



Jesse Geller, Chair  
Johanna Schneider  
Lark Jurev Palermo

# *Town of Brookline*

## *Massachusetts*

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**Ben Kaufman, Clerk**

TOWN CLERK'S OFFICE  
2022 08 22 10:40

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2022-000046  
183 RESERVOIR ROAD

Petitioners Jordan S. & Evonne H. Meranus applied to the Building Commissioner for permission to construct an addition to the rear of the existing building at 183 Reservoir Road. 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 August 4, 2022, 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 July 21, 2022, & July 28, 2022, in the Boston Globe, a newspaper in general circulation in the Town. A copy of said notice is as follows:

**TOWN OF BROOKLINE - Zoning Board of Appeals**

**NOTICE OF HEARING**

The Brookline Zoning Board of Appeals will hold a public hearing on

**Date/Time:** Thursday, August 4, 2022

**Location:** Virtual Hearing OR Hybrid Hearing (TBA)  
**Virtual Registration Link:** <https://bit.ly/3z1Pgc0>  
**Physical Location (if Hybrid):** Room 103 (1st floor) of Brookline Town Hall  
**Petitioner:** Jordan S. & Evonne H. Meranus  
**Address:** 183 Reservoir Road  
**Subject:** Construct addition to rear of existing building  
**Nature of Action/Relief:**  
§5.09.2.j - Design review  
§5.20 - Floor area ratio  
§5.22.2 - Exceptions to floor area ratio regulations for residential units  
§8.02 - Alteration or extension  
*Plans and submissions may be viewed online at <https://brooklinema.gov/DocumentCenter/Index/2352>*  
*Interested persons may provide comments at the public hearing or by submitting written comments by email to [manthony@brooklinema.gov](mailto:manthony@brooklinema.gov).*  
**Assistive Listening Devices** are available upon request:  
<https://www.brooklinema.gov/560/Americans-With-Disabilities-Act-ADA>  
**Publish:** 7/21/2022 & 7/28/2022

On August 4, 2022, the Zoning Board of Appeals held a public hearing. Present at the virtual hearing were Chair Lark Palermo and Board Members Jesse Geller and Paul Bell. The case was presented by the project's architect, Bennie Ber, NehKooDah, 2001 Beacon St, Boston, MA 02135. Also in attendance was one of the petitioners, Evonne Meranus.

Zoning Board of Appeals Chair Palermo called the virtual hearing to order at 7:00 pm. Chair Palermo reviewed the standard hearing procedure for virtual hearings and confirmed that all Board Members and staff could visually and auditorily engage in the hearing. Mr. Ber waived a reading of the published notice.

Mr. Ber presented the case for the Petitioner. In a digital presentation, Mr. Ber reviewed the project plans and presented the site plans. He stated that the property is a single-family house on the “down-hill” side of the street and the rear looks to the north. He explained that the scope of the project includes finishing the attic and constructing a suite in the attic. He displayed the proposed floor plans for the attic. He stated that in order to construct this suite in the attic, a roof dormer needs to be constructed and explained that because of the height of the existing ridge of the house, which they do not wish to exceed, the dormer is limited in its height and slope.

Mr. Ber then reviewed the requested zoning relief, stating this proposal is seeking relief from **Section 5.22**, since the finished attic will result in exceeded the standard FAR, and **Section 5.09**. He noted that the Planning Board unanimously approved of the proposal, they have received ten letters of support from abutters, and he is unaware of any opposition to this project.

Mr. Ber stated that the applicant accepts the conditions set forth by the Planning Board and asks that the relief be granted. He stated, however, that if possible the applicant would like to be relieved from the Planning Board’s condition of returning to the Planning Board for further design review, but is willing to meet the condition if the Board feels it is necessary.

Chair Palermo then called for public comments in support of or in opposition to the Petitioner. No public comments were submitted.

Chair Palermo then called upon Senior Planner Maria Morelli to present the Planning Board report.

**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	1-family detached dwelling	1-family detached dwelling	
<b>Floor Area Ratio</b>	0.35 (100%) 2,795sf	0.38 (110%) 3,064sf	0.43 (124%) 3,471sf	<b><u>Special Permit</u><sup>1</sup></b> OR <b><u>Special Permit</u><sup>2</sup></b>

<sup>1</sup> Under **MGL Chapter 40A, Section 6**, a pre-existing nonconforming structure can extend or intensify the nonconformity by special permit provided the Board of Appeals finds that the altered structure is not substantially more detrimental to the neighborhood than the existing structure.

<sup>2</sup> **Section 5.22.2, Exceptions to Maximum Floor Area Ratio Regulations for Residential Units:** This section allows single- and two-family dwellings to finish attics and basements, thereby increasing their floor area ratio, provided that the added gross floor area does not increase the FAR beyond 130% of the maximum proscribed in Table 5.01, Dimensional Requirements. Any exterior addition proposed as part of the conversion may not protrude beyond the height of the existing roof ridge nor beyond the existing eave and is subject to a Special Permit under Design Review.

**Other Zoning Relief Needed**

**Section 5.09.2.J, Design Review:** If the Board chooses to grant the relief to FAR via Section 5.22 rather than a Section 6 finding, Design Review is required. Any application seeking relief under Section 5.22 requires Design Review.

**Section 8.02, Alteration or Extension:** A special permit is required for the alteration of a non-conforming structure.

**PLANNING DEPARTMENT COMMENTS**

The Planning Department is supportive of this proposal. The dormer is reasonable in size and does not significantly increase the scale of the proposed building. Being on the rear of the building, the addition will also have a minimal impact on the public way and surrounding abutters and is therefore unlikely to be substantially more detrimental to the neighborhood than the existing structure. A Section 6 finding is therefore appropriate. Planning staff is of the opinion that the dormer’s roofline incorporating both shed and gable styles should be simplified to one type or the other.

**PLANNING BOARD RECOMMENDATION**

The Planning Board is supportive of this proposal. The Board feels that the scale of the addition is appropriate and will not negatively impact the neighborhood. However, the Board believes that, for the benefit of the applicant, the roof line of the dormer should be simplified. The Board

raised concerns particularly with roof leaking. The Board believes that Design Review should apply and that the applicant should return to the Planning Board after ZBA approval for final Design Review, along with a condition requiring that the roofline of the dormer be simplified.

**The Planning Board recommends approval of the site plan by Peter Nolan & Associates LLC, dated 3/8/22 and architectural plans by NehKooDah, dated 7/19/22, 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 Planning Board for review and approval. The elevation plans shall show a simplified roof line for the dormer.**
- 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 Palermo then called upon Deputy Building Commissioner Paul Campbell to deliver the findings of the Building Department. Mr. Campbell stated that the Building Department concurred with the Planning Board analysis and added that, should the Board grant the requested relief, the Building Department would work with the Petitioners to ensure conformance with the Board's decision and all applicable building codes.

In deliberation, Mr. Geller stated that he finds the requests to be reasonable and he believes it meets the requirements under **Chapter 40A Section 6**, as interpreted through the Deidrick line of cases. He explained that in Brookline, the way Deidrick is interpreted through **Section 9.05** of the Zoning By-law. He stated that the dormer addition meets the criteria set forth by **Section 9.05** and is not substantially more detrimental to the neighborhood. He stated that we would be in favor of granting the requested relief under **Section 9.05**, as protected by **Chapter 40A Section 6**. He added that by placing the relief under **Section 9.05**, it would be subject to

conditions. However, he continued, stating that he is not insensitive to the request made by the applicant about eliminating the condition asking for further design review and would be in favor of removing this condition, but wants to hear what his fellow board members have to say on this.

Mr. Bell stated he agrees with Mr. Geller that it meets the criteria for relief under **Chapter 40A Section 6** and **Section 9.05**. He continued, stating he is comfortable eliminating the condition asking for further design review. He stated he would be in favor of granting the requested relief.

Chair Palermo stated she agrees with her fellow Board Members and would be in favor of eliminating the condition for further design review requested by the Planning Board.

The Board then determined, by unanimous vote, that the proposal met the requirements for a special permit under **Section 5.09.2.J**, for design review, and under **Section 5.09**.

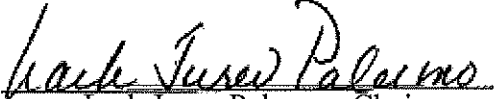
In addition, the Board made the following specific findings under **Section 9.05** based on the evidence submitted at the hearing and the Board's deliberations:

- 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 the requested 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 Planning Board for review and approval. The elevation plans shall show a simplified roof line for the dormer.
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Unanimous Decision of  
The Board of Appeals

  
Lark Jurev Palermo, Chair  
Zoning Board of Appeals

Filing Date: 10/25/22

A True Copy  
ATTEST:

  
Benjamin Kaufman  
Clerk, Board of Appeals