



**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Jonathan Book  
Christopher Hussey

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# *Town of Brookline*

## *Massachusetts*

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2017-0022  
DIMITRIS GEORGAKOPOLOUS  
154 RAWSON ROAD, BROOKLINE, MA

Petitioner, Dimitris Georgakopolous, applied to the Building Commissioner for permission to construct a new entry/ foyer and garage, finish basement, and add two mechanical rooms. 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 December 7, 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 November 23, 2017 and November 30, 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:

**154 RAWSON ROAD, BROOKLINE, MA 02445 - New Entry/Foyer, a new Bedroom at the Lower Level 2, a new Stair connecting Lower Level 2 to Basement/Garden Level 1, completion of unfinished Basement, and two new Mechanical Rooms. in a(n) SC-10 SINGLE-FAMILY & CONVERTED FOR TWO-FAMILY on 12/07/2017 at 7:05 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: Kiko Thébaud) Precinct 12**

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:

**§5.20 - FLOOR AREA RATIO**

**§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS**

**§5.50 - FRONT 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](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  
Mark Zuroff*

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Mark Zuroff and Board Members Christopher Hussey and Lark Palermo. Also present at the hearing was Zoning Coordinator, Ashley Clark.

with the change. Attorney Allen stated that he met with members of the Planning Department, and he opined the change is significant enough to require additional approval.

Attorney Allen reviewed the specific relief sought. He indicated that relief is requested from Section 5.20 for the FAR, Sections 5.43 and 5.50 for setback and front yard regulations, Section 6.04.14 for design of off street parking facilities, and from Section 8.02.2, for alteration of a pre-existing non-conforming structure.

Attorney Allen then described relief under the Deadrick line of cases for Section 5.20 and Section 6.04.14. He reasoned that under the Deadrick line of cases, the Board may allow the extension of an existing non-conformity if it finds there is no substantial detriment to the neighborhood. Attorney Allen stated that the home's existing FAR is already 0.4, when 0.35 is the maximum allowed. He stated that the proposed FAR was 0.52 with the minor change presented to the Board. Thus, Attorney Allen stated that the proposal would increase the FAR nonconformity and, consistent with the finding in Deadrick, would have no substantial detriment to the neighborhood. Attorney Allen further stated that the proposed stoop, which is not enclosed and does not count towards FAR, requires a special permit because of a slight intrusion into the front yard setback.

Attorney Allen further stated that the proposal would meet all of the requirements for a special permit under Section 9.05 of the Zoning By-Law stating: (1) the specific site is an appropriate location for such use because the existing single-family use will continue, and the additions and conversion of space will increase the home's livability and long-term maintenance; (2) the proposed changes to the exterior are minor, and most will not be visible from the street or from the surrounding properties due to the lot's slope and landscaping; (3) although this proposal involves a garage wider than 40% of the home's frontage, this is an existing condition with the carport, and the garage will shield any vehicles from view which will be an improvement to the streetscape. There will be no nuisance or serious hazard

to vehicles or pedestrians; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) there will be no effect on the supply of housing available for low and moderate income people.

Chairman Zuroff asked whether the homeowner would be amenable to not finish the unfinished space in the future. Attorney Allen noted that the building is in the SC-10 zoning district, allowing for the conversion to two-family and that agreeing to such would almost ensure single family use. However, Attorney Allen indicated that he does not see an issue with a condition not to finish the unfinished space in the future.

Board Member, Chris Hussey noted that two of the abutting properties had properties that were closer to the front lot line than the proposal, thus the setback is not an issue.

Chairman Zuroff asked for Attorney Allen to discuss the counterbalancing amenities necessary for a special permit under Section 5.43. Attorney Allen noted that there would be landscaping. Additionally, he argued that enclosing the carport would remove the vehicles from plain sight and thus add to the aesthetic of the neighborhood. Mr. Hussey added that the proposal would also secure the house to the hill.

Chairman Zuroff then asked whether anyone was present in favor of the proposal. No one spoke.

Chairman Zuroff then asked whether anyone was present to speak in opposition to the proposal. Mr. Bailey Silbert spoke on behalf of himself and his wife Ruth stating that the only minor concern was future expansion beyond this proposal. He remarked that he supported the Board's remarks about a condition aimed to combat further expansion of the dwelling.

