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Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Christopher Hussey

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

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0042
SCHMULTS ROBERT C & CHRYSALYNE
166 WALNUT HILL ROAD, BROOKLINE, MA

Petitioners, Robert and Chrysalyne Schmults, applied to the Building Commissioner for permission to finish the attic and add three dormers to the existing roof. 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 7:00 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 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:

166 WALNUT HILL ROAD, BROOKLINE, MA 02467 - Conversion of existing unfinished attic to two bedrooms and one bath. Add three new dormers in a(n) S-10 Residential Zoning District on 08/02/2018 at 7:00 PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Andrew Falkenstein) Precinct 5

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:

§5.09.2.J – DESIGN REVIEW

§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: 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 the project architect, Andrew Falkenstein, registered architect, Concise Design Group, 7 Kent Street, Brookline, Massachusetts.

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

Mr. Falkenstein stated that the Petitioners seek a special permit under Section 5.09.2.j and Section 5.22.2a. from application of 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.

Mr. Falkenstein then described the proposal stating that the Petitioners seek relief to finish the attic and add three dormers to the existing roof. He noted that there would be no change to the existing footprint of the home. Mr. Falkenstein explained that the addition of the dormers at the front of the house enhances the appearance of the single-family dwelling and does not pose any nuisance to the neighborhood since there is no change in use or impact to traffic. Mr. Falkenstein added that the applicants have not received any opposition from any abutter.

Upon inquiry from Board Member Chiumenti, Mr. Falkenstein stated that the dormers do not exceed the existing height of the roof.

Upon inquiry from Chairman Geller, Mr. Falkenstein stated that the addition of the dormers provides both for an egress window as well as greatly improve the livability of the attic space. He added that the area of the dormers only account for approximately 75 square feet of the total addition.

Chairman Geller asked whether anyone was present to speak in support of the proposal. No one spoke in support of the proposal.

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

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

FINDINGS

Section 5.09.2.j – Design Review: Any exterior addition for which a special permit is requested pursuant to *Section 5.22 (Exceptions to Maximum Floor Area Ratio Regulations)* requires a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. The most relevant sections of the design review standards are described below:

a) Preservation of Trees and Landscape: Because this dormer addition does not change the footprint of the home, there will be no alteration to the trees or landscape.

c) Relation of Buildings to the Form of the Streetscape and Neighborhood: The proposed additions are modest and would not detract from the existing streetscape or neighborhood. The street has a wide variety of homes in many architectural styles with varied massing, heights and rooflines.

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.30 (100%)	.38 (128%)	.45 (150%)	Special Permit*
Floor Area (s.f.)	3,229.5	4,076	4,808	

** 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 5.22.2.a – Exceptions to Floor Area Ratio

Any exterior modifications that are made to the structure to accommodate a conversion shall be subject to the procedures, limitations and conditions specified in 5.09, 9.03 to 9.05 and this section.

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 proposal for a finished attic and three dormers. The change to the exterior of the home will be modest and in keeping with the character of the existing structure. There is no proposed change in the footprint. The homes on Walnut Hill Road are of a wide variety of styles, and this proposal will not have a negative impact on the streetscape or on any abutters. The staff would like the Planning Board to give feedback on the proportions and size of the proposed dormers to ensure the optimal design.

Ms. Clark stated that the Planning Board fully supported this proposal for new dormers and felt that the design would be an enhancement to the home. She noted that the Board asked that the applicant

provide letters of support from their neighbors prior to the ZBA hearing and that the architect add side elevations to the drawing set.

Therefore, Ms. Clark stated, the Planning Board recommends approval of the floor plans and elevations by Concise Design Group dated 4/18/2018, subject to the following conditions:

- 1) Prior to the issuance of a building permit, a final site plan, floor plans and elevations including side elevations shall be submitted 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 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 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, 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 Sections 5.09.2.i and 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 lot is surrounded by large homes in the Sargent Estates.
- 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:

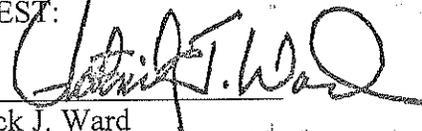
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Unanimous Decision of
The Board of Appeals

Filing Date: 07/28/18


Jesse Geller, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals