



BOARD OF APPEALS
 Jesse Geller, Chairman
 Mark G. Zuroff

Town of Brookline

Massachusetts

Town Hall, 1st Floor
 333 Washington Street
 Brookline, MA 02445-6899
 (617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

TOWN OF BROOKLINE
 BOARD OF APPEALS
 CASE NO. 2019-0007
 JEREMIAH FOSTER
 3 VOGEL TERRACE

RECEIVED
 TOWN OF BROOKLINE
 TOWN CLERK
 2019
 3 19 P

Petitioner, Jeremiah Foster, 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 March 28, 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 March 14, 2019 and March 21, 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:

3 VOGEL TERRACE, BROOKLINE, MA 02445 - Single story rear addition to kitchen in a(n) T-5 TWO-FAMILY & ATTACHED SINGLE-FAMILY on March 28, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Jeremiah Foster) 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:

§5.20 - FLOOR AREA RATIO

§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 G. Zuroff*

Publish: 3/14 & 3/21

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 Steve Chiumenti. Also present at the hearing was Planner Karen Martin.

The case was presented by Jeremiah Foster of J. Foster Homes, contractor for the project. Mr. Foster stated that he is requesting rear yard setback relief to remove a dilapidated rear mudroom and replace it with a new rear addition. He explained that the existing home is already non-conforming at the rear at the corner. He showed a clearer plan of the setbacks. Mr. Foster explained that the new addition will be two feet closer to the rear yard than the existing condition. He also stated that he has letters of support from the two rear abutters. Chairman Zuroff asked to clarify that the neighbors at the sides are

technically located at the rear due to the angle of the property line. Mr. Foster also stated that the applicants plan to remove all the aluminum siding on the house and replacing it with cedar siding to bring it back to its historic context. Chairman Zuroff stated that he believes that replacing the siding can serve as a counterbalancing amenity. Mr. Foster explained that there is minimal opportunity for new landscaping but the applicant will redo the rear patio as well. Ms. Poverman stated that she would have liked to see the existing footprint of the home. Mr. Foster showed additional plans that clarified the existing outline of the structure. Mr. Chiumenti and Ms. Poverman asked to clarify the rear yard versus side yard setback dimensions.

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

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.70 – Rear Yard Requirements

	Required	Existing	Proposed	Relief Required
Rear Yard Setback	30 feet	~25 feet	17.8 feet	Special Permit*

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

Section 8.02.2 – Alteration or Extension

A special permit is required to alter/extend the pre-existing non-conforming rear-yard setback.

PLANNING BOARD COMMENTS

The Planning Board was supportive of this modest addition. The Board stated that it would like to see materials and the driveway location noted. The Board also noted that the replacement of the vinyl siding with cedar shingles and landscaping shall be considered the counterbalancing amenities.

Therefore, the Planning Board recommends approval of site plan by Michael Paul Antonino, dated 7/31/2018, and the floor plans and elevations by Timothy Burke Architecture, dated 10/23/2018, 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 landscaping plan indicating all 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) final floor plans and elevations with dimension labels stamped and signed by a registered architect; 3) a Certificate of Appropriateness issued by the Preservation Commission; and 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairperson Zuroff then called upon Deputy Building Commissioner Joseph Braga to deliver the comments of the Building Department. Mr. Braga stated that the Building Department has no objections to this proposal.

Chairperson Zuroff stated that it is a nice addition for this odd-shaped lot and believes that the new siding will be a positive counterbalancing amenity.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for relief from **Section 5.70** for rear yard setbacks under **Section 5.43** for setback requirements and **Section 9.02.2** for alternation and extension 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 addition will be consistent with other homes 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 home will continue to be used as a single-family dwelling and the new height will be compliant with the Zoning By-Law.
- 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 a single-family dwelling.
- 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 which include the change of the siding on the house to cedar shingles 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 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) final floor plans and elevations 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



Mark G. Zuroff, Chairperson

Filing Date: 04/09/19

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals