



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff

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

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2019 APR -5 A

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0092
JUANJUAN ZHANG
20 HARRISON STREET, BROOKLINE, MA

Petitioner, Juanjuan Zhang, applied to the Building Commissioner for permission to alter the roofline at the rear of the structure at 20 Harrison Street. 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 February 21, 2019 at 7:00 PM., in the Selectmen's Hearing Room as the date, time and place for the public hearing. Notice of the hearing was mailed to the Petitioners, to their attorney, Jennifer Dopazo Gilbert, 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 February 7, 2019 and February 14, 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:

20 HARRISON STREET, BROOKLINE, MA 02446 - Alter roofline at rear of structure in a(n) T-5 TWO-FAMILY & ATTACHED SINGLE-FAMILY on February 21, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Juanjuan Zhang) Precinct 3

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

§5.70 - REAR 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
Mark Zuroff*

Publish: 2/7 & 2/14

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 Kate Poverman and Steve Chiumenti. Also present at the hearing was Assistant Director of Regulatory Planning, Polly Selkoe.

The case was presented by Jennifer Dopazo Gilbert, Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, First Floor, Brookline, Massachusetts 02445. Also in attendance were the Petitioner, Juanjuan Zhang and the architect for the project, Fred Gutierrez of Shepherd PMC.

Chairman Geller called the hearing to order at 7:00 p.m. Attorney Dopazo Gilbert waived the reading of the public notice.

Attorney Dopazo Gilbert then described the proposal at 20 Harrison Street noting that the property is eligible for the National Register and that the Preservation Commission upheld the initial determination of significance for the home and imposed an 18-month stay of demolition. She further noted that the property is located in the Greater Toxteth Neighborhood District and that the Petitioner worked with Preservation to have the stay lifted based on the proposed plans submitted with this zoning application. Attorney Dopazo Gilbert continued that the proposal involves modifying a portion of the rear roofline from a hip roof to a gable roof, which will allow for sufficient head height to construct an appropriate interior egress stair for the dwelling's second unit for increased safety and appropriate egress. She commented that the required set back is 30' in this zoning district but that the existing home is pre-existing non-conforming to rear yard setback requirements, having a current set back of 9.' She stated that although the footprint will not change, the modified roof will extend into the set back. She noted that relief can be granted by special permit under Section 9.05 and Section 5.43 of the Zoning By-Law if counterbalancing amenities are provided as well as under G.L.c.40A, s.6 and the Bellalta and Deadrick line of cases. She then introduced the architect, Fred Gutierrez to review the plans in more detail or answer questions.

Mr. Guitierrez described the property and its history. He noted that the property is old and was previously used by a College Fraternity and was chopped up and had inefficient egress. He described the proposal to add the internal stairway to properly access the second unit. Mr. Guitierrez also noted

that with these improvements the property would continue be used as a 2-Family home for many years to come. He pointed out that due to the large size of the lot within a T-5 zoning district that many neighbors were concerned about a larger development, but he represented that Ms. Zhang intends to live with her family in the home.

In response to an inquiry from Mr. Chiumenti, Mr. Gutierrez confirmed the home would remain a 2-family dwelling.

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 Polly Selkoe, Assistant Director of Regulatory Planning to deliver the findings of the Planning Board. Ms. Selkoe noted the following:

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.70 – Rear Yard Requirements

	Required	Existing	Proposed	Finding
Rear Yard Setback	30 feet	9 feet	9 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 or Extension

A special permit is required to alter this non-conforming structure.

PLANNING BOARD COMMENTS

The Planning Board had no issues with the zoning relief needed to change this roof line. The Board did suggest minor changes to the dormer to create a clipped gable, should the applicant choose to make such an alteration and have it approved by Preservation. Ms. Selkoe noted that this was just a suggestion and not required.

Therefore, the staff recommends approval of the site plan by Lewis Holzman dated 11/30/1991 and the floor plans and elevations by Shephard PMC dated 12/1/2018 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, 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 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.

Ms. Poverman asked when the house was built to confirm it pre-dated the Zoning By-Law. Ms. Selkoe stated it was built in 1890.

Ms. Selkoe noted for the record that the Building Department would work with the applicant to ensure all conditions were met.

The Board then deliberated and was in general agreement that the standards to grant the requested special permit for the rear yard set back under Section 9.05 of the Zoning By-Law and Section 5.43 of the Zoning By-Law were met with additional landscaping as indicated on a landscaping plan. Ms. Poverman noted that she would not object to this project that increases the safety for the inhabitants. She stated the proposed changes were minor and would result in preserving a beautiful old home. Mr. Chiumenti was also in favor of granting the requested relief. The Chairman expressed that the standard for granting relief under Section 9.05 of the Zoning By-Law and Section 4.53 of the Zoning By-Law have been satisfied and he was also in favor of granting the relief. He commented that he was glad to see these types of homes re-used and made preserved. He noted that the gable was a minor modified gable and not a straight edge.

In reliance on the above referenced plans and for the reasons stated by the Petitioner's legal counsel, the Board then determined, by unanimous vote, that the special permits should be granted under Section

9.05, Section 5.43 and Section 8.02.2, all of the Zoning By-Law, subject to modified conditions. The Board determined 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.

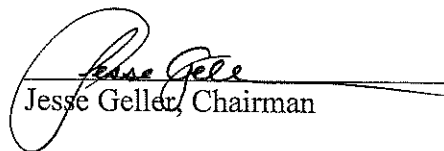
The Chairman commented that the conditions should be modified to include a landscape plan showing the counterbalancing amenities.

Accordingly, the Board voted unanimously to grant the requested zoning 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 all counter balancing 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 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.

Unanimous Decision of
The Board of Appeals

Filing Date: 04/05/19


Jesse Geller, Chairman

A True Copy
ATTEST:

A handwritten signature in black ink, appearing to read "Patrick J. Ward". The signature is written in a cursive style with a large, prominent "P" and "W".

Patrick J. Ward
Clerk, Board of Appeals