



Town of Brookline Massachusetts

BOARD OF APPEALS
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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-000082
14 AMORY STREET

Petitioners, Michael and Judy Platt, applied to the Building Commissioner for a building permit to add to their home a small addition for a mudroom. 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 March 2, 2023 at 7:00 p.m. as the date and time for a virtual hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to its 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 2/16/2023 & 2/23/2023 in the *Boston Herald*, a newspaper published in Brookline. A copy of said notice is as follows:

Notice of Hearing

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, March 2, 2023

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3xj20tp>

Petitioner: Michael Platt & Judy Platt

Address: 14 Amory Street

Subject: Renovate home with small addition for mudroom

Nature of Action/Relief:

§5.20 - FLOOR AREA RATIO

§8.02 - ALTERATION OR EXTENSION

Plans and submissions may be viewed online at

<https://www.brooklinema.gov/DocumentCenter/Index/3707>

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: 2/16/2023 & 2/23/2023

The public hearing was held on March 2, 2023 and the matter was continued to March 16, 2022.

Present at the March 16, 2023 hearing was Chair Lark Palermo and Board Members Randolph Meiklejohn and Wadner Oge. The case was called by Chair Palermo.

Attorney Donald J. Gentile, from Attorney Jeffrey P. Allen's office, appeared for the Petitioners and waived the reading of the public notice. Attorney Gentile explained that the proposal before the Board is to construct a small mudroom at the rear of the home. Attorney Gentile stated that the mudroom would also include a basement area underneath with amenities such as a dog shower and storage space. Attorney Gentile explained that the proposed addition would be in the rear of the existing single-family home. He stated that the home is pre-existing nonconforming as to Floor Area Ratio and Side-Yard Setbacks and the Petitioners are asking the Board to make a determination pursuant to G.L. c. 40A, § 6 that the proposed project will not be substantially more detrimental to the neighborhood than the existing structure. Attorney Gentile also explained that the proposed project satisfies the special permit requirements in Section 9.05 of the Zoning By-Law. Attorney Gentile indicated that additional details related to the project are

contained in the site plan, construction plans, and other materials submitted to the Board in connection with the application. Attorney Gentile invited questions from the Board.

Board Member Randolph Meiklejohn and Board Member Wadner Oge did not have any questions. Chair Palermo asked what the motivation was for creating a basement space rather than building on a slab. Petitioner Michael Platt explained that the space is adjacent to the basement where a basement door comes out. He explained that, it provides an opportunity to include a dog shower, and he anticipated getting a dog soon.

Chair Palermo asked if there were any members of the public wishing to speak, and there were none. Chair Palermo called upon Zoning Coordinator/Planner Madison Anthony to review the findings of the Planning Board. They were as follows:

FINDINGS

§5.20 - FLOOR AREA RATIO

§8.02 - ALTERATION OR EXTENSION

ZONING: SC-7	Requirements/Allowed	Existing Conditions	Proposed Conditions	Relief Required
Floor Area Ratio	0.35	0.459	0.468	<u>Special Permit</u> ¹

¹ 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.

PLANNING STAFF COMMENTS

The proposed addition will provide the residents with additional living space. The mudroom is small in size and the exterior facade blends well with the existing house. The addition will have a minimal impact on the public way because it is at the rear of the house and is therefore unlikely to be substantially more detrimental to the neighborhood than the existing structure.

PLANNING BOARD COMMENTS

The Planning Board is supportive of this proposal. The Board agrees the addition is minimal and unlikely to generate any adverse impact to the neighborhood.

The Planning Board recommends approval of the site and architectural plans by SLS Architecture LLC, dated 9/1/2022, 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 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 requested that Deputy Building Commissioner Paul Campbell present the findings of the Building Department and he stated that the Building Department had no objection to the requested relief sought by the Petitioner. Mr. Campbell stated that, should the Board grant the requested relief, the Building Department would work with the Petitioner to ensure compliance with the Zoning By-Law, the Board's decision, and all applicable codes.

The Board began deliberations. Board Member Meiklejohn stated that he knows the house well. He explained it is an architecturally interesting and a grand house that faces Amory Park and the sanctuary. He noted that making changes to the rear of the home will maintain the character of the neighborhood and, therefore, the relief requested is available under G.L. c. 40A, § 6 and the conditions of By-Law Section 9.05 special permit approval have been met. Board Member Meiklejohn stated that he would vote in favor of the relief requested.

Chair Palermo invited Board Member Wadner Oge to comment on the application. Board Member Oge stated that he was in favor of granting the relief requested. He indicated that he agreed with his colleague, Randolph Meiklejohn. Board Member Oge stated that this area is beautiful and the project is very modest and will not affect the character of the neighborhood.

He also stated that the project is in line with the use of Amory Park for dogs. He stated that for all those reasons, he is in favor of granting relief because all the conditions of Section 9.05 have been met.

Chair Palermo then stated that she agrees with her colleagues that the proposed project will not be substantially more detrimental to the neighborhood than the existing structure. She stated that the project also meets the conditions set out in By-Law Section 9.05, and therefore she supports the issuance of a special permit, subject to the conditions recommended by the Planning Board.

During deliberation, the Board found the requirements for special permit were met pursuant to Section 9.05 of the Zoning By-Law, specifically:

- 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.

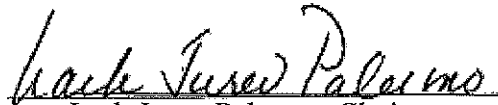
The Board then determined, by unanimous vote, that a) the proposed project will not be substantially more detrimental to the neighborhood than the existing structure; and b) a special permit pursuant to Sections 5.20, 8.02, and 9.05 of the Zoning By-Law be issued subject to the following conditions:

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

Filing Date: 5/4/2023


Lark Jurev Palermo, Chair
Zoning Board of Appeals

A True Copy

ATTEST:



Ben Kaufman
Clerk, Board of Appeals