



RECEIVED
TOWN OF BROOKLINE
BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Mark Zuroff
2017 NOV 28

Town of Brookline Massachusetts

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

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0023
955 HAMMOND STREET
FARSHAD GHOBBEH

Petitioner, Farshad Ghobbeh, applied to the Building Commissioner for a building permit to extend the first level and construct a second story addition at 955 Hammond Street. 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 November 9, 2017 at 7:10 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for appeal. Notice of the hearing was mailed to the Petitioners, to their attorney 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 October 26, 2017 and November 2, 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:

955 HAMMOND STREET, BROOKLINE, MA 02467 - INTERIOR RENOVATION, EXENSION OF FIRST LEVEL AND ADDITION OF SECOND LEVEL in a(n) S-15 SINGLE-FAMILY on 11/09/2017 at 7:10 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: DELANY TRS, ELIAS S & TUBMAN, ALAN) 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:

§5.09.2.J – DESIGN REVIEW

§5.22.3.B.1.B – EXCEPTIONS TO FLOOR AREA RATIO (FAR) FOR RESIDENTIAL UNITS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.70 - REAR YARD REQUIREMENTS

§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
Mark Zuroff*

Publish: 10/26/2017 & 11/02/2017

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller, and Board Members Chris Hussey and Kate Poverman. The case was presented by Attorney Mehdi Rahmani, 800 Boylston Street, Suite 1600, Boston,

Massachusetts, 02199. Also in attendance was the Petitioner, Farshad Ghobbeh. Chairman Jesse Geller called the case forward at approximately 7:10 p.m.

Mr. Rahmani stated that the single family home at 955 Hammond Street is in an S-15 zoning district and noted that the closest homes are ranch style dwellings on large lots. Mr. Rahmani further stated that the Petitioner would like to construct two additions: one at the rear above the existing first floor and the second a one story addition on the south side of the property.

Mr. Rahmani noted that the Petitioner is seeking relief under Section 5.22.3.b.1.b of the Zoning By-Law and argued that the Section allows an increase of floor area ratio (FAR) up to 120% by special permit. Mr. Rahmani stated that the proposal will bring the FAR to 120% and therefore meets the threshold for this Section.

Mr. Rahmani stated the Petitioner also needs relief from the provisions of Section 5.70 of the Zoning By-Law. He noted that while this is a preexisting nonconforming condition, since the rear yard setback is currently approximately 33 feet away from the rear property line, the second story addition extends this condition, but does not encroach further into the rear yard setback. Mr. Rahmani argued that relief is available under Section 5.43 the Zoning By-Law. He continued that in order for the Board to grant relief under this Section, a counterbalancing amenity must be provided and stated that the Petitioner will provide landscaping to fulfill this requirement.

Mr. Rahmani reviewed the Petitioner's efforts to communicate with the abutters to the property stating that they have verbally communicated and reviewed the proposed plans with the south side property owner, Mr. Eli Delaney, who had no objections; that the property to the

north is currently on the market; and the nearby condominium units were duly notified of the Petitioner's request for relief and have not submitted any objections.

Mr. Rahmani stated that the Planning Board was in support of the project and found that it met the conditions under design review. He noted that the Planning Board added a condition requiring a drainage plan and, in response, the Petitioner engaged an engineer who has already completed the work.

Finally, Mr. Rahmani stated that the proposal meets the requirements listed under **Section 9.05** and requested the Board grant the relief as requested.

Zoning Board of Appeals Chairman Geller asked if anyone wished to speak in favor of the application. No one spoke in favor of the proposal. Mr. Geller 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.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:

- a. **Preservation of Trees and Landscape** – The proposal does not require the removal of any trees or substantial landscaping. The new second story addition will be built over the existing first story and the first floor addition will be constructed in an existing yard area.
- b. **Relation of Buildings to Environment** – The proposed addition is not expected to have shadow impacts on neighboring properties due to the substantial setbacks and substantial wooded buffer areas.
- 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. Although many homes on the street are one-story, numerous homes have had a full or partial second floor added. The neighborhood has a wide variety of home types.

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

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.25 (100%)	.16 (64%)	.30 (120%)	Special Permit*
Floor Area (s.f.)	3,777	2,377	4,494	

**Under Section 5.22.3.b.1.b, the Board of Appeals may grant a special permit for an addition totaling less than 120% of allowable gross floor area.*

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.70 – Rear Yard Requirements

Dimensional Requirements	Required	Existing	Proposed	Relief Required
Rear Yard Setback	40 feet	33 feet	33 feet	Special Permit*

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

Ms. Clark stated that the Planning Board supports this proposal for two additions, one extending the first floor and one adding a partial second story addition. She continued that the second story addition is proportional to the home and designed attractively. Ms. Clark noted that although many homes on the street are single-story, there are also homes with second-story additions; and the addition will be built in the very large side yard where there is ample space. She continued that the home has relatively few abutters due to the configuration of nearby lots and the Town-owned property across the street, so the design of this building will not have a significant impact on the surrounding design fabric. Additionally, Ms. Clark noted that the

abutting lots are shielded by dense woods; the structure will not be out of character with the neighborhood and remains within the allowable 120% FAR for its lot size.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the site plan dated 6/7/2017 by George Edward Smith and the floor plans and elevations dated 6/2/2017 by Jay C.

Walter, 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 with all materials noted, 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, fencing and grading 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 a Stormwater management and drainage plan showing the parking area and driveway subject to the review and approval of the Director of Engineering and Transportation.
4. 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.

The Chairman then called upon Ms. Clark to deliver the comments of the Building Department. Ms. Clark stated that the Building Department has no objection to this request and should the Board find the proposal meets the requirements for the grant of relief, it will work with the Petitioner to ensure compliance.

The Board deliberated on the merits of the proposal. Board Members Poverman and Hussey were both in support of granting the requested relief. Chairman Geller stated that the proposal meets the requirements under design review as well as Sections 5.22.3.b.1.b, 5.43, since the

Petitioner is providing landscaping as a counter balancing amenity and Section 9.05 of the Zoning By-Law.

The Board then determined, by unanimous vote that the requirements for relief by special permit from the application of the provisions of Sections 5.20, and 5.70 of the Zoning By-Law pursuant to Sections 5.22.3.b.1.b, 5.43, 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:

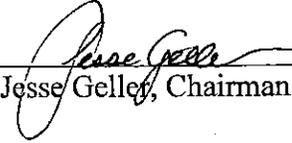
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the 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 conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations with all materials noted, 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, fencing and grading plan evidencing 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 a Stormwater management and drainage plan showing the parking area and driveway subject to the review and approval of the Director of Engineering and Transportation.
4. 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.

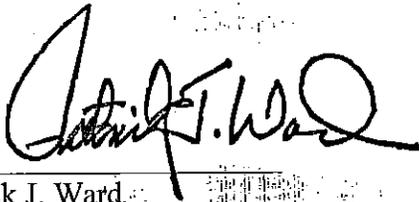
Unanimous Decision of
The Board of Appeals



Jesse Geller, Chairman

Filing Date: 11-28-2017

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals