



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

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Christopher Hussey

RECEIVED
TOWN OF BROOKLINE
REGISTRARS OF VOTERS

18 SEP 28 AM 9:10

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0035
YANG FEI SHIU ANN,
CLARISSA JESSUP CHAD
31 HEATH STREET, BROOKLINE, MA

Petitioner, Chad Jessup, applied to the Building Commissioner for permission to construct a third story on a two-family house. 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 August 2, 2018 at 7:05 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 August 9, 2018 and August 16, 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:

31 HEATH STREET, BROOKLINE, MA 02445 - construct a 3rd story addition on a preexisting nonconforming 2 family house with dormers in a(n) T-6 TWO-FAMILY & ATTACHED

**SINGLE-FAMILY on 08/02/2018 at 7:05 PM in the 6th Floor Select Board's Hearing Room
(Petitioner/Owner: Michael Schneider) Precinct 14**

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*

Publish: 07/19/2018 & 07/26/2018

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 Johanna Schneider and Steve Chiumenti. Also present at the hearing was Zoning Coordinator and Planner, Ashley Clark and Deputy Building Commissioner, Mike Yanovitch.

The case was presented by Michael Schneider, 23 Briarwood Circle, Needham, Massachusetts, the Petitioner's contractor.

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

Mr. Schneider then described the proposal stating that the Petitioner seeks relief to construct a third story addition on a preexisting nonconforming two-family dwelling with dormers. He noted that that Planning Board requested that the Petitioner make modifications to the roof line to better integrate the new third-story into the neighborhood. Mr. Schneider added that these changes were presented to the Planning Board and that Board unanimously voted to support the proposal.

Mr. Schneider stated that the Petitioner seeks relief from Section 5.60 for the preexisting nonconforming side-yard setback pursuant to Sections 5.43 and 8.02.2 and will provide landscaping to serve as the required counterbalancing amenity. He noted that while the Petitioner seeks relief for the side-yard setback, there is no change to the existing footprint of the building.

Board Member Chiumenti stated that there are similarly sized homes in the neighborhood.

Chairman Geller then asked whether anyone was present to speak in favor of the proposal. Emily Moore, 27 Heath Street, spoke in support.

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 Ashley Clark, Zoning Planner & Coordinator, to deliver the findings of the Planning Board. Ms. Clark noted the following:

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Requirements

Section 5.60 – Side Yard Requirements

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
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Side Yard (Left)	10 feet	9.8 feet	9.8 feet	Special Permit*/ Variance
Side Yard (Right)	10 feet	7.7 feet	7.7 feet	Special Permit*/ Variance

**Sec. 5.43 - The dwelling has pre-existing non-conforming side setbacks that are not being altered with this proposal. Setback relief is required due to the work that is being performed on the existing nonconforming dwelling.*

Section 8.02.2 – Alteration or Extension

A special permit is required for alterations to a nonconforming structure.

STAFF ANALYSIS

The staff is sympathetic to the applicant’s desire to increase the living space in this two-family home. The proposed FAR is within the allowable limit for this zoning district, and the setbacks and footprint of the home will not increase. The applicant has provided revised drawings that took into consideration the Planning Board’s original feedback to keep the hip roof shape and add gable dormers. The staff feels that these new plans keep much more in character with the existing home and the row of abutting homes. The applicants have the support of their direct abutters on either side.

Ms. Clark stated that the Planning Board was pleased with the revisions the applicant brought back to the Board in response to initial feedback. She noted that the change from the proposed gable roof to the proposed hip roof with four hip dormers will fit in more appropriately with the surrounding homes and will be less imposing on neighbors and the Board has no issues with the addition of the third story and heard support from the applicants’ immediate abutters.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the plot plan by Peter Nolan, dated 3/15/2018, and the floor plans and revised elevations by Finespaces Architecture, LLC, dated 7/11/2018, 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 the review and approval of the Assistant Director of Regulatory Planning.
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: a) a final site plan stamped and signed by a registered engineer or land surveyor; b) final floor plans building elevations stamped and signed by a registered architect; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

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

Board Member Schneider stated that she would be in support of the request for zoning relief since the proposal is for a preexisting nonconforming side-yard setback that has the support of the direct abutter. Board Member Chiumenti concurred. Chairman Geller was also in support of granting the requested relief.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for a special permit from Section 5.60 under Section 5.43 for side yard setback, 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 because the home will remain a single-family home.
- b. The use as developed will not adversely affect the neighborhood because the addition will be tucked in at the rear of the home and extensive landscape will improve the overall aesthetics.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians because there will be no change to on site circulation.
- 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:

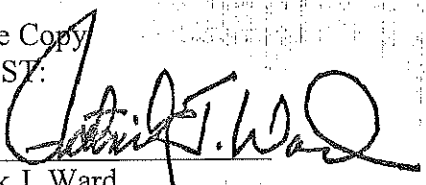
1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations, subject to the review and approval of the Assistant Director of Regulatory Planning.
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Unanimous Decision of
The Board of Appeals

Filing Date: 9/28/18


Jesse Geller, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals