



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

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0056
MURRAY FIONA KURIYEL RALF
111 WILLARD ROAD, BROOKLINE, MA

Petitioners, Fiona Murray and Ralf Kuriyel, applied to the Building Commissioner for permission to construct a rear addition on the first floor. 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 16, 2018 at 7:00 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 August 2, 2018 and August 9, 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:

111 WILLARD ROAD, BROOKLINE, MA 02445 - 60sf addition to the kitchen in a(n) S-10 SINGLE-FAMILY on 08/16/2018 at 7:00 PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Alan Mayer) Precinct 13

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: 08/02/2018 & 08/09/2018

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 Mark Zuroff and Kate Poverman. Also present at the hearing was Zoning Coordinator and Planner, Ashley Clark.

The case was presented by the project architect, Alan Mayer, Mayer and Associates Architects, 1319 Beacon Street, Newton, Massachusetts.

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

Mr. Mayer described the proposal stating that the Petitioners seek relief from floor area ratio and to modify a preexisting nonconforming structure. He noted that the property is located in a S-10 residential zoning district on a lot that is 11,425 square feet. Mr. Mayer explained that the home is consistent with the age, design and size of the surrounding homes and the lot is consistent with the size of the lots within the neighborhood.

Mr. Mayer then described the 60 square foot addition proposed at the rear of the home as 3.7 feet in depth and 17.1 feet in width. He noted that the existing home is already in excess of the allowable FAR, and so the Petitioner is seeking to extend that preexisting nonconformity. Mr. Mayer continued, stating that the proposal has received four letters in support and no one has come forward in opposition to the request for relief. Furthermore, Mr. Mayer noted that the Planning Board unanimously supported these plans.

Mr. Mayer then stated that the Petitioners seek a special permit for relief from Section 5.20 for floor area ratio, and from Section 8.02.2 pursuant to Section 9.05 of the Zoning By-Law to alter or extend a nonconforming structure.

Mr. Mayer stated that under M.G.L. ch. 40A, Sec. 6, the Board of Appeals may allow an extension of an existing non-conformity if they find that there is no new non-conformity created and if they find that the extension is not substantially detrimental to the neighborhood. Mr. Mayer noted that in this S-10 residential zoning district, there is an allowed FAR of .3, an existing FAR of .37, and proposed FAR of .38. He argued that the addition does not create a substantial detriment to the neighborhood nor does it create any new nonconformity. In support of the former, Mr. Mayer, reviewed the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed additional

square footage of the home, which will continue to be used as a single-family dwelling; the use will not adversely affect the neighborhood; 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; and there will be no effect on the supply on housing available for low and moderate income people.

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

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.30	.37	.38	Special Permit*
Floor Area (s.f.)	3,427	4,282	4,342	

** 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 or extend a pre-existing non-conforming structure.

STAFF ANALYSIS

Staff has no objections to this addition. The addition is modest and will extend minimally from the side of the rear façade. The increase in FAR is very minimal and the addition is within all setbacks. The staff believes the design is an aesthetic improvement to the rear façade and that the new windows and bump-out are well designed. The Board should weigh in on the use of posts rather than a foundation.

Ms. Clark stated that the Planning Board was supportive of this small proposal. She explained that the Board did recommend and suggest that the addition be supported and cantilevered rather than sit on stilts in order to improve the aesthetics and not have support columns which interfere with the yard space and the view from the basement windows. Ms. Clark noted that the architect stated that they would have a structural engineer look into these options.

Therefore, Ms. Clark continued, the Planning Board recommends approval of the site plan dated 7/11/2018 by Bruce Bradford and the floor plans and elevations dated 5/21/2018 by Mayer & Associates, 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 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 building elevations; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairman Geller called upon Mike 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 relief and, should relief be granted, the Building Department will work with the Petitioners 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 M.G.L. Ch. 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 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:

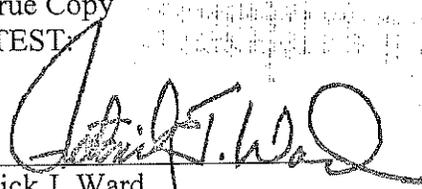
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Unanimous Decision of
The Board of Appeals

Filing Date: 9/28/18


Jesse Geller, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals