



# Town of Brookline Massachusetts

BOARD OF APPEALS  
Jesse Geller, Chairman  
Mark Zuroff  
Christopher Hussey

Town Hall, 1<sup>st</sup> 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. 2018-0009  
PREBLE JAQUES & JESSICA SHATTUCK  
94 WALNUT PLACE, BROOKLINE, MA

Petitioners, Preble Jaques and Jessica Shattuck, applied to the Building Commissioner for permission to construct an addition and enclose the front porch of an existing single-family 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 April 12, 2018 at 7:10 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 March 29, 2018 and April 5, 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:

**94 WALNUT PLACE, BROOKLINE, MA 02445 - Construct an addition and enclose the front porch of an existing single-family dwelling for an additional 1,470 s.f. in a(n) S-10 SINGLE-FAMILY on 04/12/2018 at 7:10 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: ALLEN ROBERT JR) 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**

**§5.70 - 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](http://www.brooklinema.gov).*

*The Town of Brookline does not discriminate in its programs or activities on the basis of disability or handicap or any other characteristic protected under applicable federal, state or local law. Individuals who are in need of auxiliary aids for effective communication in Town programs or activities may make their needs known by contacting the Town's ADA Compliance Officer. Assistive Listening Devices are available at the Public Safety Building for public use at Town of Brookline meetings and events. Those who need effective communication services should dial 711 and ask the operator to dial the Town's ADA Compliance Officer.*

*If you have any questions regarding this Notice or the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at [chaynes@brooklinema.gov](mailto:chaynes@brooklinema.gov).*

*Jesse Geller, Chair  
Christopher Hussey  
Mark Zuroff*

**Publish: 03/29/2018 & 04/05/2018**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Jesse Geller and Board Members Kate Poverman and Randolph Meiklejohn. Also present at the hearing was Planner, Karen Martin.

The case was presented by Robert L. Allen, Jr., Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was the architect for the project, Claudia Noury-Ello.

Chairman Geller called the hearing to order at 7:10 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioner proposes to construct a two story addition on the side of the house and to enclose a front landing. Attorney Allen explained that the proposal would add 1,318 s.f. He added that the addition would not present an FAR issue as the proposed FAR would be 0.275, below the allowed 0.3. He continued that the addition will be connected to the right side/ southeast corner of the existing home and extend to the rear yard. Furthermore, Attorney Allen noted that both the Planning Board and the Preservation Commission approved these plans.

Attorney Allen then stated that the Petitioner seeks a special permit for relief from Section 5.70 for rear yard setback under Section 5.43 and from Section 8.02.2 pursuant to Section 9.05 to alter or extend a nonconforming use or structure.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the use proposed expansion of the home, which will continue to be used as a single-family dwelling; the addition is in proportion to the original home and has an attractive modern design; the use will not adversely affect the neighborhood because the home will continue to be used as a single-family dwelling, which is consistent with the surrounding neighborhood; the home will remain within the allowed FAR, and the addition all be screened from its closest abutters with landscaping; there will be no nuisance or serious hazard to vehicles or pedestrians because the property's on-site circulation will not change; adequate and appropriate facilities will be provided for the proper operation

of a single-family dwelling; and there will be no effect on the supply on housing available for low and moderate income people. With respect to Section 5.70, Attorney Allen noted that the proposed setback is 17 feet, which is less than the required 30 feet. Attorney Allen added that due to the change in topography, the impact on the abutters should be minimal. He continued noting that the counterbalancing amenity would be landscaping. There would also be engineering approval required for the storm water drainage. Attorney Allen agreed that the Petitioner would communicate and consult with the owners of the abutting properties most impacted, 94 Walnut Place and 100 Walnut Place, regarding landscaping and storm water management.

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

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

Chairman Geller then called upon Karen Martin, Planner, to deliver the findings of the Planning Board. Ms. Martin noted the following:

## FINDINGS

### Section 5.43 – Exceptions to Yard and Setback Requirements

#### Section 5.70 – Rear Yard Requirements

<b>Dimensional Requirements</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Rear Yard Setback</b>	30 feet	30.6 feet	17 feet	Special Permit*/ Variance

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

The counter balancing amenity will be landscaping.

#### Section 8.02.2 – Alteration or Extension

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

### **STAFF ANALYSIS**

The Planning Staff is supportive of this proposal for a two-story addition. Since the house is at the end of a private cul-de-sac and the location of the addition is at the far side of the house, it will be well-shielded from Walnut Place abutters. The added floor area for the addition is within the allowable FAR for the lot. The Preservation Commission generally felt positive about the design of the addition, and the Planning Staff especially liked the applicant's use of modern materials. Additional landscaping should be added at the side and rear property line to screen the addition from abutters whose lots back up to the property, and this will also serve as a counterbalancing amenity for the rear yard setback deficiency.

### **PLANNING BOARD RECOMMENDATION**

The Planning Board was very supportive of this proposal. The Board was enthusiastic about this modern design for the addition to this historic house. One recommendation the Board gave is to raise the height of the connector piece to match up with the panel between the first and second floors of the main house because it feels too squat. The Board also asked for improved graphics.

**Therefore, the Staff recommends approval of the site plan by Joseph Small, dated 12/15/2017, the floor plans and elevations by Noury-Ello Architects, Inc., dated 2/2/2018, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, final floor plans and elevations subject to the review and approval of the Assistant Director of Regulatory Planning and the Preservation Commission.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan, subject to review and approval by 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 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 Karen Martin to deliver the comments of the Building Department. Ms. Martin stated that the Building Department has no opposition to this request and, should relief be granted, the Building Department will work with the Petitioner to ensure compliance with the Building Code.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for a special permit from **Section 5.70** for rear yard setback under **Section 5.43** and from

Section 8.02.2 pursuant to Section 9.05 of the Zoning By-Law, respectively, were met, finding specifically under said Section 9.05:

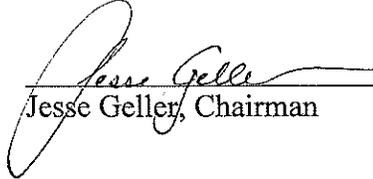
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

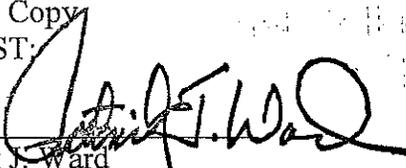
1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, final floor plans and elevations subject to the review and approval of the Assistant Director of Regulatory Planning and the Preservation Commission.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, subject to review and approval by the Assistant Director 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 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: 5/4/2018

  
\_\_\_\_\_  
Jesse Geller, Chairman

A True Copy  
ATTEST:

  
\_\_\_\_\_  
Patrick J. Ward  
Clerk, Board of Appeals