



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Mark Zuroff

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

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2018 MAY 25 A 11:08

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0018
40 ABBOTTSFORD ROAD
HELLER NANCY S

Petitioner, Nancy Heller, applied to the Building Commissioner for a building permit to enclose an existing covered porch to create a mudroom and entry at the rear at 40 Abbottsford Road. 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 26, 2018 at 7:00 p.m., in the Select Board'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 April 12, 2018 and April 19, 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:

40 ABBOTTSFORD ROAD, BROOKLINE, MA 02446 - Add a mudroom at the rear of the house in place of an existing deck in a(n) T-5 TWO-FAMILY & ATTACHED SINGLE-FAMILY on 04/26/2018 at 7:00 PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Philip Kramer) Precinct 8

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

§5.60 - SIDE 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 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.

*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 Chris Hussey and Kate Poverman. The case was presented by the Petitioner's architect, Philip Kramer, 84 Davis Avenue, Brookline, Massachusetts. Chairman Johanna Schneider called forward ZBA case #2018-0013 at approximately 7:00 p.m.

Mr. Kramer waived a reading of the published notice and presented the case for 40 Abbottsford Road. He stated that the single-family home is in a T-5 zoning district. He noted that the surrounding neighborhood is comprised of detached single- family homes.

Mr. Kramer then described the proposal to create a mudroom to provide space for a coat closet and to accommodate the boots and coats of Ms. Heller's grandchildren when they come to visit. He noted that the proposal is designed for the easy addition of a ramp to make the home adaptable so that it is "age in place" friendly.

Mr. Kramer then described the zoning relief required for the proposal. He stated that the proposal needs relief from the provisions of Sections 5.60 of the Zoning By-Law for side yard requirements. He then argued that relief for the setbacks is warranted under Section 5.43 of the Zoning By-Law because the Petitioner will provide a counterbalancing amenity. He noted that Ms. Heller is offering to improve an existing chain-link fence and add landscaping.

Mr. Kramer reviewed the Petitioners' efforts to communicate with the abutters to the property stating that spoken with the direct abutter at the rear. He noted that letters of support were submitted.

Mr. Kramer stated that the Planning Board reviewed the proposal and were in support. He then described the standards under Section 9.05 of the Zoning By-Law and stated that the proposal will have no adverse impact on the neighborhood.

Upon inquiry from Board Member Hussey, Mr. Kramer reviewed the portion of the deck that currently exists and what is being added as part of this proposal. Upon inquiry from Chairman Schneider, Mr. Kramer stated that the porch on the second floor is not under review for this proposal. He noted that it was a former sleeping porch that was enclosed decades ago.

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

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

Ashley Clark, Planner and Zoning Coordinator for the Town of Brookline, delivered the findings of the Planning Board:

FINDINGS

Section 5.34 – Exception to Yard and Setback Regulation

Section 5.60 – Side Yard Requirements

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
Side Yard Setback	7.5 feet	5.1 feet	5.1 to 6 feet	Special Permit*/ Variance

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

Section 8.02.2 – Alteration and Extension

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

STAFF ANALYSIS

The Planning staff is supportive of this proposal. It is small in scale and will not add a substantial amount of square footage to the existing home. The enclosure will have the same footprint as an existing covered porch and therefore will not increase any impacts on abutters. The staff believes the design of the mudroom will fit in with the existing house.

Ms. Clark stated that the Planning Board had no concerns about this small proposal. The Board asked the applicant what type of counterbalancing they plan to install and the applicant responded that they will install vines on the existing chain link fence.

Therefore, Ms. Clark stated, the Planning staff recommends approval of the site plan by Dennis O'Brien dated 1/4/2018 and the floor plans and elevations by Philip Kramer dated 1/18/18 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 including 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) 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.

The Chairman then called upon Ms. Clark to deliver the comments of the Building Department. Ms. Clark stated that the Building Department has no objection to this request and should the Board find the proposal meets the requirements for the grant of relief, it will work with the Petitioner to ensure compliance with the Building Code.

The Zoning Board of Appeals, having heard all the testimony, deliberated on the merits of the application. Board Members Poverman and Hussey were both in support of granting the requested relief. Chairman Schneider stated that the proposal meets the requirements for the requested relief since the Petitioner is providing landscaping as a counter balancing amenity and Section 9.05 of the Zoning By-Law.

The Board then determined, by unanimous vote that the requirements for relief by special permit from the application of the provisions of Sections 5.60, of the Zoning By-Law pursuant to

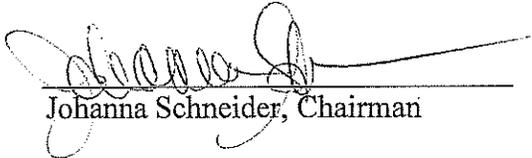
5.43, 8.02.2 and 9.05 of the Zoning By-Law as requested by the Petitioners were met. The Board made the following specific findings pursuant to said Section 9.05:

- 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 amended conditions:

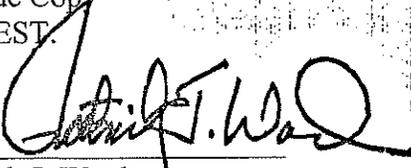
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Unanimous Decision of
The Board of Appeals


Johanna Schneider, Chairman

Filing Date: 5/25/2018

A True Copy
ATTEST.


Patrick J. Ward
Clerk, Board of Appeals