



Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

BOARD OF APPEALS
Jesse Geller, Chairman
Mark G. Zurroff
Johanna Schmelder

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2021-0014
11 WHITE PLACE
BROOKLINE, MA

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2021 APR 13 A 8:00

Petitioner, Cheryl Anne Snyder, applied to the Building Commissioner for permission to construct a second-story addition in a T-5 Two-Family & Attached Single-Family District. 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 March 25, 2021 at 7:00 p.m. virtually as the time and place of a hearing for 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 March 11, 2021 and March 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 **March 25, 2021 at 7:00PM**

Register for this hearing:

<http://bit.ly/302tS4n>

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>

11 WHITE PLACE, MA 02445 – CONSTRUCT A SECOND STORY ADDITION. This property is in a T-5 TWO-FAMILY ZONE. This case is to be heard virtually on 3/25/2021 at 7pm (Petitioner: Cheryl Anne Snyder) Precinct 6

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

§5.70 - REAR YARD REQUIREMENTS

§5.91 - MINIMUM USABLE OPEN SPACE

§8.02 - ALTERATION OR EXTENSION

Any other relief the Board finds necessary

QUESTIONS, PUBLIC COMMENT FILES, PDFs OR PRESENTATIONS:

*Advanced 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 **Victor Panak** (vpanak@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 by mail or in the papers. Questions about hearing schedules may be directed to the Planning and Community Development Department at vpanak@brooklinema.gov, 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 Assistive Listening Devices, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

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

Publish: 03/11/2021 & 03/18/2021

On March 25, 2021 at 7 pm the Brookline Zoning Board of Appeals held a public hearing. Present at the hearing were Zoning Board Chair Mark G. Zuroff and Board Members Lark Palermo and Randolph Meiklejohn.

The Petitioner, Cheryl Anne Snyder, waived a reading of the public hearing notice for the record. Also in attendance was the project architect, Lee Silverstone, SB Architects, Boston, Massachusetts.

Project architect Lee Silverstone described the proposal to construct a 217 square foot second-story addition in the rear. The proposed scope of work consists of a new second story addition with a shed dormer on the west side of the proposed addition, and a small Juliet balcony on the rear of the proposed addition. Ms. Silverstone expressed that the proposed scope of work respected the scale of the neighborhood. She noted that the existing house is a very small house, and that they wanted to maintain this characteristic as the dominant quality compared to the addition in the rear. The proposed scope of work tries to respect the existing gable roof lines of the dominant structure, but because of the roof lines a small dormer is needed in order to have access between the proposed addition and the existing house.

Board member Lark Palermo inquired if there were any changes to the original plans since they withdrew the application and refiled, and whether there was a new argument that would justify the variance.

Cheryl Snyder (the applicant) confirmed that there were no changes to the plans, and that the argument remains the same. Cheryl Snyder stated that the argument is that there is a definite hardship because of the size of the lots on White Place. She notes that she has a slightly smaller lot size than average on the street and her house is one of the smaller houses.

Board member Randolph Meiklejohn inquires to Chair Mark G. Zuroff whether the 40A language that speaks to shape and topography also encompasses small size.

Chair Zuroff states that his interpretation is that the size of a lot has a lot to do with the unique character, and that the statute which talks about topography and shape does arguably encompass size, understanding that a lot can be so small as to support an argument for defining the criterion of shape.

Board member Lark Palermo notes the discussion regarding this project about a month ago and describes that she was inclined at that time to look at the particular circumstances of this application and the neighborhood, which is unique in Brookline due to tiny little lots. She states that there has been an incidence of people adding on to their homes using the Deadrick case because they were non-compliant. She notes that in this case it is just a tiny fraction of non-compliance with the open space.

Chair Zuroff then called for public comments in favor of the proposal. Lev Matskevich, owner of 9 White Place, was present and expressed that the proposed scope of work was reasonable and in keeping with the neighborhood.

Chair Zuroff then called for public comments in opposition of the proposal. No comments were submitted and no one spoke in opposition.

Chair Zuroff then called upon Monique Baldwin, Planner and Zoning Coordinator, to deliver the reports of the Planning Department and Board:

FINDINGS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.60 - SIDE YARD REQUIREMENTS

§5.70 - REAR YARD REQUIREMENTS

§5.91 - MINIMUM USABLE OPEN SPACE

ZONING: T-5	Required/ Allowed	Existing	Proposed	Relief
Rear Yard Setback (Balcony)	30'	16.5'	15.1'	<u>Special Permit</u> ¹
Side Yard Setback (Left / Right)	7.5' / 7.5'	1.2' / 5.7'	1.2' / 5.7'	<u>Special Permit</u> ^{1,3}
Usable Open Space	30%	31%	27%	<u>Variance</u> ²

¹ MGL c.40A §6: This section allows the permit granting authority to issue a special permit if the increase is not more substantially detrimental than the existing nonconformity to the neighborhood.

² MGL c.40A §10: This section allows the permit granting authority to issue a variance in cases where, owing to circumstances related to lot shape, soil conditions, or topography uniquely affecting the lot or structure but not affecting the zoning district, enforcement of the Zoning By-law would cause a hardship, financial or otherwise.

³ §5.43: Relief from setback requirements can be granted through Section 5.43 which states that relief may be granted if the applicant can provide an adequate counterbalancing amenity that mitigates negative impacts arising from the requested deviation from the requirements of the Zoning Bylaw.

§8.02 - ALTERATION OR EXTENSION – A special permit is required for the alteration of a non-conforming structure.

PLANNING DEPARTMENT COMMENTS

Ms. Baldwin stated that the Planning Department is supportive of this proposal. She noted that the second story addition and dormer are well-designed and are modest in size.

PLANNING BOARD RECOMMENDATION

On behalf of the Planning Board, Ms. Baldwin stated, the Board supportive of the proposal, feeling that the request is modest and reasonable. Furthermore, the Board feels that a Variance should be granted in this case, especially where more detrimental projects receive relief through Deadrick on a regular basis.

Therefore, Ms. Baldwin stated, the Planning Board recommends approval of the site plan by Everett M. Brooks Co., dated 11/30/20, and architectural plans by SB Architects, dated 10/06/20, subject to 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 amenities must be executed 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 a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) 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.

Chair Zuroff then called upon Monique Baldwin, on behalf of the Deputy Building Commissioner, to deliver the opinion of the Building Department. Ms. Baldwin stated that the Building Department has no objection to the relief requested.

The Board then deliberated on the merits of the application. Board Member Meiklejohn stated that the proposed addition is both fitting in the neighborhood and is a good faith effort to mitigate impacts. Board Member Palermo concurs and is also in favor. Chair Zuroff agreed with

the Board Members and states that the modest expansion of the footprint makes it completely within the purview of 40A Section 10. Chair Zuroff believes that it meets the requirements for the granting of a variance and with the counterbalancing amenities under Section 9.05 of the Zoning By-Law.

The Board voted unanimously to grant special permit relief pursuant to Section 9.05 of the Zoning By-Law and made the following findings:

- 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. The development as proposed will not have a significant adverse 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:

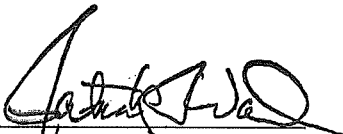
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2. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) 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.

Unanimous decision of the
Board of Appeals

Filing Date: 04/13/21


Mark G. Zuroff, Chair

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals