



# Town of Brookline Massachusetts

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Benjamin Kaufman, Clerk

#### BOARD OF APPEALS

Jesse Geller, Chairman  
Mark G. Zuroff  
Johanna Schneider

TOWN OF BROOKLINE

BOARD OF APPEALS

CASE NO. 2021-0012

EDWARD W. JAY, JR. AND HEIDI S. JAY  
191 BONAD ROAD, BROOKLINE, MA

Petitioners Edward W. Jay and Heidi S. Jay applied to the Building Commissioner for permission to construct a single-story addition to the rear of house in an S-7 Single-Family Residential 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 certified by the Board of Assessors of the Town of Brookline and fixed June 10, 2021 at 7:00 p.m. virtually as the date, time, and place of a hearing for appeal. Notice of the hearing was mailed to the Petitioner, to the attorney 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 May 27, 2021 and June 3, 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:**

Address: **191 Bonad Road**  
Petitioner: **Edward W. Jay, Jr. and Heidi S. Jay**  
Zoning District: **S-7 (Single-Family)**  
Precinct: **16**  
Description: **Construct rear addition**

**Date, time, and location of the public hearing are as follows:**

Date: **06/10/2021**  
Time: **7:00 pm**  
Location: **Virtual Meeting (see below)**

**Register for this virtual hearing:**

<https://bit.ly/3ywJdtK>

*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>

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:

**§5.09.2.J – DESIGN REVIEW**

**§5.22.3 – EXCEPTIONS TO FLOOR AREA RATIO (FAR) FOR RESIDENTIAL UNITS**

**§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 **Karen Chavez** ([kchavez@brooklinema.gov](mailto:kchavez@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: 05/27/2021 & 06/03/2021**

On June 10, 2021, at 7:00 pm, the Brookline Zoning Board of Appeals 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 Zoning Coordinator and Planner, Karen Chavez and Deputy Building Commissioner, Paul Campbell.

The Petitioner's attorney, Kenneth M. Goldstein, Esquire, 822 Boylston St., Suite 300, Chestnut Hill, Massachusetts, waived a reading of the public hearing notice for the record. Also in attendance was the Petitioner, Heidi Jay.

Attorney Goldstein presented to the Board and stated that 191 Bonad Road is a single-family home built in 1940 in an S-7 zoning district. The 7,500 square foot property is currently improved with a house consisting of 2,303 square feet of living area, of which 283 square feet of living area are located in the basement of the house. The petitioner proposes to construct an approximately 620 square foot addition at the rear of the house to accommodate a first-floor bedroom and bath.

Mr. Goldstein stated that under **Table 5.01** of the Zoning By-Law, the allowed floor area ratio is 0.35. Mr. Goldstein noted that of the 620 square feet proposed to be added to the house, 300 square feet exceed the allowed floor area ratio. Mr. Goldstein stated that **Section 5.22(3)(B)(1)(B)** of the Zoning By-Law allows exterior additions to exceed the 'by-right'

maximum floor area ratio by as much as twenty (20%) percent, through a Special Permit process, and that the proposal would exceed the 'by-right' maximum floor area by eleven (11%) percent. He added that the proposed addition would conform to the dimensional requirements of the Zoning By-Law in every other respect.

Mr. Goldstein noted that the proposal also triggered design review under **Section 5.09.2** of the Zoning By-Law, and presented the proposed plans for the design of the addition. Mr. Goldstein stated that the addition had been designed to minimize adverse impact to abutters, and to be virtually invisible from Bonad Road, due in part to grade changes. Mr. Goldstein stated that the addition would not affect any trees, and would only minimally impact existing landscaping.

Mr. Goldstein opined that the proposal would be in keeping with the scales and forms common in the neighborhood. Mr. Goldstein reviewed a table comparing the floor area of the property, if relief were granted, with the floor area of nearby properties, and noted that the proposal, with regards to square footage, would be similar to the majority of the nearby properties.

Mr. Goldstein stated that the proposal will not result in a detrimental impact on the neighborhood and will meet all of the requirements for a special permit under **Section 9.05**. Mr. Goldstein further stated that the proposal is an appropriate location for the structure, it will not adversely affect the neighborhood, it does not present a nuisance to passage, adequate facilities have been provided for the proper operation of the property, and the proposal has no adverse impact on affordable housing.

Mr. Goldstein noted that letters of support from abutters were received.

Board Member Meiklejohn inquired about the eave overhang above the ramp, and whether it was using the architecture of the existing house.

Mr. Goldstein explained that the extended overhang would provide protection from the elements when the house is accessed by the proposed ramp.

Chair Zuroff then called for public comment in favor of the proposal. No one spoke in favor of the proposal.

Chair Zuroff then called for public comments in opposition to the proposal. No one spoke in opposition of the proposal.

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

**FINDINGS**

<b>ZONING: S-7</b>	<b>Requirements</b>	<b>Existing Conditions</b>	<b>Proposed Conditions</b>	<b>Relief Required</b>
<b>Use</b>	1-family detached dwelling	Single-family	Single-family	
<b>Lot Size</b>	7,000sf	7,500sf	7,500sf	
<b>Floor Area Ratio</b>	0.35 (100%) 2,625sf	0.31 (88%) 2,303sf	0.39 (111%) 2,923sf	<u>Special Permit</u> <sup>1</sup>
<b>Height</b>	35'	26.9'	26.9'	
<b>Front Setback</b>	20'	21.9'	21.9'	
<b>Side Yard Setback (Left / Right)</b>	7.5' / 7.5'	20.3' / 9.2'	20.3' / 7.9'	
<b>Rear Yard Setback</b>	30'	36.5'	30.9'	
<b>Open Space (Landscaped / Usable)</b>	10%/30% 292sf / 877sf	>300sf / >910sf	>300sf / >910sf	

<sup>1</sup> **Section 5.22, Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units:** This section allows an applicant to seek a Special Permit to exceed the allowed FAR for single-family and two-family buildings by up to 20% or 30% (depending on how much of the additional GFA is due to an exterior addition or interior conversion). The applicant is seeking to exceed the allowed FAR by 11% which is permitted by Special Permit under this Section.

**Other Zoning Relief Needed**

**Section 5.09.2.J, Design Review:** Projects seeking additional FAR pursuant to Section 5.22 require Design Review. The applicant has submitted an Impact Statement that explains how the project satisfies the Community and Environmental Impact and Design Standards of Section 5.09.4.

**PLANNING DEPARTMENT COMMENTS**

Ms. Chavez stated that the Planning Department is supportive of this proposal. The addition is modest, well-designed, and generally consistent with the architecture of the existing building and surrounding buildings. She noted that the zoning relief requested is relatively minimal, and the site and building otherwise comply with all other zoning requirements. The alterations are unlikely to have any negative impacts on surrounding abutters or the public way.

**PLANNING BOARD RECOMMENDATION**

Ms. Chavez stated that the Planning Board is supportive of the proposal, feeling that it is well-designed and reasonable in the context of the neighborhood.

Ms. Chavez stated that the Planning Board recommends approval of the site plan by Snelling and Hamel Associates, dated 1/21/21, and architectural plans by David Whitney Architect, dated 1/13/21, 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 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 Deputy Building Commissioner, Paul Campbell to deliver the opinion of the Building Department. Mr. Campbell stated that the Building Department has no objections to the relief requested and is on favor of the proposal. He stated that the Building Department will work with the Petitioner to ensure compliance with the Board's decision and all state building codes.

The Board then deliberated on the merits of the application. Board Member Randolph Meiklejohn noted that the design indeed applied the standards of the Zoning By-Law, and the proposal met the design review standards in relation to the streetscape and neighborhood. Board Member Meiklejohn was in favor of granting the special permit. Board Member Lark Palermo stated that she was in favor of granting relief since the project complies with Section 9.05 of the Zoning By-Law, and noted that the proposal would complement the house and the neighborhood. Chair Zuroff agreed with Board Member Meiklejohn and Board Member Palermo, noted that the proposal is a well-conceived plan, and stated that it meets the requirements of the Zoning By-Law.

The Board of Appeals then determined, by unanimous vote, that the requirements under Section 5.22(3)(B)(1)(B) and Section 5.09 of the Zoning By-Law had been satisfied, thereby granting a Special Permit. The Board made the following specific findings pursuant to Section 9.05:

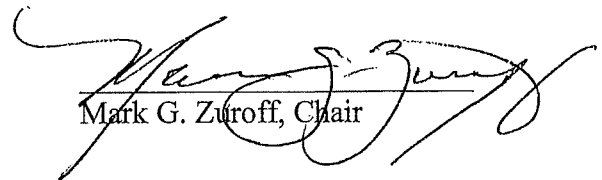
- a. The specific site in an appropriate location for such a use, structure, or condition.

- 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 of Appeals 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 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.

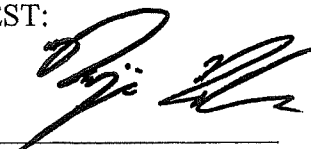
Unanimous Decision of  
The Board of Appeals



Mark G. Zurroff, Chair

Filing Date: 6/28/21

A True Copy  
ATTEST:



Benjamin Kaufman  
Clerk, Board of Appeals