



Board of Appeals
Jesse Geller, Chairman

Town of Brookline

Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

NOTICE OF DECISION

A public hearing was held on 06/07/2018 on the appeal OF Robert L. Allen, Jr. for a variance and/or special permit at 334 KENT STREET, BROOKLINE, MA 02446 TO Construct second-floor addition where there is currently a partially covered porch for an additional 119 s.f. of floor area. Said property is located in a S-10 SINGLE-FAMILY District.

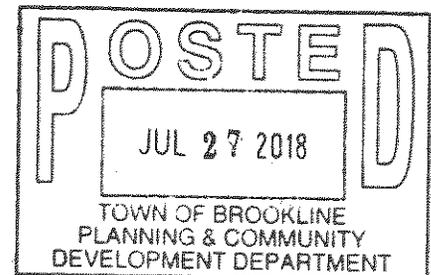
The appeal was **Approved with conditions**.

This decision of the Board of Appeals is on file in the Office of the Town Clerk and a copy is posted on the Town of Brookline's website at www.brooklinema.gov/ZBAdecisions.

Decisions of the Board of Appeals become final in twenty (20) days, after the decision has been filed with the Office of the Town Clerk, unless within that time an aggrieved person appeals to Norfolk Superior Court or Massachusetts Land Court pursuant to Massachusetts General Laws, Chapter 40A, Section 17 and so notifies the Town Clerk by serving a copy of the complaint within said twenty (20) days.

The date of filing for this decision is **07/27/2018**

For questions regarding this filing, contact the Planning Department 617-730-2130





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BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Christopher Hussey

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2018 JUL 21 10:41 AM

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-000030
BRIAN EPSTEIN & SARAH EPSTEIN
334 KENT STREET, BROOKLINE, MA

Petitioners, Brian and Sarah Epstein, applied to the Building Commissioner for permission to construct a second-floor addition where there is currently a partially covered porch for an additional 119 s.f. of floor area and to convert 61 s.f. of mechanical space in the basement to add to the existing finished basement. 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 June 7, 2018 at 7:05 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 May 24, 2018 and May 31, 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:

334 KENT STREET, BROOKLINE, MA 02446 - Construct second-floor addition where there is currently a partially covered porch for an additional 119 s.f. of floor area in a(n) S-10 SINGLE-FAMILY on 06/07/2018 at 7:05PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Robert L. Allen, Jr.) Precinct 3

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.

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*

Publish: 05/24/2018 & 05/31/2018

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 Zoning Coordinator and Planner, Ashley Clark and Deputy Building Commissioner, Michael Yanovitch.

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 were the Petitioner, Brian Epstein and the architect for the project, J.B. Clancy.

Chairman Geller called the hearing to order at 7:05 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioner proposes to enclose a small rear deck on the second floor for an additional 119 s.f. of living space and to convert 61 s.f. of mechanical space in the basement to finished space to add to the existing finished basement. He noted that the applicants will need relief for FAR which increases from .44 to .46 under the proposal and alteration of the structure. He added that all relief would be by special permit under M.G.L. ch. 40A sec. 6. Attorney Allen explained that the newly enclosed space would become part of a new bedroom, which is important for a growing family. He added that in April 2018 the Preservation Commission upheld the initial determination of significance on the house and placed an 18-month stay of demolition on the property; the applicants intend to return to the Preservation Commission in June to go through design review and work with the Commission to lift the stay. Furthermore, Attorney Allen noted that the Planning Board unanimously supported these plans.

Attorney Allen then stated that the Petitioner seeks a special permit for relief from Section 5.20 for floor area ratio and from Section 8.02.2 pursuant to Section 9.05 to alter or extend a nonconforming use or structure.

Board Member Poverman asked a clarifying question regarding the space in the basement. J.B. Clancy, the architect for the project, explained the layout of the existing and proposed basement plans.

Attorney Allen stated that under M.G.L. ch. 40A sec. 6, the Board of Appeals may allow for an extension of an existing non-conformity if they find that there is no additional non-conformity and if

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.30 (100%)	.44 (147%)	.46 (153%)	Special Permit*/ Variance
Floor Area (s.f.)	3,206	4,701	4,871	

* Under *Deadrick*, the Board of Appeals may allow an extension of an existing non-conformity if it finds there is no substantial detriment to the neighborhood.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter this non-conforming structure.

STAFF ANALYSIS

The Planning staff finds this to be a reasonable proposal that will benefit this historic home. The enclosure of the rear deck will be an aesthetic improvement to the rear façade, and the overall increase in FAR will be very minimal and is entirely within the existing footprint of the home. There appears to be little to no impact on abutters. The applicants plan to work closely with the Preservation Commission to finalize the details and materials to best maintain the historic character of the home.

Therefore, the Planning staff recommends approval of the site plan by Bruce Bradford dated 3/22/2018 and the floor plans and elevations by ART Architects dated 3/23/2018 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit site plan, floor plans and accurate 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 to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: a) a final site plan stamped and signed by a registered engineer or land surveyor; b) final floor plans and elevations stamped and signed by a registered architect or engineer; and c) 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 objection to this request and noted that there is no change to the building’s footprint. He added that should relief be granted, the Building Department will work with the Petitioner to ensure compliance with the Building Code.

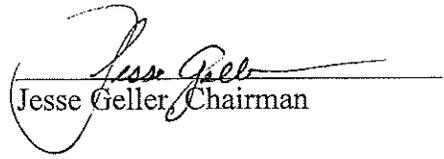
In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements under MGL Chapter 40A, Section 6 and the Deadrick case for a special permit from Section 5.20 for floor area ratio and from Section 8.02.2 pursuant to Section 9.05 of the Zoning By-Law, respectively, 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.

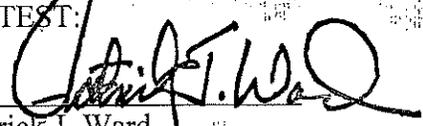
Accordingly, the Board voted unanimously to grant the requested special permit relief subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit site plan, floor plans and accurate 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 to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: a) a final site plan stamped and signed by a registered engineer or land surveyor; b) final floor plans and elevations stamped and signed by a registered architect or engineer; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals


Jesse Geller, Chairman

Filing Date: 7/27/2018

A True Copy
ATTEST:

Patrick J. Ward
Clerk, Board of Appeals