

# Town of Brookline Massachusetts

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**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathon Book

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. 2013-0040  
ERIKA & SHAWN RANGEL

Petitioner, Erika Rangel, applied to the Building Commissioner for permission to construct a second floor addition and slightly expand the first floor of 55 Shaw Road, Brookline, Massachusetts. The application was denied and an appeal was taken to this Board.

On May 4, 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 June 13, 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 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 May 30, 2013 and June 6, 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: **Erika Rangel**

Owner: **Erika & Shawn Rangel**  
Location of Premises: **55 Shaw Rd., Brookline, MA**  
Date of Hearing: **June 13, 2013**  
Time of Hearing: **7:00 p.m.**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup> Floor**

A public hearing will be held for a special permit from:

- 1. Section 5.09.2.j: Design Review**
- 2. Section 5.22.3.b.1.b: Exceptions to Maximum FAR**

of the Zoning By-Law to expand the footprint by three feet and construct a second floor addition at the rear.

Said premise located in a **S-10 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 Jesse Geller, and Board Members Jonathan Book and Mark Zuroff. The case was presented by the attorney for the petitioner, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was Erika Rangel, the petitioner and owner of 55 Shaw Rd. and Jonathan Feig, the petitioner's architect.

Zoning Board of Appeals Chairman Jesse Geller, called the hearing to order at 7:00 p.m. Attorney Allen stated that the petitioner proposes to construct a second floor addition and slightly expand the first floor at 55 Shaw Road. The second floor addition would be constructed above the existing office on the premises, allowing the applicant to expand the master bathroom and create additional storage space.

Attorney Allen presented to the Board a background of the property, stating 55 Shaw Road is a single family home built in 1930 that is similar in style and overall bulk to the other properties in the immediate area. Attorney Allen stated that Shaw Road is located in South Brookline and is in an area that has gone through a resurgence and a number of young families have moved to the area. Attorney Allen stated one of the benefits of the property is that the homes below, on Alberta Road, drop down so the petitioner is looking at the roofline below. Attorney Allen stated that there is no visual impact from the front of the house and very little, if any from the back.

Attorney Allen stated that the home has a unique cathedral-type ceiling put in by the prior owners of the property, which consequently takes away storage space in the attic. Attorney Allen stated the owners are expecting their next child and the addition will give them the ability to put in storage before the child is born.

Attorney Allen stated the 238 sq. ft. addition will be constructed above the existing office. Further, the addition will expand the master bathroom and create additional storage space. Attorney Allen stated the footprint of the first floor will expand by three feet towards the rear, and the proposed deck expansion in the rear does not require relief.

Zoning Board of Appeals Member Jonathon Book inquired about a missing letter of support from the immediate neighbor. Mrs. Rangel commented that the neighbor was notified,

but is rarely home. Attorney Allen stated the neighbor in question was not in opposition. Chairman Geller asked if the homeowner received notice other than the legal notice. Mrs. Rangel commented that she reached out to the homeowner's employees. Zoning Board Member Jonathan Book noted the odd shape of the lot and asked if the abutters on Goodnough Road, and Alberta Road were notified. Attorney Allen stated that the petitioner canvassed the neighborhood. Furthermore, Attorney Allen stated that he spoke with the immediate abutter at 61 Shaw Rd., who expressed her full support. Zoning Board Member Jonathan Book asked if the addition would be clapboard to match. The architect responded that the same materials would be used to match what was there.

Chairman Jesse Geller asked if Attorney Allen had a preference of the Subsection of the Zoning By-Law under which special permit relief under **Section 5.22.3** of the Zoning By-Law is sought. Attorney Allen responded that he did not have a preference. Chief Building Inspector, Mike Yanovitch, stated that given the height limitations of the attic, relief under **Section 5.22.3.b.1.b** of the Zoning By-Law would be more appropriate. Attorney Allen agreed and stated the attic is impossible to expand and anything else would be above the height requirements permitted under the Zoning By-Laws.

Chairman Geller asked if anyone present wanted to speak in favor of the application. No one spoke in favor.

Chairman Geller asked if there was anyone present who wished to speak in opposition of this application. No one spoke in opposition.

Laura CurtisHayes, Senior Town Planner for the Town of Brookline, delivered 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). The applicant has provided a Community and Environmental Impact Statement. The most relevant sections of the design review standards are described below:

- a. ***Preservation of Trees and Landscape***  
This proposal will not disturb any of the existing trees or landscaping.
- b. ***Relation of Buildings to Environment***  
The proposed addition is planned for the rear of the dwelling and the massing fits the residential scale of the neighborhood.
- c. ***Relation of Buildings to the Form of Streetscape and the Neighborhood***  
The proposed addition does not affect the streetscape as it will not be visible from the street.

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

<b>Floor Area</b>	<b>Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Floor Area Ratio</b>	0.30	.29	.32	Special Permit*
<b>(% of allowed)</b>	100%	96%	106%	
<b>Floor Area (s.f.)</b>	2,817	2,773	3,011	

\*Under *Section 5.22.3.c* the Board of Appeals may grant by special permit to increase floor area up to 350 s.f. if the resulting gross floor area of the building is less than 150% of the permitted gross floor area. In addition, under *Section 5.22.3.b.1.b* the Board of Appeals may grant by special permit an addition that is less than or equal to 20% of the permitted gross floor area.

Ms. Curtis-Hayes stated that the Planning Board is supportive of the proposal. The only house expected to be affected by the proposal is 61 Shaw Road directly to the north. The properties to the rear are not expected to be impacted by the proposed addition because there are trees that will shield the addition. The addition is modest and is similar to an addition to a dwelling nearby that was granted a special permit in 2009 under the same sections of the Zoning By-Law. Therefore, the Planning Board recommends approval of the plans by SilverDog LTD., dated 5/13/13, subject to the following two conditions:

1. Prior to the issuance of a building permit, final plans shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
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.

Attorney Allen confirmed the May date of the updated plans.

Chairman Geller then called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department concurred with the Planning Board's report as well as the conditions. Mr. Yanovitch reiterated that both the relief and addition are modest. Further, Mr. Yanovitch stated the owners used a minimal amount of FAR and with the substantial support of the neighborhood the Building Department did not have a problem with the request.

In deliberation, Zoning Board of Appeals Member Jonathan Book stated that he was in favor of the relief requested where the addition was small and seemed appropriate. Zoning Board of Appeals Member Mark Zuroff concurred and confirmed that the houses to the rear would not be affected by the addition. Zoning Board of Appeals Chairman Geller stated that the project was worthy of relief.

The Board then determined that special permit relief from the requirements of Section 5.09.2.j and Section 5.20 pursuant to Section 5.22.3.b.1.b and Section 9.05, all of the Zoning By-Law, was desirable and appropriate. The Board made the following specific findings under said 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:

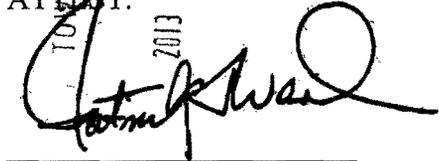
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Unanimous Decision of  
The Board of Appeals

Filing Date: July 19, 2013

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals



Jesse Geller, Chairman

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