



Town of Brookline

Massachusetts

BOARD OF APPEALS
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TOWN OF BROOKLINE
BOARD OF APPEALS
111 BELLINGHAM ROAD
CASE NO. 2023-00016

Petitioners, Omri Kashani Trustee and Kath Ushakov-Kashani, applied to the Building Commissioner for permission to construct a second-floor addition to existing single-family at 111 Bellingham 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 June 22, 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 June 8, 2023, and June 15, 2023, in the Herald, 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, June 22, 2023

Location: Virtual Hearing

Virtual Registration Link: bit.ly/45MbGfT

Petitioner: Omri Kashani Trs & Kath Ushakov-Kashani

Address: 111 Bellingham Road

Subject: Construct second floor addition to existing single-family

Nature of Action/Relief:

§5.09.2.J – DESIGN REVIEW;§5.20 - FLOOR AREA RATIO;§5.22.3.B.1.B – EXCEPTIONS TO FLOOR AREA RATIO (FAR) FOR RESIDENTIAL UNITS;§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS;§5.70 - REAR YARD REQUIREMENTS;§8.02 - ALTERATION OR EXTENSION

Plans and submissions may be viewed online at

<https://www.brooklinema.gov/DocumentCenter/Index/4266>

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: 6/8/2023 & 6/15/2023

At the time and place specified in the notice, this Board held a virtual public hearing. Present at the hearing was Chairman, Jesse Geller and Board Members Randolph Meiklejohn and Wadner Oge. Attorney Robert Allen, 300 Washington St., Brookline, Massachusetts, presented the case on behalf of the Petitioner. Also in attendance was the project architect Nick Landry, DRT, 546 East Broadway, Boston, Massachusetts. Attorney Allen waived a reading of the hearing notice.

Attorney Allen stated that 111 Bellingham Road is situated in the S-10 Residential Zoning District, in close proximity to the Putterham Shopping Center. He continued that the neighborhood primarily consists of single-family dwellings. Furthermore, he noted that the current residence is a ranch-style home built in 1950 without a basement. He conveyed that the Planning Board unanimously supported the proposal for constructing a modest 54-square-foot mudroom on the first floor, connected to the garage. Moreover, he added, there was an agreement to add a second-story extension within the existing footprint, which would include a primary bedroom suite and an office.

The project architect, Mr. Landry, proceeded to present the site plan and architectural drawings to the Board of Appeals and reviewed the site plan, floor plans, and elevations. He explained the precise locations of the proposed additions and mentioned that the rear setback measures approximately 18 feet. In addition, he provided details regarding the proposed materials and described the various architectural design elements incorporated into the project.

When Board Member Oge inquired further, Mr. Landry discussed the streetscape of the neighborhood and shared photographs of buildings in the vicinity that featured similar massing and window articulations. Attorney Allen described the neighborhood as exhibiting a range of massing and architectural styles.

Attorney Allen then reviewed the requested zoning relief stating that a special permit is required under **Section 5.09.2.J** of the Zoning By-Law for design review because a special permit is sought for FAR under **Section 5.22** of the Zoning By-Law. Attorney Allen noted that an Impact Statement was submitted, outlining how the proposal satisfies the enumerated standards under **Section 5.09**. Attorney Allen stated that a special permit is sought to allow an increased FAR under **Section 5.22.3.B.1.B**, continuing that under this section, the FAR may be increased up to 120% of the maximum allowed FAR, and the proposed addition would increase the FAR to 117% of the maximum allowed FAR. He further stated that setback relief is sought under **Section 5.43** of the Zoning By-Law to waive the provisions of **Section 5.70** of the Zoning By-Law for the rear yard setback, allowing the addition to be setback 18.8 feet instead of the required 30-foot setback. Attorney Allen represented that landscaping improvements would be provided to fulfill the required counterbalancing amenity under **Section 5.43**.

