



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

RECEIVED  
MAY 31 2013  
TOWN OF BROOKLINE

# Town of Brookline

## Massachusetts

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO.2013-0027  
**Owner: Jonathan Reis/ Perry Belfer**

Petitioners, Jonathan Reis and Perry Belfer, Trustees, applied to the Building Commissioner for permission to construct a deck and stairs at the rear of 146 Winthrop Road. The application was denied and an appeal was taken to this Board.

On March 7, 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 May 2, 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 its 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 11 and April 18, 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: Jonathan Reis/Perry Belfer  
Owner: Jonathan Reis/Perry Belfer  
Location of Premises: 146 Winthrop Road  
Date of Hearing: **May 2, 2013**  
Time of Hearing: **07:30 p.m.**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup> Floor.**

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

1. **5.43; Exceptions to Yard and Setback Regulations**
2. **5.70; Rear Yard Requirements**
3. **8.02.2; Alteration or Extension**

Of the Zoning By-Law to construct a deck and stairs at the rear

At 146 Winthrop Road

Said Premise located in a S-10 (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.*

**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 Jonathan Book and Board Members, Mark Zuroff and Christopher Hussey. Douglas Luther, Architect, presented the case for the petitioner.

Mr. Luther described the property as is a two-family dwelling that was built in 1900. The neighborhood is located off of Beacon Street to the south and consists of structures that are primarily two-family uses, with 4-8 unit apartment buildings closer to Beacon Street.

The applicants, Jonathan Reis and Perry Belfer, are proposing to construct a new deck with stairs to the rear of the property. The existing deck and stairs will be removed and replaced with a slightly larger deck area that will be 8'x8' in total area. The relocation of the stairs will allow the upstairs unit to access the portion of the property that is designated for their use.

The Chairman asked if anyone in attendance would like to speak in favor of the petition. No one spoke.

The Chairman asked if anyone in attendance would like to speak in opposition to the proposal.

The Chairman called upon Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the comments of the Planning Board.

## **FINDINGS**

### **Section 5.43 – Exceptions to Yard and Setback Regulations**

### **Section 5.70 – Rear Yard Requirements**

<b>Proposed Driveway</b>	<b>Required/Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Rear Yard Setback</b>	6 feet	3.4 feet	5.9 feet	Special Permit*

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

**Section 8.02.2 – Alteration or Extension**

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

Ms. Selkoe said the Planning Board is supportive of the proposal to demolish the existing deck and stairs and construct a new deck and stairs. The relocation of the stairs will allow the upstairs unit to better access and utilize the property. The proposed construction is not anticipated to negatively impact neighbors to the rear, as there is a large retaining wall along the rear property line that was built for a parking structure. The Planning Board recommends that the applicant install landscaping required for a counterbalancing amenity for a special permit.

**Therefore, the Planning Board recommends approval of the plans by Douglas Ruther Architects, dated 2/21/2013, and the site plan by Massachusetts Survey Consultants, dated 10/23/12 subject to the following conditions:**

1. Prior to issuance of a building permit, a final landscaping plan, indicating both plant and paving materials, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to 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 elevations of any retaining walls for the parking area, indicating materials, stamped and signed by a registered engineer or architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department has no objection to the requested relief. He said the most affected abutter has a parking lot to the rear.

The Board deliberated on the merits of special permit relief. The Board voted unanimously that the requirement have been met for the issuance of a special permit for sections **5.43, 6.0 and 8.02** of the Zoning By-Law. 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.

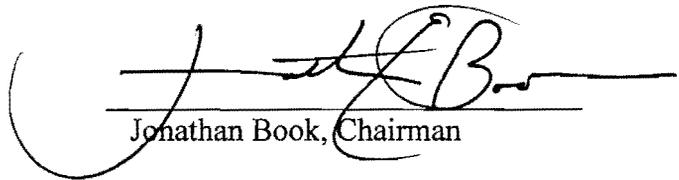
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
  
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

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

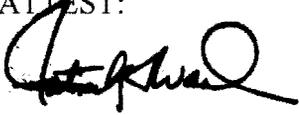
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Unanimous Decision of  
The Board of Appeals

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2013 MAY 30 A 11:27  
Filed Date: May 30, 2013

  
Jonathan Book, Chairman

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals