



# *Town of Brookline*

## *Massachusetts*

**BOARD OF APPEALS**  
Jesse Geller, Chair  
Johanna Schneider  
Lark Jurev Palermo

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2022-000083  
1487 BEACON STREET

Petitioners Evan and Jocelyn R. Guggenheim applied to the Building Commissioner for permission to enclose a back porch as part of a renovation project. The application was denied and an appeal was taken to this Board.

The Board of Appeals 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 May 11, 2023, 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 Petitioners, 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 April 27, 2023, and May 4, 2023, in the *Boston Herald*, a newspaper of 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, May 11, 2023

**Location:** Virtual Hearing

**Virtual Registration Link:** <https://bit.ly/3naMj5Q>

**Petitioner:** Evan R. & Joselyn R. Guggenheim

**Address:** 1487 Beacon Street

**Subject:** Enclosing a back porch as part of a renovation project

**Nature of Action/Relief:**

§5.09.2.A - DESIGN REVIEW

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.60 - SIDE YARD REQUIREMENTS

§8.02 - ALTERATION OR EXTENSION

*Plans and submissions may be viewed online at*

<https://www.brooklinema.gov/DocumentCenter/Index/4122>

*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:** 4/27/2023 & 5/4/2023

On May 11, 2023, the Zoning Board of Appeals held a public hearing. Present at the hearing was Chair Lark Palermo and Board Members Neil Wishinsky and Paul Bell. The case was presented by one of the Petitioners, Evan Guggenheim.

Zoning Board of Appeals Chair Palermo called the 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. Guggenheim waived a reading of the published notice.

Mr. Guggenheim presented the case using a digital presentation. He stated that they own and occupy a unit in a four-unit condominium building. The unit has a back porch that is approximately 86 square feet which the Petitioners plan to enclose to convert it into a home office. The proposed project won't alter the footprint of the condominium or of the building and only

involves enclosing the back porch. Mr. Guggenheim explained the two upper level condominium units in the building already have enclosed porches and the Petitioners intend to match the look and style of those rear porches.

Chair Palermo asked if the Petitioners had permission from the condominium association and other building occupants for this proposal. Mr. Guggenheim responded that he has a letter signed by all unit owners in the condominium association, stating that they approve of the proposal. He presented it to the Board and sent a copy to Zoning Coordinator/Planner Madison Anthony for the Planning Department's records.

Board Member Bell asked for clarification on the relief needed. Mr. Guggenheim responded that the proposal is cited for setback alteration. Board Member Bell then asked if the portion of the basement being altered was included in the new FAR calculation. Mr. Guggenheim responded affirmatively.

Board Member Wishinsky stated that there is a photo labeled "existing conditions" in the materials folder that illustrated what the proposal will change. Mr. Guggenheim displayed the photo for the Board.

Chair Palermo asked if anyone from the public wished to comment on the proposal. No one indicated they wished to do so.

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

## **FINDINGS**

**§5.09.2.A - DESIGN REVIEW**

**§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS**

**§5.60 - SIDE YARD REQUIREMENTS**

**§8.02 - ALTERATION OR EXTENSION**

<b>ZONING: M-2.5</b>	<b>Requirements</b>	<b>Existing Conditions</b>	<b>Proposed Conditions</b>	<b>Relief Required</b>
Side Yard Setback	12.4'	1.6'	1.6'	<u>Special Permit</u> <sup>1</sup>

<sup>2</sup> Under Section 5.43, Exceptions to Yard and Setback Regulations, a special permit may waive a yard setback if a counterbalancing amenity is offered.

Section 5.09.2.a, Design Review: A Special Permit for Design Review is required for any structure or outdoor use on a lot any part of which fronts on or is within 100 feet of Beacon Street, Commonwealth Avenue, Boylston Street, Harvard Street, Brookline Avenue, or Washington Street.

Section 8.02, Alteration or Extension: A special permit may be granted for Alterations or Extensions of a Non-conforming Structure.

**PLANNING DEPARTMENT STAFF COMMENTS**

The Planning Department Staff considers this addition fairly modest with little to no impact on the neighborhood since it will not be visible from the street. The enclosure of the porch will not create significant changes to the building envelope and was deemed insignificant by Preservation Staff. Relief is not required for creating additional living space in the basement since the space was already finished.

**PLANNING BOARD COMMENTS**

The Planning Board is supportive of the proposal. The Board has recommends the use of high-quality materials and discourages the utilization of vinyl siding.

If the Planning Board recommends approval of the site plans by ANDERSON SURVEYS INC, PLS, dated January 31, 2023 and architectural plans prepared by WALTERS DESIGN STUDIO, RA, dated January 23, 2023, the Planning Department Staff 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 or designee for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a plan showing counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning or designee. The counterbalancing amenities must be executed in accordance with the approved plan. Use of quality materials as opposed to materials such as vinyl siding will be considered a counterbalancing amenity.
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.**

Chair Palermo then called upon Ms. Anthony to deliver the findings of the Building Department. Ms. Anthony stated that the Building Department had no objection 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, Board Member Bell stated that he is in favor of granting the requested relief subject to the conditions recommended by the Planning Board. He stated he believes it meets the criteria under the applicable sections of the Zoning By-Law.

Board Member Wishinsky agreed and stated he believes the proposal satisfies the criteria for relief.

Chair Palermo agreed with her fellow Board members and stated she is in favor of granting the requested relief to permit the project. Because the porch is located within 100 feet of Beacon Street it is subject to ZBA design review. The design will match the upper level rear porches and it is not visible from the street.

The Board then determined, by unanimous vote, to grant the requested Special Permits and that the Petitioners have satisfied the requirements necessary for relief under **Sections 5.09.2.A, 5.43,5.60** and **8.02** of the Zoning By-Law. 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 deliberation:

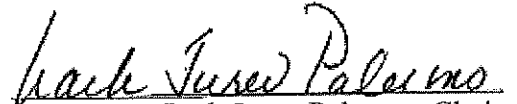
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.

- 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 Assistant Director for Regulatory Planning or designee for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a plan showing counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning or designee. The counterbalancing amenities must be executed in accordance with the approved plan. Use of quality materials for siding as opposed to materials such as vinyl siding will be considered a counterbalancing amenity.
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.

Unanimous Decision of  
The Board of Appeals

  
Lark Jurev Palermo, Chair  
Zoning Board of Appeals

Filing Date: 6/15/2023

A True Copy  
ATTEST:

  
Benjamin Kaufman  
Clerk, Board of Appeals