Attorney Allen stated that the proposal met the requirements for the grant of special permit relief as enumerated in **Section 9.05** of the Zoning By-Law and noted the following: 1)

Specific site is an appropriate location for such use: The site is appropriate for the proposed expansion of the home, which will continue to be used as a single-family dwelling; 2) Use will not adversely affect the neighborhood: The home will continue to be used as a single-family dwelling, which is consistent with the surrounding homes and the second story addition has been setback further from the rear yard setback and stays within the existing footprint of the building; 3) There will be no nuisance or serious hazard to vehicles or pedestrians: The property's on-site circulation will not change. The design changes will improve the streetscape and the pedestrian environment; 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use: Adequate and appropriate facilities will be provided for the proper operation of a single-family dwelling; and 5) There will be NO effect on the supply on housing available for low and moderate income people.

Chairman Geller asked whether anyone in attendance wished to speak in favor of or against the proposal. No one wished to speak.

Madison Anthony, Planner and Zoning Coordinator, delivered the findings of the Planning Board.

FINDINGS

§5.09.2.J – DESIGN REVIEW – A special permit is required under design review if a special permit for FAR is required. See the submitted Environmental Review Impact report. All of the standards have been met.

§5.20 – FLOOR AREA RATIO

§5.22.3.B.1.B – EXCEPTIONS TO FLOOR AREA RATIO

§5.43 – EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.70 – REAR YARD REQUIREMENTS

ZONING: S-10	Requirements	Existing Conditions	Proposed Conditions	Relief Required
FAR	0.30	0.24	0.35 (117%)	Special Permit ¹
Rear-Yard Setback	30 ft	8.6 ft	8.6 ft	Special Permit ¹

¹ Under Section 5.22.3.B.1.B, an exterior addition is allowed up to 120% of the FAR by special permit. In this case, the proposed FAR is under 120%, at 117%.

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

PLANNING DEPARTMENT COMMENTS

Ms. Anthony stated that planning staff is supportive of the proposal to add a partial second story to this small one-story single-family house to increase the livable area. She noted that the additional floor area is within the 120% allowed by special permit and the modern design of the addition is attractive, and the energy efficiency of the house will be upgraded.

PLANNING BOARD COMMENTS

Ms. Anthony stated that the Planning Board is supportive of the proposal which will provide addition living space for the growing family. She added that the Planning Board therefore recommends approval of the site plan by Nolan Surveying, dated 1/4/23 and architectural plans by Design Resource, Inc, dated 2/22/23, 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 final landscape plan to the Assistant Director for Regulatory Planning for review and approval.

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.

The Chairman then called upon Ms. Anthony to deliver the comments on behalf of the Building Department. She stated that the Building Department had no objection to the requested relief and would work with the Petitioner to ensure compliance with the Board of Appeal's decision and all applicable codes.

During deliberation, Board Member Meiklejohn stated that the proposal satisfies the requirements for the requested special permit relief. He emphasized that the planned second-story addition is in line with the architectural style of comparable homes in the neighborhood. Board Member Oge expressed his support for the relief requested and highlighted that the proposed addition harmonizes well with the neighborhood's character. He also stated that choosing to add onto the existing house instead of demolishing it entirely is a favorable approach. Chair Geller agreed with Mr. Micklejohn and Mr. Oge and confirmed that in his opinion the proposal meets the necessary standards for granting the relief under **Section 9.05**.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant a special permit and that the Petitioner has satisfied the requirements necessary for relief under **Sections 5.09, 5.20 and 5.70** pursuant to **Sections 5.43, 5.22.3.B.1.B and 9.05** of the Zoning By-Law and made the following specific findings under said **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. 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 for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a final landscape plan showing all counterbalancing amenities to the Assistant Director for Regulatory Planning for review and approval. The counterbalancing amenities shall be implemented 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.

Unanimous Decision of
The Board of Appeals

Filing Date: 8/1/2023



Jesse Geller, Chairman

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals