



BOARD OF APPEALS
Enid Starr, Co-Chair
Co-Chair Jesse Geller
Christopher Hussey

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BROOKLINE

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0002

Petitioner, Scott Black, applied to the Building Commissioner for permission to construct an addition at 9 Sears Road. The application was denied and an appeal was taken to this Board.

On December 20, 2012 the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed February 14, 2013 at 7:15 p.m. in the Selectmen's hearing room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, 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 January 24, 2013 and January 31, 2013 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **BLACK SCOTT M**
Owner: **BLACK SCOTT M**
Location of Premises: **9 SEARS RD**
Date of Hearing: **February 14, 2013**

Time of Hearing: 7:15 p.m.

Place of Hearing: **Selectmen's Hearing Room, 6th Floor**

A public hearing will be held for a variance and/or special permit from:

1. **5.09.2.j; Design Review**
2. **5.22.3.b.1.b; Exceptions to Maximum Floor Area Ration(FAR) for Residential Units**
3. **5.43; Exceptions to Yard and Setback Regulations**
4. **5.54.2; Exceptions to Existing Alignment**
5. **8.02.2; Alteratons and Extension**

of the Zoning By-Law to construct a parking area **Construct an addition at 9 Sears RD**

Said premise located in a **S-40 (Single-Family) Residential district.**

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at:<http://calendars.town.brookline.ma.us/MasterTownCalandar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Enid Starr
Jesse Geller
Christopher Hussey**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Jesse Geller, and Board Members Jonathan Book, and Chris Hussey.

Jeff Pond, architect for the petitioner, presented the case. Mr. Pond described the property as being located on the southeast corner of the intersection of Sears Road and Lee Street. A two-and-half-story brick single-family dwelling on the lot faces Sears Road, with a circular driveway in front. The lot is well landscaped with large expanses of lawn, as well as several large trees and a wood stockade fence along the Lee Street frontage.

Mr. Pond said the applicant, Scott Black, wishes to construct a 37' by 29' addition to the rear and side of the home, connected by a new octagonal conservatory. The addition would be a multi-purpose room at the first floor, with a high ceiling extending to the second level. The room would not have any windows along the walls, but the entire roof would be a combination of slate and open skylight. The rest of the addition would be finished in brick to match the existing building. A small bump out on the addition would be finished in similar materials as well, but would have a standing seam copper roof. The conservatory addition, which will provide access to the new multi-purpose room and measure 19.2' by 19.2', will have large windows on all exposed sides and a uniquely shaped standing seam copper roof.

Board Member Book asked how much of the excess floor area ratio was due to the ceiling height multiplier in the Zoning By-Law. Mr. Pond said the affect was significant. Mike Yanovitch, Chief Building Inspector, clarified the numbers. He said the multiplier was around 1.7 which resulted in approximately 560 Sq Ft of floor area being counted as approximately 900 Sq Ft.

The Chairman asked if anyone else wished to speak in favor of the application. No one else spoke in favor.

The Chairman asked if anyone wished to speak in opposition to the proposal. No one spoke in opposition.

The Chairman called on Tim Richard, Planner for the Town of Brookline, to deliver the findings of the Planning Board.

FINDINGS

Section 5.09.2.j – Design Review: Any exterior addition for which a special permit is requested pursuant to *Section 5.22 (Exceptions to Maximum Floor Area Ratio Regulations)* requires a special

permit subject to the design review standards listed under *Section 5.09.4(a-1)*. All the conditions have been met, and the most relevant sections of the design review standards are described below:

a. Preservation of Trees and Landscape – The proposed addition, while large, will require the removal of primarily lawn. A band of very large trees along Lee Street will remain intact and will continue to provide shading and screening for the home.

b. Relation of Buildings to Environment – The proposed location for the addition does not require the removal of significant natural land features, and it’s not expected to create shadows on abutting properties.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood – The addition is not expected to be very visible from the street due to an existing 6 foot wood fence and a significantly-sized landscape buffer. The addition will be located 48 feet from Lee Street. As such, although the addition does not have any fenestration at the ground level, this would not have much of an impact on the streetscape or surrounding properties.

d. Open Space – The property will continue to meet both landscape and usable open space requirements.

Section 5.22.3.b.1.b – Exceptions to Maximum Floor Area Ratio (FAR) for Residential Units

Floor Area	Allowed	Existing*	Proposed	Finding
Floor Area Ratio	.15	.13	.17	Special Permit*
(% of allowed)	100%	85%	114.5%	
Floor Area (s.f.)	6,104.85	5,186	6,993.41	

* Under *Section 5.22.3.b.1.b*, the Board of Appeals may by special permit allow for additional square footage by exterior addition, up to 120 percent of allowed gross floor area. In this case, the floor area

calculations do include the additional floor area counted due to the vaulted ceiling in the multi-purpose room.

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.54.2 – Exceptions for Existing Alignment: Although the project was initially cited as needing front yard setback relief due to the existing alignment of the abutting buildings, this section was determined not to apply as only one dwelling is within 150' and an average cannot be determined.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure or use.

PLANNING BOARD COMMENTS

Mr. Richard said the Planning Board is supportive of the proposal to construct a new multi-purpose room and conservatory to the single-family dwelling. The new addition will be located a substantial distance from the street and be well screened by both an existing fence and vegetation. The proposal will not involve removing the very large trees along Lee Street, which are an attractive amenity, and it is not expected to impact neighboring properties. Both the conservatory and multi-purpose room will have unique detailing and be constructed of quality materials that will be harmonious with the existing structure.

Therefore, the Planning Board recommends approval of the plans by Jeffry Pond, dated 12/01/2011, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations subject to the review and approval of the Assistant Director of Regulatory Planning.

2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Michael Yanovitch, Chief Building Inspector, delivered the comments for the Building Department. Mr. Yanovitch said the Building Department has no objections to the requested relief. He said the additions are very well designed and the bulk of the structures are screened very well from the abutters. Mr. Yanovitch said if the Board finds that the proposal is worthy of relief, the Building Department will work with the petitioner to ensure compliance with the Building Code and any conditions of the grant.

The Board then determined, by unanimous vote that the requirements for a special permit under **Sections 5.09.2.i, 5.22.b.1.b, 5.54.2** and **8.02.2** of the Zoning By-Law₁ were met. The Board made the following specific findings pursuant to **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.

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

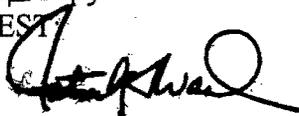
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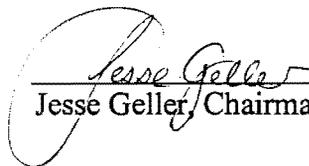
Unanimous Decision of
The Board of Appeals

Filing Date: April 10, 2013

A True Copy
ATTEST



Patrick J. Ward
Clerk, Board of Appeals



Jesse Geller, Chairman

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