



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zurloff
Christopher Hussey

Town Hall, 1st 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. 2017-000050
HADAR BENJAMIN A
ANTEBI-HADAR RONIT
287 MASON TERRACE,
BROOKLINE, MA

Petitioner, Ben Hadar, applied to the Building Commissioner for permission to modify front dormer and add rear dormer and raise ridge of attic. 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 March 1, 2018 at 7:10p.m., in the Select Board'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 February 15, 2018 and February 22, 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:

287 MASON TERRACE, BROOKLINE, MA 02446 - Construct new front and rear dormers and raise ridge of existing unfinished attic. Provide new stair from 2nd floor and finish attic. in a(n) S-7 SINGLE-FAMILY on 03/01/2018 at 7:10 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: andrew falkenstein) Precinct

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

§5.50 - 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.

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*

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Johanna Schneider and Board Members Mark Zuroff and Lark Palermo.

The case was presented by Andrew Falkenstein, 7 Kent Street #4, Brookline, Massachusetts 02445. Also in attendance were the homeowners Daniel Paisner and Nancy Medoff.

Chairman Schneider called the hearing to order at approximately 7:10 p.m. Mr. Falkenstein waived the reading of the public notice.

Mr. Falkenstein presented to the Board a background of the Petitioners' proposal and described the surrounding neighborhood. Mr. Falkenstein stated that 287 Mason Terrace is a two-story, single-family brick house built with four bedrooms and a finished basement. He noted that the neighborhood consists of single-family homes, many of which are similar brick styles, on uniform-sized lots.

Mr. Falkenstein then described the Petitioner's proposal to finish the existing attic by raising the ridge of the roof, raising the front dormer and adding a rear dormer. He noted that the proposal will add 720 square feet of living space and increase the existing ridge from 28.5 feet to 30.5 feet. Mr. Falkenstein stated that the Petitioner seeks a special permit for relief from Sections 5.09.2.j for design review for the increase in FAR under Section 5.22.3.b.1.b. He stated that the Board may grant special permit relief for FAR up to 120% under this section and the proposal meets this standard at an FAR of 0.42. Additionally, Mr. Falkenstein added, the Petitioner seeks special permit relief from the provisions of Section 5.50 under Section 5.43 for a pre-existing nonconforming front yard setback that will now be more conforming, and from Section 8.02.2 pursuant to Section 9.05 to alter or extend a nonconforming use or structure. Mr. Falkenstein noted that counterbalancing amenities will be provided to fulfil the standards set forth in Section 5.43.

Zoning Board of Appeals Chairman Schneider asked if anyone wished to speak in favor or 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 change the footprint of the existing building and will not have any significant impact on trees or landscaping.
- b. **Relation of Buildings to Environment** – The change in roof height of two feet is not expected to create shadows on neighboring homes.
- 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 most homes on the street are two stories, some homes have finished attics. Due to the topography of Mason Terrace, the homes across the street are at a significantly higher elevation which lessens the impact of the added height.

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

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.35 (100%)	.34 (99%)	.42 (120%)	Special Permit*
Floor Area (s.f.)	3,595	3,552	4,272	

** Under Section 5.22.3.b.1.b, the Board of Appeals may allow a maximum gross floor area greater than 120% of the permitted gross floor area in S or SC districts.*

Section 5.43 – Exceptions to Yard and Setback Requirements

Section 5.50 – Front Yard Requirements

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
Front Yard Setback (Dormer)	20 feet	9.9 feet	9.9 feet	Special Permit*/ Variance

**Sec. 5.43 - The dwelling has a pre-existing non-conforming front setback that is not being altered with this proposal. Setback relief is required due to the work that is being performed on the existing non-conforming dwelling.*

Section 8.02.2 – Alteration or Extension

A special permit is required for alterations to a non-conforming structure.

Ms. Clark stated that the Planning Board believes that this proposal, although changing the shape of the roof, will not negatively affect the appearance of this single-family house. She noted that the front dormer and ridge will be raised minimally to accommodate the head height needed in the attic and the new dormer at the rear will not be obtrusive because of the distance of this home to the rear abutter and the existing trees between the homes. Further, Ms. Clark stated, although there do not appear to be a large number of homes on Mason Terrace with finished third stories, roof heights do vary in the neighborhood and the homes on the opposite side of the street sit much higher than those on the side with 287 Mason Terrace, which will mitigate any added height on this home.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the plot plan, dated 9/13/2009, and the floor plans and elevations by Concise Design, dated 11/21/2017, 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 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 indicating all counterbalancing amenities, subject to review and approval by the Assistant Director for 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 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.

Deputy Building Commissioner Michael Yanovitch delivered the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the requested relief.

Therefore, Mr. Yanovitch stated, 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 deliberated on the merits of the proposal. Board Members Zuroff and Palermo were in support of granting the relief as requested. Chairman Schneider stated that she thinks the proposal meets the requirements for the requested relief by special permit and was in favor of granting the relief.

The Board then determined, by unanimous vote that the requirements for relief by special permit from the provisions of Section 5.20 pursuant to Sections 5.09.2.j and 5.22.3.b1.b from the application of the provisions of Section 5.50, 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 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 final landscaping plan indicating all counterbalancing amenities, subject to review and approval by the Assistant Director for Regulatory Planning.

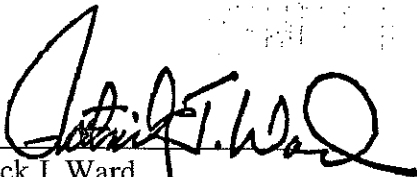
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Unanimous Decision of
The Board of Appeals

Filing Date: 3/22/2018


Johanna Schneider, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals