated 4/6/2017 by Bruce Bradford and the floor plans and elevations dated 4/10/2017 by Kunz Associates, subject to the following conditions:

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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.

Upon inquiry from Chairman Zuroff, Mr. Kunz stated that though there is not a requirement for a counterbalancing amenity, the Petitioner is committed to working out a landscaping plan suitable to the neighbor.

Chairman Zuroff then called upon Ms. Clark, to deliver the recommendation of the Building Department. Ms. Clark stated that the Building Department has no objection to the relief requested. Therefore, Ms. Clark stated, should relief be granted, the Building Department will work with the Petitioners to ensure compliance.

The Board then determined, by unanimous vote that the requirements for a special permit from **Section 5.20**, of the Zoning By-Law were met under Massachusetts General Laws Chapter 40A, Section 6, as interpreted by Deadrick, and may be granted without substantial detriment, under **Section 8.02.2** and **Section 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.

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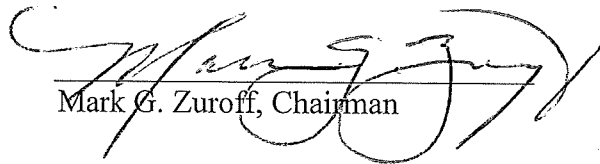
- e. Development will have no effect on the supply of housing available for low and moderate income people.

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

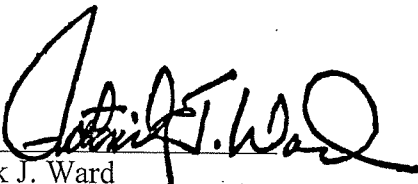
1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a landscaping plan showing additional plantings, 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 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.

Unanimous Decision of
The Board of Appeals

Filing Date: 9/19/17


Mark G. Zuroff, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals