



BOARD OF APPEALS
Chair Jesse Geller
Christopher Hussey
Jonathan Book

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0015
OWNER: **15-17 St. Mary's Ct., LLC**

Petitioners, 15-17 St. Mary's Ct., LLC, applied to the Building Commissioner for permission to construct head houses and three new roof decks. The application was denied and an appeal was taken to this Board.

On March 6, 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 April 11, 2013 at 7:30 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 April 4 and 11, 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: 15-17 St. Mary's Court , LLC

Owner: **15-17 St. Mary's Court , LLC**
Location of Premises: **15-17 St. Mary's Court**
Date of Hearing: **April 11, 2013**
Time of Hearing: **7:30 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
5.55; Exceptions to Yard and Setback Regulations
5.50; Front Yard Requirements
5.60; Rear Yard Requirements
8.02.2; Alteration or Extension

of the Zoning By-Law to **construct new head houses and three new decks.**
at **15-17 Saint Mary's Court**
Said premise located in a **M1.5 (Apartment House) 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. Fred Lebow of FSL Associates, business address 358 Chestnut Hill Avenue, Boston, presented the case for the petitioner.

Mr. Lebow described the property as a two-story brick building that is currently being renovated into three townhouse units. Currently, the building has a professional office on the first floor and two residential units on the second floor. The building was originally built in 1896, soon after the construction of the neighboring buildings at 21-29 St. Mary's Court in 1894. All of the buildings were originally built as stables with apartments above for hired help, and initially were highly visible from Beacon Street, although they are no longer so. Surrounding properties include the commercial strip along Beacon Street and a large single-family home to the rear.

The applicant, 15-17 St. Mary's Court, LLC, wishes to construct three new roof decks with head houses on the roof of the newly renovated three-family dwelling. Two of the head houses would be located next to each other toward the rear and center of the building's roof, while a third would be located closer to the front façade. The head houses would provide individual stair access to the roof decks from each unit.

Mr. Lebow said these will be rental units. He said the project has gone through some revisions to satisfy the requests of the Planning Board. Tim Burke, Architect, presented the architectural portion of the case. Mr. Burke presented a series of photographs illustrating the shape of the structures. He said the proposed roof decks would add outdoor open space to the existing structures. Mr. Burke went on to say they have reduced the size of the decks to accommodate the Planning Boards concerns. Member Hussey asked what type of counterbalancing amenities would be provided. Mr. Burke said there would be planter boxes and irrigation. Member Hussey asked that repointing of the façade be added to the

counterbalancing amenities. Mr. Burke concurred and said pointing had been something they were planning to do.

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

The Chairman called upon Timothy Richard, planner, to deliver the report for the Planning Board.

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.50 – Front Yard Requirements

Section 5.60 – Side Yard Requirements

Section 5.70 – Rear Yard Requirements

Dimensional Requirements	Required	Proposed	Relief
Front Yard Setback – Deck	15 feet	Between 2.5' and 6.3' (exact)	Special Permit/Variance*
Side Yard Setback – Deck	15.6 feet	1 foot	Special
Rear Yard Setback – Deck	30 feet	9.5 feet	Special

* 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 is supportive of the proposal to construct roof decks on the building, and is appreciative of the changes made to limit the visual impacts from the head houses. The roof decks will add outdoor space for a building that does not have much landscaping, and the revised plans will have much less of an impact on the front façade. Several of the neighboring buildings, all built around the same time, have roof decks, but none of them are visible from the street. A new site plan needs to be submitted to indicate the revised setbacks for the deck and head houses.

Therefore, the Planning Board recommends approval of the roof plan and elevations prepared by Timothy Burke Architecture, dated 3/25/2013, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a revised site plan indicating all setback dimensions for the proposed roof decks and head houses.
2. Prior to the issuance of a building permit, the applicant shall submit final roof plans and elevations, indicating all materials and dimensions, subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan indicating all counterbalancing amenities, including the landscape beds at the ground level and on the roof, as well as the cleaning of the façade, repointing of the bricks, and the stain glass window on the exterior of the building, subject to the review and approval of the Assistant Director of Regulatory Planning.

4. 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.

Mr. Richard delivered the comments of Michael Yanovitch, Chief Building Inspector. Mr. Yanovitch said the proposal is a well-designed project and will provide open space for a project that does not have any open space. He said the decks will provide an amenity to a structure that does not have many marketable amenities due to its location. Mr. Yanovitch said the Building Department supports the request for relief and will work with the petitioner to make sure the project complies with building code and any conditions the Board may impose on the grant.

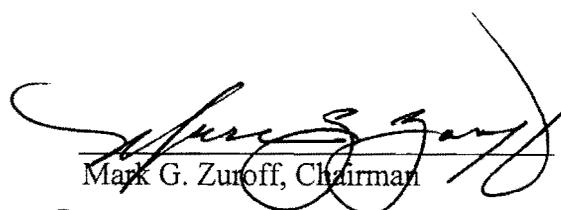
The Board deliberated on the merits of special permit relief. The Board also voted unanimously the requirements for a special permit for 5.43, and 8.02.2, were met. The Board made the following specific findings pursuant to said **Section 9.05**:

- 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 a revised site plan indicating all setback dimensions for the proposed roof decks and head houses.
2. Prior to the issuance of a building permit, the applicant shall submit final roof plans and elevations, indicating all materials and dimensions, subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan indicating all counterbalancing amenities, including the landscape beds at the ground level and on the roof, as well as the cleaning of the façade, repointing of the bricks, and the stain glass window on the exterior of the building, subject to the review and approval of the Assistant Director of Regulatory Planning.
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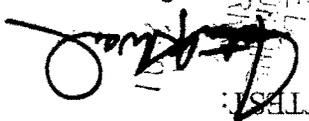
Unanimous Decision of
The Board of Appeals


Mark G. Zurhoff, Chairman

Filing Date: April 27, 2013

A True Copy

ATTORNEY:



LEVEL
PROGRAM
CLERK

APR 27 2013

Patricia M. Ward

Clerk, Board of Appeals

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