



Town of Brookline Massachusetts

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Patrick J. Ward, Clerk

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0085
DAVE REITANO
1258 BEACON STREET, BROOKLINE, MA

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2019 FEB 20 P. 2:36

Petitioner, Dave Reitano, applied to the Building Commissioner for permission to construct a roof deck. 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 January 31, 2019 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 January 17, 2019 and January 24, 2019 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:

1258 BEACON STREET, #7, BROOKLINE, MA 02446 - construct roof deck in a(n) M-2.0 APARTMENT HOUSE district on January 31st, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Dave Reitano) Precinct 10

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:

§5.30 - MAXIMUM HEIGHT OF BUILDINGS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.50 - FRONT 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: 1/17/2019 & 1/24/2019

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 Mark Zuroff. Also present at the hearing was Senior Planner Maria Morelli.

The case was presented by Tony Sanchez, architect and contractor for Recover Green Roofs. He stated that 1258 Beacon Street is an existing condominium building located at the northwest corner of Beacon Street and James Street. It is 4 stories high and in a row of identical buildings. The proposal, he described, is to construct a 700 square foot roof deck around the existing head house as well as 211 square feet of planters and vegetation. The overall height of the building to the parapet is 47.3 feet and the deck railing will be 1.5 feet higher than the parapet. He added that significant consideration to green infrastructure

was given at the direction of the client and that the proposal will include drought tolerant plantings and stormwater retention methods. Mr. Sanchez stated that the condo association and direct abutter have both voiced their support. Mr. Sanchez further stated that Planning Board had no objections to the proposal and supported the details provided in the plans.

He added that under **Section 9.05** of the Zoning By-Law, the proposal meets the standards and that this is an appropriate location because the roof is underutilized and there will be no adverse impacts due to the roof not being visible to the street below or to any property across Beacon Street. He asked the Board to grant the request for the special permit relief under **Section 5.43**, **Section 5.50** and **Section 8.02.2** of the Zoning By-Law.

Chairman Geller confirmed with Mr. Sanchez that landscaping will be the proposed counterbalancing amenity required under **Section 5.43** of the Zoning By-Law and that the applicant is the owner of the unit that will have exclusive access to the deck.

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 Maria Morelli, Senior Planner, to deliver the findings of the Planning Board. Ms. Morelli noted the following:

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.50 – Front Yard Requirements

Setback	Required	Existing	Proposed	Finding
Front Yard (roof deck)	15 + H/10 = 19.73 feet	n/a	13.5 feet	Special Permit*

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

Section 8.02.2 – Alteration and Extension

A special permit is required to alter a pre-existing non-conforming structure.

PLANNING BOARD COMMENTS

The Planning Board had no concerns about this proposed roof deck. The Board noted that the roof deck is for the exclusive use of one unit owner and that the applicant has the support of the condominium trustees.

The Planning staff recommends approval of the site plan dated 11/15/2018 by Michael Clifford and the roof plans dated 1/23/2018 by Recover Green Roofs, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan and roof plan 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 landscaping plan for the roof area 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: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) a final roof plan stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairman Geller then asked Ms. Morelli whether the Building Department had any comments. Ms. Morelli responded in the negative.

Mr. Zuroff and Ms. Schneider both stated that they believe this proposal meets the requirements under **Section 9.05** of the Zoning By-Law and is a reasonable proposal.

Chairman Geller agreeing generally with Mr. Zuroff and Ms. Schneider added that the proposal meets the requirements of **Section 9.05** of the Zoning By-Law and that a counterbalancing amenity has been proposed as required by Section 5.43.

In reliance on the above referenced revised plans, the Board then determined, by unanimous vote that the requirements for relief from **Section 5.50** under **Section 5.43** for side 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 roof deck will be consistent with those benefitting other properties in the neighborhood and will not change the use of the property.

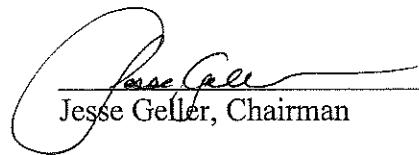
- b. The use as developed will not adversely affect the neighborhood because the roof deck will not be visible from the street.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians and the property's on-site circulation will not change.
- d. Adequate and appropriate facilities will be provided for the proper operation of the deck.
- 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 and roof plan 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 landscaping plan for the roof area 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: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) a final roof plan stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.


Unanimous Decision of
The Board of Appeals

Filing Date: 02/20/19



Jesse Geller, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals