



BOARD OF APPEALS
Chair Jesse Geller
Christopher Hussey
Jonathan Book

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Town of Brookline
Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0020
OWNER: **Michael and Laura Ehlers**

Petitioners, Laura and Michael Ehlers, applied to the Building Commissioner for permission to construct an 80 square foot garden shed in the side and rear yard setbacks at 21 Loveland Road. 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 7:15 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 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: **EHLERS MICHAEL D & LAURA J**

Owner: EHLERS MICHAEL D & LAURA J
Location of Premises: 21 LOVELAND RD
Date of Hearing: April 11, 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:

- 5.43; Exceptions to Yard and Setback Regulations
- 5.63; Accessory Buildings or Structures in the Side Yard
- 5.72; Accessory Buildings or Structures in the Rear Yard

of the Zoning By-Law to construct an 80 Sq. Ft. garden shed in the side and rear setback.
at 21 LOVELAND RD

Said premise located in a T-5 (Two-Family and Attached 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/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.

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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 Laura Ehlers presented the case.

Ms. Ehlers described 21 Loveland Road as a single-family house that was built in 2011. The Preservation Commission imposed a one year stay of demolition on four buildings that were on the now subdivided lot. After June 10, 2010, the owner applied to the Building Department for permits for demolition. The buildings have since been demolished and new dwellings have been constructed on the three new lots. Loveland Road is part of an area in Brookline known as the *Settlement*, because of its origins as a neighborhood settled by Irish immigrants, which began in the 1840s. The area was developed with modest single-family cottages. The Settlement can be accessed from Boylston Street, and is largely comprised of T-5 zoning. A 50' wide subsurface easement for the Dorchester Tunnel runs directly beneath the lot, and under the dwelling.

Ms. Ehlers said she is proposing to construct an 80 square foot shed that will be placed within 18" of the side and the rear yard of the property, on the northwest corner of the lot. The shed will be a pre-manufactured structure, and will require minimal assembly on site. She said due to the curve in the street the location of the shed cannot be seen. She said the shed will be a prefabricated shed. She went on to say she would provide some additional landscaping as well as a new tree for counterbalancing amenities.

The Chairman asked if anyone wished to speak in favor of the proposal. Meghan Rock of 8 Hart Street spoke in favor of the proposal. She said she whole heartedly supports the Price's proposal. The Chairman asked if anyone wished to speak in opposition. No one rose to speak.

The Chairman called upon Timothy Richard to deliver the comments of the Planning Board.

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.63 – Accessory Buildings or Structures in Side Yards

Section 5.72 – Accessory Buildings or Structures in Rear Yards

Dimensional Requirements	Required	Proposed	Relief
Rear Yard Setback	6 feet	18 inches	Special Permit*/ Variance
Side Yard Setback (east)	6 feet	18 inches	Special Permit* / Variance

*Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided.

Mr. Richard said that the Planning Board is supportive of the proposal to construct a shed on the property within the side and rear yard setbacks. The shed is not expected to detract from neighboring properties enjoyment of their property. The applicant has supplied a letter with signatures from abutting properties stating that they support the installation of the shed in its proposed location. The Planning Board recommends that the applicant install additional landscaping as a counterbalancing amenity required for a special permit.

Therefore, the Planning Board recommends approval of the site plan submitted by Laura and Michael Ehlers, dated 3/29/12 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final landscape plans indicating all counterbalancing amenities subject to the review and approval of the Assistant Director of Regulatory Planning, confirmation of the setbacks will be confirmed by Staff from the Building Department.

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) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Richard delivered the comments of the Building Department on behalf of Michael Yanovitch, Chief Building Inspector. Mr. Yanovitch said the case speaks for itself. The accessory structure would not require a building permit, however, due to the petitioners desire to locate the shed in the side and rear setbacks, relief is necessary. Mr. Yanovitch said the main structure was recently built and there is a fence that runs along the lot line. The location of the shed can be confirmed in the field by an inspector. We do not believe there is a need for a final site plan.

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, a final landscaping plan shall be submitted 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 that indicates the lot size and floor area of the building; 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.

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TOWN CLERK

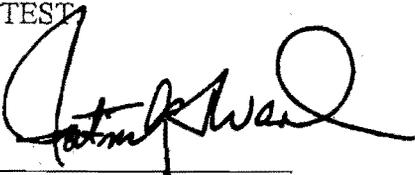
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Unanimous decision of
The Board of Appeals


Mark G. Zuroff, Chairman

Filing Date: May 20, 2013

A True Copy
ATTEST



Patrick J. Ward

