



BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff

Town of Brookline

Massachusetts

Town Hall, 1st Floor
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0013
RDF CORPORATION
19 COLCHESTER STREET

Petitioner, RDF Corporation, applied to the Building Commissioner for permission to finish the basement. 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 May 2, 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 April 18, 2019 and April 25, 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:

19 COLCHESTER STREET, BROOKLINE, MA 02446 - Construct new basement space and finish existing basement space in a(n) S-10 SINGLE-FAMILY on May 2, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: RDF Corporation) *Precinct 1*

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

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 the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

*Jesse Geller, Chair
Mark Zuroff*

Publish: 4/18 & 4/25

At the time and place specified in the notice, this Board held a public hearing. The case was continued to the following week, May 9, 2019. On May 9, 2019, the Board reconvened to hear the case. Present at the hearing were Chairwoman Lark Palermo and Board Members Kate Poverman and Randolph Meiklejohn.

The case was presented by Naresh Puri, representing RDF Corporation. Mr. Puri stated that he is seeking zoning relief to finish the basement of 19 Colchester Street. He stated that the basement of this historic single-family home, built in 1840, has never been finished. He also stated that the home is located in an S-10 zoning district. Mr. Puri explained that the basement already exists except for a small portion which is underneath a section of the house where the foundation had to be rebuilt. This portion,

he stated, had originally been a crawl space but later had to be dug out and excavated to be a full basement as foundation work was being done under the recommendation of a structural engineer. He also clarified that this new portion of the basement will remain unfinished. Ms. Palermo asked about the materials of the current existing basement. The applicant stated that it is mostly stone and dirt finish. Ms. Poverman asked about the previous additions to the home as described in the staff report. The applicant clarified that it was not a new addition but rather a new foundation under an existing portion of the home. Ms. Poverman also reiterated that the new basement portion will not be finished as part of this application. Mr. Meiklejohn asked what conditions led to the foundation of this portion of the house to require replacement. Mr. Puri explained that this section of the house had once been moved from a separate part of the property and adjoined to the house. He further explained that when engineers went in to look at this part of the foundation, they found significant termite damage and rot in the wooden underpinnings and that the foundation needed to be rebuilt. Mr. Puri stated that he has spoken with neighbors and that they had no concerns due to the lack of exterior changes to the house. Mr. Puri also stated that the Planning Board had no concerns with the project. Mr. Puri explained that he is seeking relief under Section 5.20 of the Zoning By-law to finish the basement to 130% of the allowable FAR.

Chairwoman Palermo asked if anyone was present to speak in favor of the application. There was no one present. She then asked if there was anyone present to speak in opposition of the application. There was no one present.

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

FINDINGS

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed (with finished basement)	Proposed (with unfinished basement)	Finding
Floor Area Ratio (% of allowed)	.30 (100%)	.29 (97%)	.37 (123%)	.39 (130%)	Special Permit*
Floor Area (s.f.)	7,818	7,700	9,757	10,285	

** Under Section 5.22.2.b, an increase in gross floor area through basement conversion is limited to 130% of the permitted gross floor area.*

PLANNING BOARD COMMENTS

The Planning Board had no concerns with the plan to finish this basement space.

Therefore, the Planning Board recommends approval of the floor plans dated 5/16/2018 by SB Architects subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit floor plans 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) final floor plans stamped and signed by a registered architect or engineer; and b) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairwoman Palermo 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.

Mr. Meiklejohn asked to clarify that the applicant would be required to come back for a special permit after ten years to finish the remaining unfinished portion of the basement. Ms. Poverman stated that she has no issues with the proposal. Mr. Meiklejohn and Chairwoman Palermo also agreed that the applicant has met the conditions of the requested special permit.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for relief from Section 5.20 for floor area ratio 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:

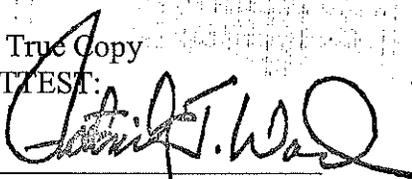
- 1. Prior to the issuance of a building permit, the applicant shall submit final floor plans subject to the review and approval of the Assistant Director of Regulatory
- 3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for 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


Lark Palermo, Chairwoman

Filing Date: 5/20/19

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals