



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Mark G. Zaroff

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0033
391 BOYLSTON STREET
STEIN ET AL MIKLOS-BLUMA-
JANET-MATTHE

Petitioner, Janet Stein, applied to the Building Commissioner for a building permit to construct a one-story addition at 391 Boylston 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 January 25, 2018 at 7:30 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 January 11, 2018 and January 18, 2018 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:

391 BOYLSTON STREET, BROOKLINE, MA 02445 - CONSTRUCT ADDITION AT REAR in a(n) T-6 TWO-FAMILY & ATTACHED SINGLE-FAMILY on 01/25/2018 at 7:30PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: Miriam Spear) *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:

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.70 - REAR YARD REQUIREMENTS

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 G. Zuroff*

Publish: 01/11/2018 & 01/18/2018

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 Johanna Schneider and Randolph Meiklejohn. The case was presented by Miriam Spear, Spear Design Group, 195 Tappan Street, Brookline, Massachusetts, 02445. Chairman Mark G. Zuroff called the case forward at approximately 7:30 p.m.

Ms. Spear stated that the single-family home at 391 Boylston Street is in a T-6 zoning district and noted that the neighborhood consists of mostly single and two-family homes in a mix of architectural styles. Ms. Spear noted that they are before the board with a proposal that will

allow the homeowners to age in place though some renovations that include a kitchen addition and a new mudroom at the front of the home.

Ms. Spear then described the zoning relief required. She stated that the project does not exceed the allowable FAR and complies with the required side and front yard setbacks. Ms. Spear further stated that the Petitioner is seeking relief from the provisions of **Section 5.70** of the Zoning By-Law for their rear yard setback. She noted a 30-foot rear yard setback is required and the proposed addition is 23½ feet from the rear property line. Ms. Spear argued that relief is available under **Section 5.43** of the Zoning By-Law, if counter balancing amenities are provided. She stated that the Petitioner is proposing an onsite dry well and connecting the new addition's downspouts into it, to ameliorate concerns expressed by a direct abutter.

Ms. Spear stated that the Planning Board reviewed the proposal on December 7, 2017 and received unanimous support.

Finally, Ms. Spear stated that the proposal meets the requirements listed under **Section 9.05** of the Zoning By-Law and requested the Board grant the relief as requested.

Zoning Board of Appeals 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 5.09.2.a – Design Review: Any structure on a lot which fronts on Boylston Street 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 addition will be built partially within an existing bump out in the rear.

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

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.

**Note: Under Section 5.09.2, exterior alterations, exterior additions and exterior changes ... to residential uses permitted by right in S, SC and T districts ... shall be exempt from the requirements of this section.*

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	30 feet	32.7 feet	23.6 feet	Special Permit*

** 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 for a rear one-story addition. She noted that the size is allowable by-right and the relief required at the rear is minimal and the addition is a far distance from the street. Ms. Clark further stated that the addition will allow the applicant’s elderly mother to age in place and has received letters of support from neighbors.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the site plan dated 11/2/2017 by Bruce Bradford the floor plans and elevations dated 10/30/2017 by Spear Design Group, 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 in PDF format, 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, 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.

Ms. Clark recommended an amendment to condition number two to state: "Prior to the issuance of a building permit, the applicant shall submit a final site and landscaping plan indicating all counterbalancing amenities, including appropriate drainage improvements to capture water runoff flowing to the rear of the property, subject to the review and approval of the Assistant Director of Regulatory Planning, after notification of the rear abutters at 69 Brington Road."

The Chairman then called upon Mike Yanovitch, Deputy Building Commissioner to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to this request and noted that they met the previous week discussed an unsafe and dangerous retaining wall that will require an enforcement action. Mr. Yanovitch therefore stated that should the Board find the proposal meets the requirements for the grant of relief, it will work with the Petitioner to ensure compliance.

Upon inquiry from Board Member Meiklejohn, Mr. Yanovitch stated that the Building Department will work with the Engineering Department to ensure the drainage plan is appropriate. Mr. Yanovitch stated that the Building Department will not issue a building permit

until the Engineering Department approves the drainage plan. Mr. Yanovitch clarified that this project does not trigger land disturbance regulations.

The Board deliberated on the merits of the proposal. Chairman Zuroff felt that, subject to the amended conditions, the project is worthy of the requested relief. Mr. Zuroff stated that the drainage plan will improve the current water runoff concerns and serves as an appropriate counter balancing amenity. Board Members Schneider and Meiklejohn concurred.

The Board then determined, by unanimous vote that the requirements for relief by special permit from the application of the provisions of 5.70 of the Zoning By-Law pursuant to Sections 5.09.2.a, 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 amended conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations in PDF format, 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 site and landscaping plan indicating all counterbalancing amenities, including appropriate drainage improvements to capture water runoff flowing to the rear of the property, subject to the review and approval of the Department of Engineering, after notification of the rear abutters at 69 Brington Road.

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.

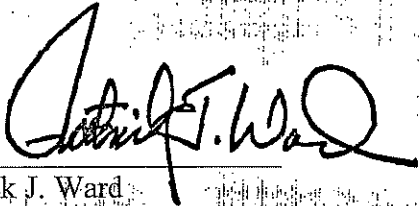
Unanimous Decision of
The Board of Appeals

Filing Date: 2/23/2018



Mark G. Zuroff, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals