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# *Town of Brookline*

## *Massachusetts*

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Patrick J. Ward, Town Clerk

**BOARD OF APPEALS**  
Jesse Geller, Chair

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2020-0070  
OWNER/APPLICANT: SERGIU VLAD &  
KAITLIN PERRELLY

Petitioner, Sergiu Vlad, applied to the Building Commissioner for permission to construct a balcony in the side yard at 344 Tappan 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed a virtual hearing on February 25, 2021 at 7:00 p.m. via ZOOM as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, 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 11, 2021 and February 18, 2021 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 **virtual** public hearing on **February 25, 2021** at **7:00PM**

**Register for this hearing:**

<http://bit.ly/3pO95fT>

*After registering you will receive a confirmation email containing information about joining the hearing.*

**Our Virtual Meeting Guide for Applicants and the Public can be found here:**

<https://bit.ly/30wRoY3>

**344 TAPPAN STREET, MA 02445 – CONSTRUCT A BALCONY IN THE SIDE YARD. This property is in an M-2.0 Apartment House Zone. This case is to be heard virtually on 2/25/2021 at 7pm (Petitioner: VLAD, SERGIU & PERRELLY, KAITLIN) *Precinct 12***

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

§5.62 - FENCES AND TERRACES IN SIDE YARDS

§8.02 - ALTERATION OR EXTENSION

**Any other relief the Board finds necessary**

***QUESTIONS, PUBLIC COMMENT FILES, PDFs OR PRESENTATIONS:***

*Advance submissions of files and presentations are strongly encouraged. In an effort to ensure the Board has adequate time to review materials we ask that any additional documents such as written comment letters, photos, files, or presentations or questions be sent before the hearing to **Monique Baldwin** ([mbaldwin@brooklinema.gov](mailto:mbaldwin@brooklinema.gov)).*

*All plans and submissions may be found at: <https://aca-prod.accela.com/Brookline/Default.aspx>. An account is **NOT REQUIRED** to access materials. Public testimony will be taken during the hearing as normal.*

*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 [mbaldwin@brooklinema.gov](mailto:mbaldwin@brooklinema.gov), or by checking the Town meeting calendar at: [www.brooklinema.gov](http://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 **Assistive Listening Devices**, please contact Caitlin Haynes at 617-730-2345 or at [chaynes@brooklinema.gov](mailto:chaynes@brooklinema.gov).*

***Jesse Geller, Chair  
Mark Zuroff  
Johanna Schneider***

**Publish: 2/11/2021 & 2/18/2021**

On February 25, 2021, the Zoning Board of Appeals held a virtual public hearing. Present at the hearing were Chair Randolph Meiklejohn, and Board Members Kate Poverman and Paul Bell. Town Staff included Monique Baldwin, Cannabis Licensing & Mitigation Coordinator on behalf of the Planning and Building Departments.

Sergiu Vlad, owner and applicant, alongside project architect Philip Kramer, provided an overview of the project. Mr. Vlad proposed a balcony within the right side yard requirement. The proposed balcony is 4.3 ft. from the property line within the required 6 ft. Mr. Vlad stated he received letters in support of the project from abutters as well as support from the Planning

Board. Additionally, it was noted that the row house contains other balconies that are similar in size and style to what Mr. Vlad proposed.

Board Member Kate Poverman shared her concerns regarding egress as the balcony is proposed in front of the fire escape. Mr. Kramer noted that the Building Department did not have any comments regarding the fire escape.

Chair Meiklejohn stated that the Building Department should make that determination as to whether the proposed balcony needs to be connected to a means of egress. He noted that determination is not part of the purview of the Zoning Board of Appeals. Additionally, Ms. Baldwin stated, on behalf of the Building Department, that they would certainly review the proposal and ensure that the proposal meets code.

Board Member Paul Bell inquired about the setback calculation. Mr. Kramer and Ms. Baldwin confirmed that the balcony could not encroach within 6' of the side yard.

As Mr. Vlad requested special relief from application of the Zoning By-Law's side yard requirements to allow proposed balcony in the side yard, Mr. Kramer noted that relief may be granted by Special Permit pursuant to the provisions of **Section 5.43** of the Zoning By-Law so long as a counterbalancing amenity is provided and the Board finds that the requirements of **Section 9.05** of the Zoning By-Law are met. Mr. Vlad stated, though no official landscape plan was submitted, additional plantings along the side and on the balcony would serve as the counterbalancing amenity. Mr. Vlad added that he would work with Polly Selkoe, Assistant Director of Regulatory Planning on the landscape plan.

The Chair asked if anyone wished to speak in favor or in opposition of the proposal. No one was present to speak.

The Chair called upon representative of the Planning Department, Cannabis Licensing and Mitigation Coordinator Monique Baldwin, to deliver the findings of the Planning Board. The Planning Board Report and Department comments were read into the record. Ms. Baldwin stated The Planning Department is supportive of this proposal. This proposal is in keeping with the existing structure as abutters on the right side have a balcony that is similar in size and design.

Ms. Baldwin added that the Planning Board is supportive of the proposal. The balcony is attractively designed and is supported by the abutter. There are several similar balconies in the neighborhood. The Planning Board raised the issue that the roof of a portion of the building below may need maintenance in the future, and the applicant agreed to make the floor boards of the balcony removable, so that roof could be accessed if needed.

**Therefore, the Planning Board voted to recommend approval of the site plan by AGH Engineering, dated 10/30/2020, and plans submitted by Azores Iron Work, the Planning Department recommends the following conditions:**

- 1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.**
- 2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape plan that shows proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning. The counterbalancing amenity must be implemented in accordance to the approved plan.**
- 3. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval 1) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and 2) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.**

Finally, Ms. Baldwin added that the Building Department had no objections to this proposal and would confirm the proposed fire escape is in compliance with the Building Code egress requirements.

### **Deliberation**

The Board deliberated on the merits of special permit relief as requested. Board Member Paul Bell stated that the proposed balcony is reasonable and appropriate. Board Member Kate Poverman concurred. Chair Meiklejohn voted in favor of the project.

The Board Members voted unanimously that the requirements have been met for the issuance of a special permit of the Zoning By-Law pursuant to **Section 5.43** of the Zoning By-Law and **Section 9.05** of the Zoning By-Law.

The Board made the following specific findings pursuant to 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 not have any effect on the supply of housing available for low and moderate income people.

**Accordingly, the Board voted unanimously to grant special permit relief, subject to the following conditions:**

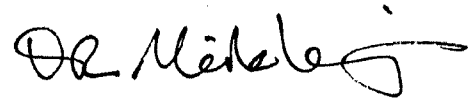
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Unanimous decision of the

Board of Appeals

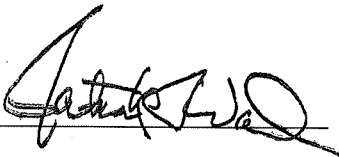


Acting Chair, Randolph Meiklejohn

Filing Date: 03/31/21

A True Copy:

ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals