



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

Patrick J. Ward, Clerk

**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Mark G. Zuroff  
Johanna Schneider

# *Town of Brookline*

## *Massachusetts*

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2021 MAY -6 P 3:43

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2020-0069  
CAMILLA A. & STEPHEN J. SUTTER  
129 UNIVERSITY ROAD, BROOKLINE, MA

Petitioners, Camilla A. & Stephen J. Sutter, applied to the Building Commissioner for permission to demolish attached greenhouse and construct 3-story addition. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the property affected was that shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed March 18, 2021 at 7:00 p.m., virtually as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 4, 2021 & March 11, 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 public hearing on the following petition:**

Register for this hearing:

<http://bit.ly/3pT7Knz>

*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>

**129 UNIVERSITY ROAD, MA 02445 – DEMOLISH ATTACHED GREENHOUSE AND CONSTRUCT 3-STORY ADDITION. This property is in a T-6 TWO-FAMILY ZONE. This case is to be heard at a virtual meeting on 3/18/2021 to start at 7pm (Petitioner: STEPHEN & CAMILLA SUTTER) 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:

- §5.20 - FLOOR AREA RATIO
- §5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS
- §5.60 - SIDE YARD REQUIREMENTS
- §5.74 - FENCES AND TERRACES IN REAR YARDS
- §8.02 - ALTERATION OR EXTENSION

***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](mailto: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](mailto:vpanak@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 G. Zuroff  
Johanna Schneider*

**Publish: 03/4/2021 & 03/11/2021**

At the continued date<sup>1</sup>, this Board held a public hearing. Present at the hearing were Chair Mark G. Zuroff and Board Members Lark Palermo and Randolph Meiklejohn. Also present at the hearing was Monique Baldwin, Cannabis Licensing & Mitigation Coordinator on behalf of the Planning and Building Department.

The case was presented by the project architect Glenn Knowles, Glenn Knowles & Associates, 584 Columbia Road, Boston, Massachusetts. Also in attendance were the Petitioners, Stephen and Camilla Sutter.

Chair Zuroff called the hearing to order at 7:00 p.m. Stephen Sutter waived the reading of the public notice.

Mr. Knowles stated that the scope of work consists of demolishing an existing greenhouse on the side of the residence for the purpose of adding an elevator, and enlarging a bathroom to accommodate a roll-in shower and adaptable water closet. He noted that they are proposing to use the same footprint of the existing greenhouse: the same width and a slightly greater depth, by 3.75 inches. Mr. Knowles also mentioned that he worked with Planning Department staff on the design of the elevator that would allow the project to keep the existing roof lines. He noted that the scope of work also includes a small deck at the rear of the house, and a porch at the front of the house.

Chair Zuroff inquired if there was a particular reason why the applicant was expanding the porches. Mr. Sutter responded that the purpose is for increasing their personal porch space, since the second-floor

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<sup>1</sup> On March 18, 2021 at 7:00PM the Board, represented by Chair Zuroff continued the hearing to March 25, 2021 at 7:00PM without testimony.

porch is part of the rental unit. Board Member Meiklejohn inquired whether the applicant studied the feasibility of having the elevator within the footprint of the house itself, rather than additional square footage. Mr. Knowles stated that they did, but the internal circulation and structural feasibility were concerns. Board Member Meiklejohn also inquired whether the proposed elevator would go all the way down to the garage level and whether the basement was on the same level as the garage. Mr. Sutter confirmed that the proposed elevator would go down to the garage, and that the basement is slightly above the garage. Board Member Meiklejohn also inquired whether the proposed square footage took into account the elevator footprint on all four floors. After analyzing the plans, Mr. Knowles confirmed that the square footage of the elevator took into account all four floors.

Chair Zuroff then asked whether anyone was present to speak in favor of the proposal. Scott Sullivan and Michelle Graham, from 135 University Road, stated that the petitioner canvassed the neighborhood and asked for input and support of the proposed project and believe that the design is pleasing and will enhance the neighborhood.

Chair Zuroff then asked whether anyone was present to speak in opposition to the proposal. No one spoke in opposition to the proposal.

Chair Zuroff then called upon Monique Baldwin, Cannabis Licensing & Mitigation Coordinator on behalf of the Planning Department, to deliver the findings of the Planning Board. Ms. Baldwin noted the following:

## FINDINGS

<b>ZONING: T-6</b>	<b>Required/ Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
Floor Area Ratio	0.75 / 100% 4,580 SF	1.01 / 142% 6,505 SF	1.09 / 153% 7,049 SF	Special Permit <sup>1</sup>
Side Yard Setback	10'	5'6'''	5' 6''	Special Permit <sup>2</sup>

<sup>1</sup>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.

<sup>2</sup>§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 AND EXTENSION** - A special permit is required to alter and/or extend this non-conforming use/structure.

### PLANNING DEPARTMENT COMMENTS

Ms. Baldwin stated that the Planning Department is not supportive of this proposal. The three-story addition is out of scale with the existing structure and is incongruous with the existing architectural design. She noted that the Planning Department would support a proposal that is more reasonable in scale, with materials in keeping with the existing structure. The Planning Department recommends denial.

### PLANNING BOARD RECOMMENDATION

Ms. Baldwin stated that the Planning Board was shown an alternate plan, which the applicant prepared after learning that Staff was not supportive of the original design. The new design used more traditional architecture and was more contextual with the existing style of the house and the surrounding neighborhood. However, the Planning Board did not object to either scheme and felt it should be up to the applicant which style he chose. Although a couple of Planning Board members would have preferred

that the second-floor balcony not be extended along the front of the façade, a majority of the Board was not concerned with this

Ms. Baldwin stated that the Planning Board recommends approval (4 in favor, 1 opposed and 1 abstention) of the site plan by Precision Land Surveying Inc., dated October 2, 2020, and architectural plans by Glen Knowles and Associates, dated, February 9, 2021, 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 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 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.

The Board noted that the recommendation from the Planning Department and the Planning Board was conflicting and concluded that the decision was in the hands of the Zoning Board of Appeals. Board Member Lark Palermo noted that there was a reference to landscaping counterbalancing amenities, but did not notice any landscaping detail on the plans. Mr. Knowles mentioned that substantial landscaping was done through a previous permit, but would provide a landscaping plan identifying new landscaping. Chair Zuroff noted that landscaping amenity is a condition for relief under **Section 5.43** of the Zoning By-Law. Chair Zuroff and Board Member Meiklejohn concurred that the Planning Department's recommendation to deny was more than likely for the original plans, and not for the revised plans.

Chair Zuroff then called upon Monique Baldwin, on behalf of the Building Department to deliver the comments 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 due to the steep slope along University Road, the addition would be visible on the skyline and therefore the design of the project is important. He noted that the architect did a nice job, and is in favor to approve under Section 9.05. Board Member Palermo stated that the design appears to be more in keeping with the neighborhood, and agrees that the project satisfies the requirements under Section 9.05. Chair Zuroff concurs and approves of the requested relief under Section 8.02 and Section 9.05 of the Zoning By-Laws.

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

- a. The specific site is an appropriate location for such a use, structure, or condition because the home will remain a single-family home.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians because there will be no change to on site circulation.
- 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.

Accordingly, the Board voted unanimously to grant the requested special permit relief 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 with 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.

Unanimous Decision of  
The Board of Appeals

  
Mark G. Zuroff, Chair

Filing Date: 5/6/21

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals