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Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chair
Mark Zuroff
Johanna Schneider

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Benjamin Kaufman, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2021-000063
52 JAMAICA ROAD
BROOKLINE, MA

Petitioner, Theresa Vitorino, applied to the Building Commissioner for permission to construct a three-story addition to the rear of an existing three-family dwelling. 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 January 13, 2022, 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 December 30, 2021, and January 6, 2022, 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: 52 Jamaica Road
Petitioner: Theresa Vitorino

Zoning District: M-1.0 Apartment House
Precinct: 5
Description: Construct a three-story addition in the rear

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

Date: 1/13/22
Time: 7:00 pm
Location: Virtual Meeting (see below)

Register for this virtual hearing:

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

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:

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.50 - FRONT YARD REQUIREMENTS

§5.60 - SIDE YARD REQUIREMENTS

§8.02 - ALTERATION OR EXTENSION

§8.02 - Alteration or Extension - Pre-Existing Non-Conformities: Front and Side Yard Setbacks

ANY OTHER RELIEF THE BOARD MAY FIND 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 Monique Baldwin (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 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 Zuroff
Johanna Schneider*

Publish: 12/30/2021 & 1/6/2022

On January 13, 2022, at 7:00 pm, the Brookline Zoning Board of Appeals held a public hearing. Present at the hearing were Zoning Board Chair Johanna Schneider and Board Members Mark Zuroff and Neil Wishinsky.

The Petitioner's attorney, Robert L. Allen, RLAW P.C, 300 Washington Street, Brookline, Massachusetts, waived a reading of the public hearing notice for the record. Also in attendance was the architect, Timothy Burke, Timothy Burke Architecture, 142 Berkeley Street, Boston, Massachusetts.

Attorney Allen introduced the project. He stated that 52 Jamaica Road is in the M-1.0 Zoning District, was built in 1900, is situated on a long and narrow lot. He added that the three-unit building has one unit per floor, and the proposal is to construct a rear addition to add an ensuite bedroom to each unit and remove the existing decks. Attorney Allen stated that there is no change to the total number of bedrooms. Attorney Allen noted that the proposal would add 856 square feet or approximately 285 square feet per unit.

Attorney Allen stated that zoning relief is required for the side yard setbacks: 16' are required and the existing structure has a setback of 10'2 feet on the left and 6' on the right. He

stated that no relief is needed for the rear yard adding that the current setback is 68.5', and the proposed rear yard setback would be 60.3'. Attorney Allen said the proposed addition would provide double the required 30' setback. He stated that landscaping is offered to serve as the counter-balancing amenity. Attorney Allen added that 23 letters in support were provided to the Board from the abutters.

Attorney Allen then called upon Mr. Burke to review the proposed project. Mr. Burke reviewed the proposed site plan that showed the proposed three-story addition with a side yard setback of 7.1' to the north and side yard setback of 14' to the south.

Attorney Allen then reviewed the requested zoning relief. He stated that a special permit is sought under **Section 5.43** to waive the dimensional requirements for side yard setback under **Section 5.60** to allow for the extension of the side yard in place of the required 16' side yard setback. Attorney Allen stated that under **Section 5.43**, the ZBA may grant this relief if a counterbalancing amenity is provided. He stated that the Petitioner is proposing additional landscaping to improve the property as the counterbalancing amenity. He added that the Petitioner would comply with the Planning Board recommendation to provide further information regarding the plantings subject to the review and approval of the Assistant Director of Regulatory Planning.

Attorney Allen then reviewed the special permit standards under **Section 9.05** and stated the following: 1) Specific site is an appropriate location for such use: The property is located in a M-1.0 multifamily zoning district and the existing use is a three-family, which will remain. 2) Use will not adversely affect the neighborhood: There will be no change to the use and the proposed addition will not adversely affect the neighborhood. Twenty-three signatures have been provided in support of the proposal and the Planning Board was unanimously supportive. 3) No nuisance or serious hazard to vehicles or pedestrians There will be no change to the site circulation for vehicles

or pedestrians. 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use. 5) Development will not have any effect on the supply on housing available for low- and moderate-income people.

Chair Schneider then called for public comments in favor of the proposal. No one appeared to speak support of the proposal.

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

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

PLANNING DEPARTMENT COMMENTS

Ms. Baldwin stated that the Planning Department is supportive of the proposed addition. She noted that the addition is well designed and in keeping with other structures in the neighborhood and the proposed structure will not be substantially more detrimental than the existing structure.

PLANNING BOARD RECOMMENDATION

Ms. Baldwin stated that the Planning Board is supportive of this proposal, feeling that the addition is well designed and integrates well with the existing building and surrounding neighborhood. She added that the Board requests that the applicant's landscape plan be updated to include the size and spacing for each plant species.

Ms. Baldwin therefore stated that the Planning Board recommends approval of the architectural plans by Timothy Burke Architecture, dated 12/8/21, and the site plan plans A.S. Eliot & Associates, dated 8/17/21, 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 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.

Board Member Zuroff noted that the language captured in the footnote of the staff report was inconsistent with the requirements under **Section 5.43** and indicated that a counterbalancing amenity could be provided elsewhere on a lot than where the zoning relief for a setback is requested.

Chair Schneider 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 objection to the relief requested and 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 Zuroff stated that the requested relief was minimal, and the footprint is not changing significantly. He added that the Petitioner demonstrated that the requirements under **Sections 5.43** and **9.05** have been met. Board Member Wishinsky stated that he is familiar with the neighborhood and noted that the proposal will be a good addition to the neighborhood. Board Member Wishinsky supported the grant of the requested relief. Chair Schneider concurred and pointed out that the rear addition

maintained an ample rear yard setback. She noted that the number of letters supporting the proposal speaks both to the reasonableness of the expansion and the family's ties to the neighborhood.

The Board voted unanimously to grant a special permit from the provisions of Section 5.60 pursuant to Section 5.43 of the Zoning By-law to allow for a rear addition to have side yard setbacks of 7.1' on the north side of the property and 14' on the south side of the property where 16' are otherwise required.

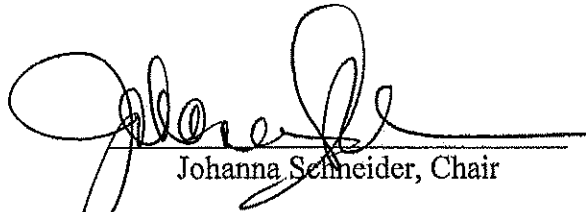
The Board made the following findings pursuant to Section 9.05 of the Zoning By-Law:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- 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 revised conditions:

Unanimous decision of the
Board of Appeals

Filing Date: FEB 08 2022



Johanna Schneider, Chair

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals