



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark G. Zuroff
Christopher Hussey

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

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2018 NOV 18 P 9:21

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0076
DAN AND SARAH JOHNSON
319 RUSSETT ROAD, BROOKLINE, MA

Petitioners, Dan and Sarah Johnson, applied to the Building Commissioner for permission to construct 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 November 8, 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 October 25, 2018 and November 1, 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:

319 RUSSETT ROAD, BROOKLINE, MA 02467 - Construct rear first and second floor addition in a(n) S-7 SINGLE-FAMILY on November 8th, 2018 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Dan Johnson) 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.

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 G. Zuroff*

Publish: 10/25/18 & 11/1/18

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Mark G. Zuroff and Board Members Kate Poverman and Randolph Meiklejohn. Also present at the hearing was Planner, Karen Martin.

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 present at the hearing was the Petitioner, Dan Johnson.

Chairman Zuroff called the hearing to order at 7:00 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioner proposes to remove a single-story bump-out at the rear of the home and construct a two-story addition totaling 472 s.f. Attorney Allen explained that the new living space on the first floor would become a media room and the space on the second floor would expand the master suite. Attorney Allen noted that Preservation found the home to be non-significant in August 2018. Furthermore, Attorney Allen noted that the Planning Board unanimously approved these plans.

Attorney Allen 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 to alter or extend a nonconforming use or structure.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed additional square footage to the home, which will continue to be used as a single-family dwelling, consistent with other homes in the neighborhood; the use will not adversely affect the neighborhood because the addition is at the rear of the home and complies with all setbacks; 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 for the proper operation of a single-family dwelling with an attached garage; and there will be no effect on the supply on housing available for low and moderate income people. With respect to Section 5.20, Attorney Allen argued that under Chapter 40A Section 6, the current FAR, which is over the allowed, could be increased. He stated that the existing FAR is .57 and the proposal increases the FAR to .66, both over the FAR allowed in the S-7 Zoning District, which is .35.

Chairman Zuroff asked if there had been previous renovations to this house. Attorney Allen replied that only interior renovations had been made. Ms. Poverman asked why the applicant chose to use siding rather than brick on the addition. Attorney Allen replied that most of the reasoning is due to cost and expense and that the addition is not visible from the street.

Chairman Zuroff then asked whether anyone was present to speak in favor of the proposal. No one spoke in favor of the proposal.

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

Chairman Zuroff then called upon Karen Martin, Planner, to deliver the findings of the Planning Board. Ms. Martin noted the following:

Section 5.20 – Floor Area Ratio

Floor Area	<u>Allowed</u>	<u>Existing</u>	<u>Proposed</u>	<u>Finding</u>
Floor Area Ratio (% of allowed)	.35 (100%)	.57 (162%)	.66 (189%)	Special Permit*/ Variance
Floor Area (s.f.)	1,750	3,160	3,632	

** Under Dendrick, 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.

PLANNING BOARD COMMENTS

The Planning Board had no issues with the concept for this proposal. The Board did offer feedback and suggestions that the window alignments and proportions on the addition did not seem to mesh quite right with the existing house and recommended that the architect revisit how the sill heights align across all old and new windows.

Therefore, the Planning Board recommends approval of the site plan by Charles Brennan dated 8/27/18 and the floor plans and elevations by Concepts by Design, Inc. 4/15/18 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 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 Zuroff then called upon Karen Martin to deliver the comments of the Building Department. Ms. Martin stated that the Building Department has no opposition to this request and, should relief be granted, the Building Department will work with the Petitioner to ensure compliance with the Building Code.

During deliberation Chairman Zuroff stated that he saw fit to approve the proposal. Board Members Poverman and Meiklejohn agreed and noted that the proposed addition is nearly entirely within the footprint of the existing single-story bump out.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for a special permit from Section 5.20 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:

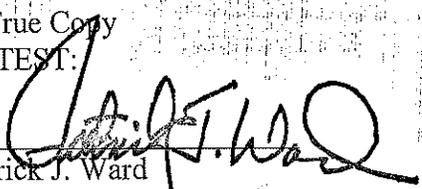
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Unanimous Decision of
The Board of Appeals

Filing Date: 11/19/18


Mark G. Zuroff, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals