



BOARD OF APPEALS
Chair Jesse Geller
Christopher Hussey
Jonathan Book

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0003

Petitioner, Carey Goldberg and Steven Lines, applied to the Building Commissioner for permission to legalize A pergola in the front yard at 24 Williams Street. The application was denied and an appeal was taken to this Board.

On January 10, 2013 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 March 28, 2013 at 7:00 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 February 14 and 21, 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: **GOLDBERG CAREY LINES STEVEN**
Owner: **GOLDBERG CAREY LINES STEVEN**

Location of Premises: **24 WILLIAMS ST**
Date of Hearing: **March 28, 2013**
Time of Hearing: **7:00 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:
5.43; Exceptions to Yard and Setback Regulations
5.53; Accessory Buildings in Front Yards
5.50; Front Yard Requirements
5.54.2; Exceptions to Existing Alignment
8.02.2; Alteration or Extension

of the Zoning By-Law to **Legalize a pergola in the front yard**
at **24 WILLIAMS ST**
Said premise located in a **F-1.0 (Three 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/MasterTownCalendar/?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.

Jesse Geller
Christopher Hussey
Jonathan Book

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Mark G. Zuroff, and Board Members Jonathan Book, and Chris Hussey. Petitioner Carey Goldberg presented the case.

Ms. Goldberg described the property as a corner lot located north of Coolidge Corner, to the west of Harvard Street. The neighborhood is comprised of primarily multi-family dwellings, including two large

apartment buildings. 24 Williams Street is a single family dwelling, built in 1900, on the corner of Williams Street and Centre Street.

Ms. Goldberg said she is proposing to legalize a 12'x12'x8.67' trellis constructed within the front yard setback of her property along Centre Street. The trellis is painted white and has an open lattice roof with open lattice sides and an area for seating. Flowering vines will be planted on the trellis. She said she re-landscaped the yard and while doing so she decided to install the pergola. Ms. Goldberg said she was under the impression that a building permit was not required for a pergola. Ms. Goldberg asked, if the Board grants the relief, she would appreciate it if the Board would remove the condition requiring her provide a final site plan to the Planning Department.

The Chairman asked if anyone in attendance wished to speak in favor of the proposal. No one rose to speak. He then asked if anyone in attendance wished to speak in opposition to the proposal

The Chairman called on Timothy Richard, Planner, to deliver the comments of the Planning Board.

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.53 – Accessory Buildings in Front Yards

Section 5.50 – Front Yard Requirements

Section 5.54.2 – Exceptions to Existing Alignment

Dimensional Requirements	Required	Existing	Proposed	Relief
Front Yard Setback (Centre Street)	15'	26.75'	6.17'	Special Permit*
Front Yard Setback (Williams Street)	15'	19.5'	19.5'	Complies

* Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided.

Section 8.02.2 – Alteration or Extension

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

Mr. Richard said the Planning Board supports the requested relief to allow the applicant to retain the existing trellis in its current location. The property is a corner lot, and thus has two front yards and there is not enough space for the trellis in the side yard. The Board feels that the trellis is attractive and does not negatively affect the neighborhood. The applicant plans to further enhance the look of the trellis, and the yard in general, with flowering vines and various plantings, and this can serve as the required counterbalancing amenity. Three letters of support from neighbors have been submitted favoring allowing the applicant to retain the trellis.

Therefore, the Planning Board recommends approval of the plans by Michael Grogan Architect, dated 12/12/12, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final landscaping plans subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Evidence that decision has been recorded at the Registry of Deeds.

Michael Yanovitch, Chief Building Inspector, delivered the comments for the Building Department. Mr. Yanovitch said he applauds Ms. Goldberg for seeing the process to legalize the pergola through. Mr. Yanovitch said the house has two fronts and the area in which a pergola could be erected is extremely limited. He said the Building Department has no issue with this request for relief.

The Board having deliberated voted unanimously the requirements for a special permit for 5.43, and 8.02.2, were met. The Board made the following specific findings pursuant to said Section 9.05:

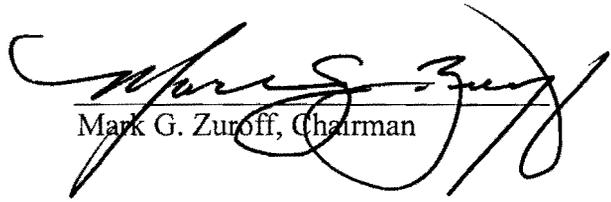
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

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

1. Prior to the issuance of a building permit, the applicant shall submit final landscaping plans subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Evidence that decision has been recorded at the Registry of Deeds.

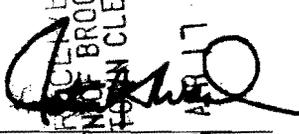
Unanimous Decision of
The Board of Appeals

Filing Date: April 17, 2013



Mark G. Zuroff, Chairman

A True Copy
ATTEST:



CLERK
OF
BROOKLINE
TOWN
CLERK

Patrick J. Ward
Clerk, Board of Appeals

2013 APR 17 P 6:09