



# *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  
1440 BEACON STREET  
CASE NO. 2023-0000028

Petitioner, PCH RP1 LLC ET AL, applied to the Building Commissioner for permission to make exterior renovations at 1440 Beacon Street. 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:** PCH RP1 LLC ET AL

**Address:** 1440 Beacon Street

**Subject:** Exterior renovations

**Nature of Action/Relief:**

§5.09.2 - DESIGN REVIEW;§5.50 - FRONT YARD REQUIREMENTS;§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 Chairman, Johanna Schneider and Board Members Paul Bell and Saul Feldman. Dario Dimare, Dario Designs, 318 Main St #210, Northborough, MA 01532, presented the case for the petitioner. Also in attendance were Dean Temple, Dario Designs, and Kelly Killeen, CHA Consulting, Inc., 1 Washington Mall Suite 1500, Boston, MA 02108.

Chair Schneider asked for clarification on what exactly the relief being sought was. Mr. Killeen responded that the project was cited for, **Section 5.09.2: Design Review**, **Section 5.50: Front Yard Requirements**, and **Section 8.02: Alteration or Extension**. Chair Schneider stated that she was not able to find a dimensional compliance chart anywhere in the materials and is, therefore, not sure what relief the applicant needs. Deputy Building Commissioner Paul Campbell responded that the proposal violated the front yard setback because of the proposed canopy.

Chair Schneider asked for more information about how the proposal violates Section

**8.02: Alteration or Extension.** Mr. Campbell responded that the existing structure violates the front yard setback requirements, making it a pre-existing non-conformity. Chair Schneider then asked for clarification on **Section 5.09.2: Design Review**, and if it was part of the relief being sought tonight. Zoning Coordinator/Planner Madison Anthony responded that it is cited for Design Review because new facades have to be approved by the Planning Board; this process has been completed and the Planning Board granted approval of the new facades. Ms. Anthony explained that the proposal needs zoning relief from the ZBA for the non-compliance with front yard setback requirements.

Using a digital presentation, Mr. Temple explained the approval steps the project has already taken, including obtaining approval from the Preservation Commission and meeting with a building inspector. He then stated that the main goal of the proposal is to extend the canopy over the entry way. He continued, explaining that the property is pre-existing non-conforming because the stairway out front extends into the required front yard setback. He then stated that the proposed canopy is about seven feet long and extends almost to the property line. He explained that the stairs and entry were modified to provide better accessibility and comply with ADA universal design standards.

Mr. Temple stated that the proposal complies with the criteria set forth in **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: It is in front of the building, not affecting the neighboring properties; 3) No nuisance or serious hazard to vehicles or pedestrians: 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.

Mr. Temple then displayed the site plan and demonstrated the area the canopy will extend over and compared it to the canopies of the neighboring sites, showing that they are similar in distance from their respective property lines.

Chair Schneider then asked for clarification regarding whether the situation was that an extending non-conformity is being extended because they are extending the canopy further into the required front yard. Mr. Temple confirmed this and added that the stairs are now being changed to a sloped walkway to comply with ADA universal design standards and greenery is being added to the front of the building.

Chair Schneider asked if her fellow board members had questions for the applicant. Board Member Bell asked if the proposed canopy will cover further than the current conditions. Mr. Temple responded affirmatively. Board Member Bell then asked if the canopy will be made wider since the stairway is being changed to be made wider. Mr. Temple responded affirmatively and stated that the neighboring buildings all have the entire building extending into the front yard.

Board Member Bell then stated he is still confused about what relief exactly they are being asked to grant. Chair Schneider stated her understanding is that it would be an extension of a pre-existing non-conforming front yard setback.

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 then stated that there is no Planning Board Report for the case, since it only went to the Planning Board for façade review. However,

she recommended 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 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 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 Bell stated he is trying to wrap his head around how to grant the relief and suggested extending the front yard pre-existing non-conformity under **Section 8.02**, which they should be able to do if it meets the standards under **Section 9.05**. He then stated that the proposal would be an improvement to the site and meets the standards under **9.05**. He stated he would be in favor of granting the requested relief.

Chair Schneider agreed and expressed frustration with the confusing manner in which the Planning Department presented the information of the case to the Board. She further cautioned the applicant that because the Board had not received adequate information regarding the required relief, the Board could not guarantee that it was granting all relief necessary for the proposal.

Board Member Feldman stated he believes the proposal meets the standards of Section 9.05 and would be in favor of granting the requested relief.

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.

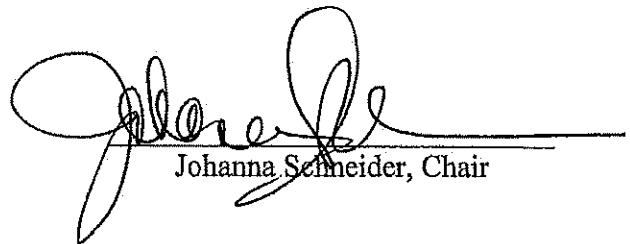
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

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. 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 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



Johanna Schneider, Chair

**AUG 24 2023**

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

A True Copy  
ATTEST:



Benjamin Kaufman  
Clerk, Board of Appeals