



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zurloff
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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TOWN CLERK

2019 JAN -2 A 3:00

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0053
ADI AND GIDON LISSAI
132 COOLIDGE STREET, BROOKLINE, MA

Petitioners, Adi and Gidon Lissai, applied to the Building Commissioner for permission to expand the home's third floor and construct a three-story rear addition for an enclosed stairway. 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 29, 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 August 30, 2018 and September 6, 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:

132 COOLIDGE STREET, BROOKLINE, MA 02446 - Construct first floor mud room addition; add second floor deck at rear; and third floor addition in a(n) T-5 TWO-FAMILY & ATTACHED SINGLE-FAMILY on 09/13/2018 at 7:00 PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Adi Lissai) Precinct 9

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

§5.60 - SIDE YARD REQUIREMENTS

§5.70 - REAR YARD REQUIREMENTS

§5.72 - ACCESSORY BUILDINGS OR STRUCTURES IN REAR YARDS

§5.91 - MINIMUM USABLE OPEN SPACE

§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: 08/30/2018 & 09/06/2018

At the time and place specified in the notice, this Board held a public hearing. At the hearing, the Petitioner requested that the hearing be continued to allow time to return to the Planning Board. The hearing was continued to November 29, 2018 at 7:05 p.m. in the Select Board's Hearing Room. Present at the continued hearing were Chairperson Johanna Schneider and Board Members Lark Palermo and Randolph Meiklejohn. Also present at the hearing was Assistant Director of Regulatory Planning, Polly Selkoe.

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 were the Petitioner, Gidon Lissai, and the architect for the project, Carol Marsh of Helios Design Group.

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

Mr. Allen then described proposal stating that the Petitioner proposes to expand the home's third floor and construct a three-story rear addition for an enclosed stairway. He noted that the home is located in the T-5 Zoning District.

Attorney Allen then stated that the Petitioner seeks a special permit for relief from Section 5.91 for usable open space, Sections 5.60 and 5.70 under Section 5.43 for side and rear yard requirements, and Section 8.02.2 for alteration or extension of a non-conforming structure, all pursuant to Section 9.05. He argued that with respect to Section 5.91, under M.G.L. ch. 40A, section 6, the current usable open space, which is under the required, could be reduced further, provided that there are no new non-conformities and that the reduction is not substantially detrimental to the neighborhood.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed addition because the proposed addition is at the rear of the home and the expansion of the third floor is consistent with other homes in the neighborhood; the use will not

adversely affect the neighborhood because the home will continue to be used as a two-family dwelling, which is consistent with the surrounding neighborhood, and many surrounding homes have third story additions or dormers similar to the addition proposed; 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 two-family dwelling; and there will be no effect on the supply on housing available for low and moderate income people.

Board Member Palermo asked whether the proposed floor area ratio would be conforming. Attorney Allen stated that the proposed floor area ratio would be conforming. Board Member Meiklejohn asked whether the envelope of the home was changing. Attorney Allen explained that the rear addition would add two feet to the existing rear yard setback.

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

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

Chairperson Schneider then called upon Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the findings of the Planning Board. Mrs. Selkoe noted the following:

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.60 – Side Yard Requirements

Section 5.70 – Rear Yard Requirements

Section 5.91 – Minimum Usable Open Space

	Required	Existing	Proposed	Finding
Side Yard (Left)	10 feet	9.8 feet	9.8 feet	Special Permit*

Side Yard (Right)	10 feet	6.15 feet	6.15 feet	Special Permit*
Rear Yard	30 feet	27.7 feet	25.6 feet	Special Permit*
Usable Open Space	30% 1,417	26% 962 s.f.	24% 904 s.f.	Variance

* Under Section 5.43, the Board of Appeals may waive by special permit yard and/or setback requirements, if a counterbalancing amenity is provided.

* 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 for alterations to a non-conforming structure.

PLANNING BOARD COMMENTS

The Planning Board was very pleased with the changes made to the roof design since the first Planning Board meeting and felt it was a big improvement. One further suggestion made by the Planning Board was to lower the dormers where they met the lower roof to avoid a water problem.

[Since the Planning Board meeting, the applicants have submitted revised plans lowering the dormers where they meet the roof and these revised plans are dated 11/15/18 and are attached.]

Therefore, the Planning Board recommends approval of the site plan dated 6/6/2018 by Jason Ellis and the floor plans and elevations dated 10/26/2018 by Helois Design Group, Inc., 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 counterbalancing amenities, subject to the review and approval of 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 and building elevations; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairperson Schneider then called upon Polly Selkoe to deliver the comments of the Building Department. Mrs. Selkoe stated that the Building Department was not present and provided no report, but the Planning Department would work with the Petitioner to ensure compliance with the conditions of this decision.

In reliance on the above referenced revised plans, the Board then determined, by unanimous vote that the requirements for relief from Section 5.91 for usable open space, under M.G.L. ch. 40A, section 6, and Sections 5.60 and 5.70 under Section 5.43 for side and rear yard requirements, and Section 8.02.2 for alteration or extension of a non-conforming structure, all pursuant to Section 9.05 of the Zoning By-Law were met, finding specifically under said Section 9.05:

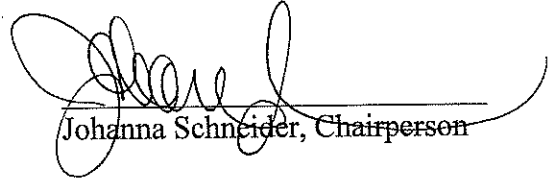
- a. The specific site is an appropriate location for such a use, structure, or condition because the proposed home will remain a two-family and the addition is at the rear of the home where there is currently a covered porch.
- b. The use as developed will not adversely affect the neighborhood because the home will continue to be used as a two-family dwelling and many of the surrounding homes have third story additions or dormers similar to the addition proposed.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians and the property's on-site circulation will not change.
- 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 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.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating counterbalancing amenities, subject to the review and approval of 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 and building elevations; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

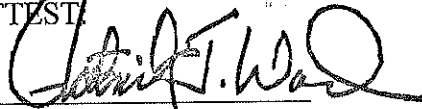
Unanimous Decision of
The Board of Appeals



Johanna Schneider, Chairperson

Filing Date: 01/02/19

A True Copy
ATTEST



Patrick J. Ward
Clerk, Board of Appeals