



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town of Brookline Massachusetts

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BUILDING DEPT.
TOWN OF BROOKLINE

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0045

**Owner: ROBERT HILLMAN &
JAMES MITCHELL**

Petitioners, Robert Hillman and James Mitchell, applied to the Building Commissioner for permission to construct a 340 Square foot addition at the rear of 26 Orchard Road. The application was denied and an appeal was taken to this Board.

On June 13, 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 July 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 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 June 20 and June 17, 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: **Robert Hillman and James Mitchell**

Owner: **Robert Hillman and James Mitchell**

Location of Premises: **26 Orchard Road**

Date of Hearing: **July 11, 2013**

Time of Hearing: **07:30 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

1. **5.09.2.j; Design Review**
2. **5.22.3.c; Exceptions to Maximum Floor Area Ratio (FAR) for Residential Units**

Of the Zoning By-Law to construct a 340 square foot two story addition at the rear

At **26 Orchard Road**

Said Premise located in a **S-7 (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 Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA ~02445. ~Telephone (617) 730-2328; TDD (617) 730-2327; or e-mail atrsneirson@brooklinema.gov

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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 Zuroff and Board Members, Christopher Hussey and Avi Liss.. Kent Duckham, of Duckham Architects, 1319 Beacon Street, Brookline, MA, presented the case for the petitioners

Mr. Duckham described 26 Orchard Road as a single-family residence located on a large lot only 12.5 feet from the Town border, and 200 feet from Corey Road in Boston. Situated on a 16 feet high outcropping of rock, the house and one-car garage plus a three-car parking area is served by the steeper of two driveways. The other driveway, along the north property line, is currently closed but is connected to an unused two-car garage at the rear of the lot. A six foot wooden stake fence divides the two driveways. Several large trees give abundant shade.

Mr. Duckham said his clients, Robert Hillman and James Mitchell, are proposing to construct a 340 square foot two-story addition and a new deck in the rear. The addition will allow the applicant to create a new bathroom, mudroom, and expand the kitchen on the first floor, and expand the bedroom and master bathroom on the second floor. The addition will be constructed with cedar shingles on the second floor and cedar clapboard on the first floor. The roof will be constructed using a simulated slate roof. The deck will be constructed using a composite material. The applicant is also proposing to replace four windows in kind, and infill one window on the right elevation.

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

The Chairman asked if anyone in attendance would like to speak in opposition to the proposal. Farla Russo of 21 Williston Road wanted a clarification on the unfinished attic space above the new addition.

The Chairman called upon Tim Richard, Planner, to deliver the comments of the Planning Board.

FINDINGS

Section 5.09.2.i – 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.c – Exceptions to Maximum Floor Area Ratio (FAR) for Residential Units

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio	0.35	.38	.42	Special Permit*
(% of allowed)	100%	108%	120%	
Floor Area (s.f.)	2,800	3,044	3,384	

* 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.

Mr. Richard said the Planning Board is supportive of this proposal to increase the total floor area in the existing single-family dwelling by 340 square feet. The Board finds this proposal to be attractively designed, and believes it will increase the dwellings usability.

Therefore, the Planning Board recommends approval of the plans by Duckham Architecture & Interiors, dated 5/16/13, subject to the following conditions:

1. Prior to the issuance of a building permit, final elevations and floor 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.

The Chairman called upon Mike Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department concurs with the Planning Boards report and recommendations. He said the Building Department has no objections to the request for relief.

The Board deliberated on the merits of special permit relief. The Board voted unanimously the requirements for the grant of a special permit for 5.09.2.i, 5.22.3.c, 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.

1. Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions: Prior to the issuance of a building permit, final elevations and floor

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.

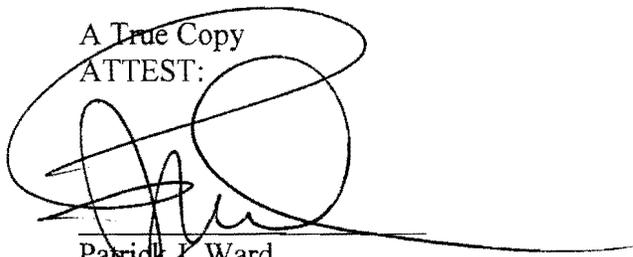
Unanimous Decision of
The Board of Appeals

Filing Date: August 5, 2013



Mark Zurloff, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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INDEXED
AUG 12 2013
REGISTRY OF DEEDS