



# *Town of Brookline*

## *Massachusetts*

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

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**Benjamin Kaufman, Clerk**

**TOWN OF BROOKLINE  
BOARD OF APPEALS  
19 EDGEHILL ROAD  
CASE NO. 2023-0000027**

Petitioner, 19 Edgehill Realty LLC, applied to the Building Commissioner for permission to construct a second-floor addition to existing single-family at 19 Edgehill 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 July 6, 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 22, 2023, and June 29, 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, July 6, 2023**

**Location: Virtual Hearing**

**Virtual Registration Link: <https://bit.ly/3Ct0N5d>**

**Petitioner:** Diamuid O'Neil

**Address:** 19 Edgehill Road

**Subject:** Enclose area on first floor

**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/4303>

***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: 6/22/2023 & 6/29/2023**

At the time and place specified in the notice, this Board held a virtual public hearing. Present at the hearing was Chair Johanna Schneider and Board Members Paul Bell and Saul Feldman. Luis Santana, 650 Huntington Ave, presented the case.

Mr. Santana stated that the proposal is for a small enclosure under the second story of the existing home. According to Mr. Santana, the proposal has been cited for non-conformity with floor area ratio and **Section 8.02: Alteration or Extension** but the only non-conformity being extended is FAR. Mr. Santana noted that the proposal has been approved by the Preservation Commission and has received a recommendation for approval from the Planning Board, on the condition that a landing be added outside the near doors and that a larger thread be added on the top step to improve safety and convenience. Mr. Santana stated that these changes will be made to the final plans.

Using a digital presentation, Mr. Santana presented the plans to the board. He noted that the existing footprint of the building is not being extended.

Mr. Santana stated that the proposal complies with the criteria set forth by **Section 9.05** of the bylaw. 1) The specific site is an appropriate location for such use; 2) Use will not adversely affect the neighborhood, as the proposal will remain within the existing building footprint; 3) There will be no nuisance or serious hazard to vehicles or pedestrians, as there is no change to the existing site circulation and the proposed structure is not expected to have any impact to vehicular or pedestrian traffic; 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use; 5) Development will not have any effect on the supply on housing available for low and moderate income people.

Chair Schneider 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**

**§5.20 - FLOOR AREA RATIO**

**§8.02 - ALTERATION OR EXTENSION**

**ZBL §8.02 - Alteration or Extension - FAR Maximum, Lot Size Minimum, Lot Width Minimum, Side Yard Setbacks, Front Yard Setbacks**

<b>ZONING: S-10</b>	<b>Requirements</b>	<b>Existing Conditions</b>	<b>Proposed Conditions</b>	<b>Relief Required</b>
<b>Floor Area Ratio</b>	<b>0.30</b>	<b>0.57</b>	<b>0.625</b>	<b><u>Special Permit</u><sup>1</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.

**Section 8.02** – A special permit may be granted for Alterations or Extensions of a Non-conforming Structure.

**PLANNING STAFF COMMENTS**

Staff has no objection to the proposal. The enclosure of the patio area is a fairly modest modification and will not create significant changes to the building envelope. All changes will be located within the existing building footprint to the rear of the house, which will be minimally visible from the street. The Preservation Commission has determined that the proposed work is not inconsistent with the historic aspects of the Pill Hill Historic District.

**PLANNING BOARD COMMENTS**

The Planning Board is supportive of this proposal. The Board is only concerned with the lack of a landing outside the new doors on the rear and suggests having a larger tread on the top step to improve safety and convenience.

**The Planning Board recommends approval of the site plan by PETER NOLAN & ASSOCIATES LLC, PLS, dated December 8, 2022 and architectural plans prepared by MARCOS A. DEVERS, PE, dated November 20, 2022, 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 for review and approval. The Planning Board strongly recommends that a minimum three-foot landing be provided outside the new rear door.**
- 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 of the garage 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.**

Ms. Anthony noted that the words “of the garage” should be removed from the third line of condition two.

Chair Schneider then called upon Deputy Building Commissioner Paul 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.

During deliberation, Board Member Feldman asked for more information on the required Floor Area Ratio. Mr. Santana stated that the allowed FAR in an S-10 district is 0.30 and the FAR is a pre-existing non-conformity. Chair Schneider added that the applicant is asking for a finding under M.G.L. Chapter 40A Section 6 to extend the pre-existing non-conforming FAR. Board Member Feldman then stated he would be in favor of granting the requested relief.

Board Member Bell stated that he believes the proposal meets the criteria for relief and appreciated that the owner is willing to comply with the Planning Board's requested changes. He stated he would vote in favor of the requested relief.

Chair Schneider agreed with Board Member Bell and found the increase in FAR to be fairly modest. She stated that she would vote in favor of the proposal as well.

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 5.20 and 8.02 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. Such plans shall include a minimum three-foot landing be outside the new rear door.
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.

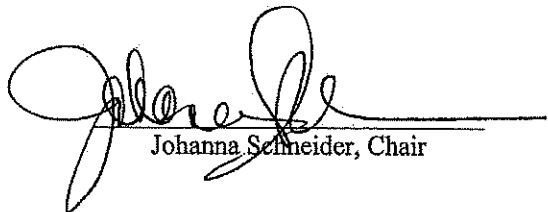
Unanimous Decision of  
The Board of Appeals

**AUG 17 2023**

Filing Date: \_\_\_\_\_

A True Copy  
ATTEST:

  
\_\_\_\_\_  
Benjamin Kaufman  
Clerk, Board of Appeals

  
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Johanna Schneider, Chair