



Town of Brookline Massachusetts

BOARD OF APPEALS
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Lark Palermo

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-000048
85 STANTON ROAD

Petitioners, Nondita C. and Rahul J. Mejrotra applied to the Building Commissioner for permission to expand an existing driveway and create a new parking space. 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 September 15, 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 September 1, 2022, & September 8, 2022, in the Boston Globe, a newspaper in general circulation in Brookline. 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, September 15, 2022

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3wnpMUP>

Petitioner: Nondita C & Rahul J Mejrotra

Address: 85 Stanton Road

Subject: Construct addition in rear and side yard to accommodate bathroom, bedroom and study

Nature of Action/Relief:

§5.20 - FLOOR AREA RATIO

§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.

Assistive Listening Devices are available upon request:

<https://www.brooklinema.gov/560/Americans-With-Disabilities-Act-ADA>

Publish: 9/1/2022 & 9/8/2022

On November 10, 2022, the Zoning Board of Appeals held a virtual public hearing.¹ Present at the hearing were Chair Jesse Geller and Board Members Paul Bell and Wadner Oge. The case was presented by the project's architect, Shaun Morris, Payette, 290 Congress St, Boston, MA 02210.

Zoning Board of Appeals Chair Geller called the virtual hearing to order at 7:00 pm. Chair Geller 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. Morris waived a reading of the published notice.

Mr. Morris presented the case for the Petitioners, stating that they are proposing to add an addition to a single-family home. He explained that the current FAR is a pre-existing non-

conformity and the current height of the building is not being altered. He continued, stating that the addition is meant to add more space to the living area on the first floor and add an in-law bedroom on the first floor.

Mr. Morris stated that the proposal has the support of the Planning Board, but is still awaiting approval of the Preservation Commission, as the house was found to be historically significant. He explained that during the time spent working with the Preservation Commission and Preservation Commission Sub-Committee the design of the proposal was altered, but the dimensions of the design were not altered other than reducing the addition by an eight-inch setback off the edge of the exterior wall of the addition.

Board Member Bell asked if Mr. Morris could provide more information on the outcome of working with the Preservation Commission, to which Mr. Morris explained he has been working with a sub-committee to alter the design of the proposal to meet their standards and the subcommittee has final approval of the design. Board Member Bell further inquired how far along the project was in the preservation and demolition delay process, to which Mr. Morris responded that he is currently working with the sub-committee to improve the design and lift the demolition-stay and there is an upcoming meeting scheduled to determine whether or not the stay can be lifted. Board Member Bell noted the fact that the plans may change while the applicant works with the Preservation Commission which might necessitate reappearing before the Zoning Board of Appeals for a modification or new relief.

Board Member Oge inquired as to why the addition was expanding across the yard, rather than behind the existing house. Mr. Morris responded that, with respect to the addition on the second floor, the petitioners wanted to keep the massing low and did not want to increase the current roof line, adding that the addition is a natural expansion of the second-floor to create an

office. Board Member Oge then inquired about the reasoning behind adding a new “more modern” appearing façade, rather than keeping the existing brick façade. Mr. Morris stated that the petitioners have worked with the Planning Board and Preservation Commission on the design and they did not want to mimic the historic nature of the design, but instead wanted to differentiate between the historic building and the addition to maintain the integrity of the historic structure.

In reliance on a digital presentation, Mr. Morris then presented the revised architectural plans on which the Petitioners have been collaborating with the Preservation Commission. He pointed out the differences between the original and updated plans, including 1) moving the addition wall inward by about six-inches, resulting in a reduction of the non-conforming FAR; 2) moving the south wall of the study inwards to create a balcony; and 3) a slight alteration of the elevation. Mr. Morris then displayed the renderings of both the existing house and revised designs for comparison.

Mr. Morris stated he is seeking relief for the non-conforming FAR, which is a pre-existing non-conformity. In response to an inquiry from Board Member Bell, Mr. Morris responded that the FAR calculation is reflective of the previous plans, which are the plans approved by the Planning Board, but the FAR should now be less than the measurement listed in the proposal, since the wall of the new addition was moved inwards in the updated plans. Mr. Morris then asked Deputy Building Commissioner Campbell if the balcony shown in the updated plans should be included in the FAR calculation. Mr. Campbell responded in the negative, since it is a true balcony additional relief for the balcony will not be necessary.

Mr. Morris stated that the petitioner is requesting a finding under M.G.L. Ch. 40A, Section 6 to allow for the increase of the preexisting nonconforming FAR: the maximum allowed

FAR is .35, the existing FAR is .55, and the proposal would increase the FAR to between .55 and .63. He added that this proposal meets the standard of no substantial detriment to the neighborhood.

Chair Geller then called for public comments in support of or in opposition to the Proposal. No comments were submitted and no one requested to speak.

Chair Geller then called upon Planner and Zoning Coordinator, Madison Anthony to present the Planning Board report.

FINDINGS

Section 5.10 – Minimum Lot Size

Section 5.20 – Floor Area Ratio

Section 5.50 – Front Yard Setback

Floor Area	Allowed/ Required	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.35 (100%)	0.55 (157%)	0.63 (180%)	Special Permit*
Floor Area (s.f.)	1916 sf	3017 sf	3470 sf	Special Permit*
Lot Size	7,000 sf	5,477 sf	5,477 sf	Special Permit*
Front Yard Setback	20 feet	16.5 feet	16.5 feet	Special Permit*

** Under Deadrick, the Board of Appeals may allow an extension of an existing non-conformity if it finds there is no substantial detriment to the neighborhood.*

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure or use.

PLANNING DEPARTMENT COMMENTS

Staff is generally supportive of granting some relief for the proposed addition, but notes that the proposal almost doubles the maximum floor-area ratio allowed. Although design review is not required, it would benefit the applicant to re-examine the proportions of the addition in relation of the existing structure. For example, the proportions of the overhang at the rear seem to overwhelm the second story of the existing structure, as does the dramatic slope of the gable as it descends from the third floor to the first floor, not revealing much of the existing structure on the side elevation, except for the gable and the chimney.

Therefore, the Planning Board recommends approval of the site plan by D. O'BRIEN LAND SURVEYING, PLS, dated December 17, 2021, and architectural plans prepared by SHAUN D. MORRIS dated May 30, 2022, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations showing proposed materials subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Should the plans change significantly, the revised plans should return to the Planning Board for review.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chair Geller asked for clarification on whether the plans on which the Board is making a decision at the current hearing, are the plans approved by the Planning Board or the revised plans Mr. Morris presented earlier. After discussion, it was clarified that the Board was voting to approve the plans approved by the Planning Board (noting that the only dimensional change in the updated plans was a decrease in the FAR).

Chair Geller then called upon Deputy Building Commissioner Campbell to deliver the findings of the Building Department. Mr. Campbell stated that the Building Department had no objections to the requested relief 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, Chair Geller stated he believes the relief can be granted under M.G.L. Ch. 40A, Section 6 and that it meets the conditions set forth by **Section 9.05** and is not substantially more detrimental to the neighborhood. He stated he would be in favor of granting the relief, subject to the conditions read into the record. However, he added that he finds the approach of

wrapping the existing older structure in this modernized construction of an addition and wrapping it up to the upper windows in the rear, at best, curious. He elaborated, however, that the project is not here for design review and his comments might be different if the modern style of the addition was visible from the front.

Board Member Bell asked for more clarification on which set of plans the Board was making a decision. Chair Geller stated that they are voting whether or not to approve the plan set on which the Planning Board recommended approval, which is the site plan By D. O'Brien Land Surveying, PLS, dated December 17, 2021, and architectural plans prepared by Shaun D. Morris dated May 30, 2022. Board Member Bell stated he is in favor of granting the relief and does not find the project substantially more detrimental to the neighborhood.

Board Member Oge asked what the procedural process would be for approval if they are voting on the plans approved by the Planning Board. Chair Geller stated that the Board will be voting on the plans approved by the Planning Board, and the applicant can amend the plans to match the revised plans. However, if it is determined that the changes to the plans are material, they may have to go through the relief process again. Board Member Oge stated that now that this has been clarified, he would be in favor of approval.

Mr. Geller reiterated for the record that the Board is voting on the plans originally submitted and referenced in the Planning Board Report.

The Board then determined, by unanimous vote, that the proposal met the requirements for a finding under M.G.L. Ch. 40A, Section 6 allowing for an alteration or increase in the preexisting nonconformity from the provisions of **Section 5.20** of the Zoning By-Law to permit an increase in the preexisting nonconforming FAR from a 0.55 to a 0.63.

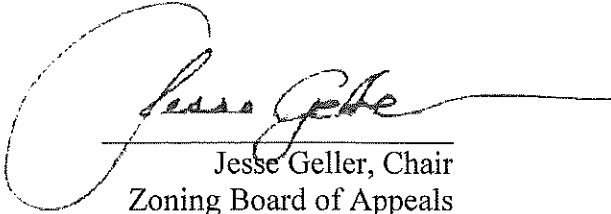
In addition, in evaluating whether there was a substantial detriment to the neighborhood the Board made the following specific findings under **Section 9.05** based on the evidence submitted at the hearing and the Board's deliberation:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will no 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 submit final plans and elevations showing proposed materials subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Should the plans change significantly, the revised plans should return to the Planning Board for review.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds of Deeds.

Unanimous Decision of
The Board of Appeals

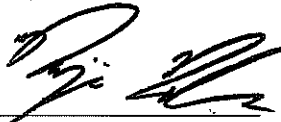


Jesse Geller, Chair
Zoning Board of Appeals

Filing Date: 1/5/2023

A True Copy

ATTEST:

A handwritten signature in black ink, appearing to read 'Benjamin Kaufman', written over a horizontal line.

Benjamin Kaufman
Clerk, Board of Appeals