



# *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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2018 MAY 15 A 8:38

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2018-000012  
MITTLEMAN, PATSY & MURRAY  
217 SOUTH STREET,  
CHESTNUT HILL, MA

Petitioners, Patsy and Murray Mittleman, applied to the Building Commissioner for permission to demolish a three season porch and build a rear addition. 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 7:00 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 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:

**217 SOUTH STREET, BROOKLINE, MA 02467 - Demo existing three season porch and building rear addition in a(n) S-7 SINGLE-FAMILY on 04/12/2018 at 7:00 PM in the 6th Floor Select Board Hearing Room (Petitioner/Owner: Marco Breda) Precinct 16**

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:

**§5.20 - FLOOR AREA RATIO**

**§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](http://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](mailto:llgellineau@brooklinema.gov)*

*Jesse Geller, Chair  
Christopher Hussey  
Mark Zuroff*

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

On April 12, 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 Kate Poverman and Randolph Meiklejohn. Also present at the hearing was Planner Karen Martin.

The case was presented by the homeowner, Patsy Mittleman.

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

Ms. Mittleman stated that her family has lived in Brookline for 29 years and has lived in this

house for 19 years. She and her husband have 2 adult daughters who live with them and who attended Brookline schools. They live in an S-7 district in a neighborhood with small homes on small lots. She stated that their home is a 1940s central entrance colonial. Ms. Mittleman described their proposal to remove the existing three-season rear porch which is currently 9 feet by 13 feet and replace it with a new addition that will be 9 feet by 21.5 feet. This will allow them to bump out the kitchen and add a mud room next to the kitchen. The applicants also propose a deck at the rear. Ms. Mittleman stated that 118 square feet will be removed and 193 square feet will be added for a net gain of 75 square feet. The purpose of the proposal is to create better usability of their house.

Ms. Mittleman then stated that the Petitioners seek a special permit for relief for FAR under **Section 5.22.3.b.1.b.** The existing square footage is 2,724 and will increase to 2,799 square feet and the FAR will increase from .38 to .39 resulting in 111% of total allowable FAR. Ms. Mittleman stated that she has spoken to all of her neighbors including those at the rear, sides and across the street and has eleven letters of support. Ms. Mittleman added that the Planning Board voted unanimously to favorably recommend the proposal on March 22, 2018. Therefore, Ms. Mittleman stated, she requests the Board grant the requested relief under **Section 9.05** because the proposal meets all the criteria for a special permit.

Ms. Poverman asked Ms. Mittleman to clarify the differences between the numbers on the site plan and the architectural plans. Ms. Martin clarified that the numbers on the site plan show total lot coverage which includes the garage and is therefore higher than the FAR numbers shown on the architectural plans.

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 5.22.3.b.1.b – Floor Area Ratio**

<b>Floor Area</b>	<b>Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Floor Area Ratio (% of allowed)</b>	.35 (100%)	.38 (109%)	.39 (111%)	Special Permit
<b>Floor Area (s.f.)</b>	2,504	2,724	2,799	

*\*Under Section 5.22.3.b.1.b, the Board of Appeals may grant a special permit for an increase in FAR of up to 120% of the allowable FAR.*

**Section 8.02.2 – Alteration and Extension**

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

**PLANNING BOARD RECOMMENDATION**

The Planning Board was supportive of this very minimal addition. The proposed addition will not extend any further into the rear yard than the existing 3-season porch and is within the required side yard setback. The net addition of 75 square feet and the overall increase in FAR is minimal. The proposed deck is also within the required setbacks and existing plantings on the property will shield the addition and deck from abutters.

Therefore, Ms. Martin stated, the Planning Board recommends approval of the site plan by Scott Cerrato dated 10/31/2017 and the floor plans and elevations by Nicholas M. Paolucci dated 9/25/17 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 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.

Ms. Martin also stated that she had spoken with Michael Yanovitch, Deputy Building Commissioner, regarding this proposal and confirmed that the Building Department had no objections.

The Board then deliberated on the merits of the requested relief. Ms. Poverman stated that the change will improve the owner's living situation and is a commendable proposal. Mr. Meiklejohn agreed and also supports the proposal. Mr. Geller stated that he believes the proposal meets the requirements under Section 5.22.3.b.1.b and Section 9.05 of the Zoning By-Law for the reasons the applicant presented.

The Board then determined, by unanimous vote, that the requirements for a special permit from Section 5.22.3.b.1.b, and Section 8.02.2, pursuant to Section 9.05 of the Zoning By-Law, respectively, were met finding specifically under said Section 9.05:

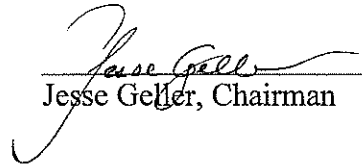
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

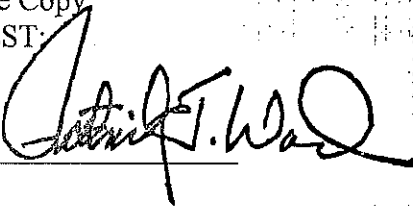
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Unanimous Decision of  
The Board of Appeals

Filing Date: 5/15/18

  
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Jesse Geller, Chairman

A True Copy  
ATTEST:

  
\_\_\_\_\_  
Patrick J. Ward

Patrick J. Ward  
Clerk, Board of Appeals