



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Christopher Hussey

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

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2018 APR 23 P 2:55

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-000018
GHELANI SUNIL J
KWATRA NEHA S
1 WELLINGTON TERRACE,
BROOKLINE, MA

Petitioners, Sunil Ghelani and Neha Kwatra, applied to the Building Commissioner for permission to construct two additions, one on each side of dwelling. 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 8, 2018 at 7:00 PM., 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 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 January 18, 2018 and January 25, 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:

1 WELLINGTON TERRACE, BROOKLINE, MA 02445 - The new owners of this single family residence, Sunil Ghelani and Neha Kwatra, would like to undertake renovation of this home including additions to two sides of the existing structure. in a(n) T-5 TWO-FAMILY & ATTACHED SINGLE-FAMILY on 03/01/2018 at 7:15PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: Sunil Ghelani) Precinct 5

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

§5.50 - 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*

Publish: 02/15/2018 & 02/22/2018

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Chris Hussey. Also present was Sunil Ghelani who requested to continue the hearing to March 15, 2018. Mr. Ghelani stated that the Planning Board was not able to review their

proposal to construct two additions due to a quorum issue. Mr. Hussey voted in favor of continuing the hearing to March 15, 2018 at 7:00 p.m.

On March 15, 2018 at 7:00 p.m. the Zoning Board of Appeals held a public hearing. Present at the hearing was Chairman Jesse Geller and Board Members Chris Hussey and Mark Zuroff. Also present at the hearing were Zoning Coordinator and Planner, Ashley Clark and Deputy Building Commissioner, Michael Yanovitch.

The case was presented by the homeowner, Sunil Ghelani.

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

Mr. Ghelani stated that 1 Wellington Terrace is located in a T-5 zoning district. Mr. Ghelani further stated the Petitioners are seeking to construct two additions on either side of the home.

Mr. Ghelani then stated that the Petitioners seek a special permit for relief from **Section 5.50** under **Section 5.43** for a pre-existing nonconforming front yard setback that will now be increased, and from **Section 8.02.2** pursuant to **Section 9.05** to alter or extend a nonconforming use or structure. He noted that relief under **Section 5.43** is appropriate because the Petitioner is proposing to install landscaping as the required counterbalancing amenity. Mr. Ghelani further noted that after hearing from the abutters, the Petitioners have amended their landscaping plan to remove a proposed retaining wall that raised concerns over protecting an existing tree. Mr. Ghelani submitted three letters of support from abutters and neighbors and noted that the Planning Board voted unanimously to favorably recommend the proposal on March 8, 2018. Therefore, Mr. Ghelani asked the Board to grant the requested relief.

Chairman Geller asked whether anyone was present to speak in favor of the proposal. No one spoke in favor of the proposal.

Chairman Geller asked whether anyone was present to speak in opposition to the proposal. No

one spoke in opposition to the proposal.

Chairman Geller called upon Ashley Clark, Zoning Coordinator and Planner, to deliver the findings of the Planning Board. Ms. Clark noted the following:

FINDINGS

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 (from Wellington)	15 feet	Varies from 11.5' to 33'	Varies from 8.7' to 40'	Special Permit*/Variance

**Sec. 5.43 – If counterbalancing amenities are provided, the Board of Appeals may waive the required setback by special permit.*

Section 8.02.2 – Alteration or Extension

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

STAFF ANALYSIS

The Planning Department staff believes that it is appropriate to grant front yard relief to allow the renovation and expansion of this single family house, which is currently too small for family living. The other homes on Wellington Terrace are of a much larger size. Counterbalancing amenities being provided include repairing the retaining wall on Cypress Street, repairing or replacing the Wellington Terrace sidewalk abutting the property, providing an enclosed parking space and bringing the building code up to current standards for egress.

Ms. Clark stated that the Planning Board was in favor of this proposal and felt that the proposed additions are appropriate and well designed and will be positive improvements to this mid-century modern home. She noted that the Board was able to address concerns raised by an immediate abutter regarding a proposed fence near their shared property line as the landscape architect will remove the portion of the fence closest to the neighbor. Finally, she noted that the Board included a condition that the applicant will provide a construction management plan indicating how they will protect a significant tree on the neighbor's property.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the site plan, by EMB, dated 4/14/2005, the floor plans and elevations by Hamlin & Co, Inc., dated 12/18/2017 and the landscape plan by Verdant Landscape Architects dated 3/2018, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans and elevations subject to the review and approval of the Assistant Director for Regulatory Planning and the Preservation Commission.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan showing landscaping, fencing and repairs to the retaining wall on Cypress Street and the sidewalk on Wellington Terrace abutting the property, 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 a construction management plan showing protection for the tree on the abutting property at 3 Wellington Terrace.
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 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.

Chairman Geller then called upon Michael Yanovitch, Deputy Building Commissioner, to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no opposition to this request. Mr. Yanovitch concluded that should relief be granted, the Building Department will work with the Petitioner to ensure compliance with the Building Code.

The Board then deliberated on the merits of the requested relief. Chairman Geller stated that the requirements would be met under **Section 5.43** based on installation of the proposed landscaping as a counterbalancing amenity. Mr. Geller then discussed the recommended conditions from the Planning Board report. Mr. Geller stated that he did not feel a construction management plan would be appropriate given the scale and residential nature of the proposal. He therefore recommended revised language to proposed condition number two incorporating a tree protection plan and deleting condition

number three. Mr. Geller stated that this would satisfy the concern condition number three seeks to address. Board Members Hussey and Zuroff were amenable to Mr. Geller's proposed revision.

The Board then determined, by unanimous vote that the requirements for a special permit from Section 5.50, and Section 8.02.2, pursuant to Section 5.43 and Section 9.05 of the Zoning By-Law, respectively, were met finding specifically under said Section 9.05:

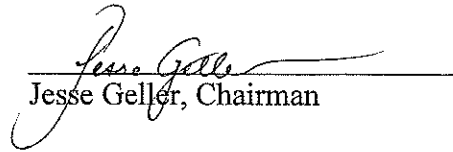
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

1. Prior to the issuance of a building permit, the applicant shall submit final floor plans and elevations subject to the review and approval of the Assistant Director for Regulatory Planning and the Preservation Commission.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan showing all counterbalancing amenities, including, landscaping, fencing and repairs to the retaining wall on Cypress Street and the sidewalk on Wellington Terrace abutting the property, and a tree protection plan evidencing plans to protect the at-risk tree on the abutting property at 3 Wellington Circle, all 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.

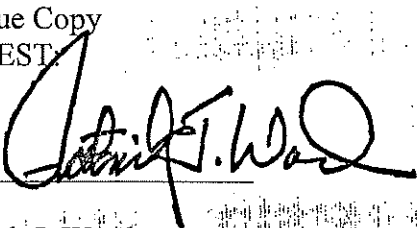
Unanimous Decision of
The Board of Appeals

Filing Date: 4/23/2018



Jesse Geller, Chairman

A True Copy
ATTEST



Patrick J. Ward
Clerk, Board of Appeals