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

**FINDINGS**

**Section 5.20 – Floor Area Ratio**

<b>Floor Area</b>	<b>Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Floor Area Ratio (% of allowed)</b>	.35 (100%)	.40 (114%)	<del>.50</del> .52 ( <del>142%</del> ) (150%)	<b>Special Permit*</b>
<b>Floor Area (s.f.)</b>	2,625	3,023	<del>3,781</del> 3,933	

*\* 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 5.43 – Exceptions to Yard and Setback Regulations**

**Section 5.50 – Front Yard Requirements**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief Required</b>
<b>Front Yard Setback (stoop)</b>	20 feet	20 feet	16 feet	<b>Special Permit*</b>

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

**§6.04.14 – Design of All Off-Street Parking Facilities**

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief Required</b>
<b>Garage Width (as a percentage of total front façade)</b>	< 40%	~50%	~50%	<b>Special Permit*</b>

*\* 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.*

**§8.02.2 – Alteration and Extension**

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

Ms. Clark stated that the Planning Board reviewed this proposal on October 26, 2017. The Planning Board does not oppose this proposal for various alterations at 154 Rawson. The interior renovations at the basement levels will not be visible to any abutters and will have minimal impact. The changes to the garage and front stoop are also reasonable and will shield cars that are currently parked in an open-air carport. Although the garage will exceed the allowable width, this condition already exists from the carport and there is no other feasible garage location on this property due to the unique grade. The Board would like to see a landscaping plan that provides screening for the proposed rear deck. Therefore, the Planning Board recommends approval of the site plan, floor plans and elevations by Kiko Thebauld dated 8/1/17 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 review and approval by the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan subject to 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) final floor plans and elevations stamped and signed by a registered architect; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence that the final Board of Appeals decision have been recorded at the Registry of Deeds.

Chairman Zuroff asked Ms. Clark to opine on the proposed change. Ms. Clark stated that she reviewed the plans and did not believe that the Planning Board would have any issue with the proposed change.

Chairman Zuroff then asked Ms. Clark to deliver the recommendation of the Building Department. Ms. Clark stated that the Building Department has no objection to the request for this relief. She further stated that should the Zoning Board of Appeals find that this proposal meets the criteria for a special permit, the Building Department will work with the Petitioner to ensure compliance.

During deliberations, Chairman Zuroff recommended that a condition be added to restrict the special permit to the current plan as proposed, including the additional 150 s.f. The Board and Attorney Allen discussed a lack of clarity as to whether the Board may restrict the future conversion to a two-family dwelling in an SC-10 district. Chairman Zuroff suggested that there be a proviso limiting any further expansion of the living area.

The Board then determined, by unanimous vote that the requirements for a special permit from Section 5.20, Section 5.43, Section 5.50, Section 6.04.14 and Section 8.02.2 pursuant to Section 9.05 of the Zoning By-Law were met.

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

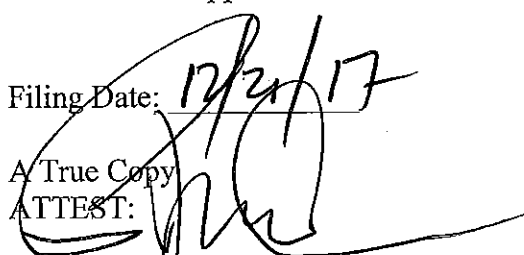
1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations, subject to review and approval by the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan subject to review and approval of the Assistant Director of Regulatory Planning.
3. There shall be no further expansion of gross floor area, unless otherwise approved by the ZBA.
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) final floor plans and elevations stamped and signed by a registered architect; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence that the final decision has been recorded at the Registry of Deeds.

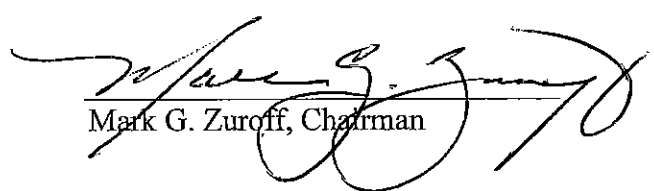
Unanimous Decision of  
The Board of Appeals

Filing Date: 12/2/17

A True Copy

ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals

  
Mark G. Zuroff, Chairman