



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0048

Owner:

Lawrence Hardoon and Janet Fine

Petitioners, Lawrence Hardoon and Janet Fine, applied to the Building Commissioner for permission to construct a small addition over an existing first floor bay at 115 Fuller Street. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed at 7:15PM July 25, 2013, in the Selectmen's Hearing Room as the date, time and place of a hearing for 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 July 4 and July 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: Larry Hardoon and Janet Fine
Owner: Larry Hardoon and Janet Fine
Location of Premises: 115 Fuller Street
Date of Hearing: **July 25, 2013**
Time of Hearing: **07:15 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

1. **5.43; Exceptions for Yard and Setback Requirements**
2. **5.60; Side Yard Requirements**
3. **5.61; Projections into the Side Yard**
4. **8.02.2; Extension and Alteration**

Of the Zoning By-Law to construct a 70 square foot second story addition

At 115 Fuller Street

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 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 Jesse Geller and Board Members, Mark Zuroff and Johanna Schneider.

Petitioner, Lawrence Hardoon, presented the case on his own behalf.

Mr. Hardoon describes the property as a single-family three-story Colonial Style dwelling that was built in 1900. The immediate neighborhood consists of dwellings that are similar in overall size. The neighborhood is comprised of dwellings that range from single to multi-family residences. Mr. Hardoon said he is proposing to construct a 70 square foot second story addition above the existing first floor space. The addition will not expand the footprint of the building, but it will be constructed within the side yard setback on the south side.

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

The Chairman asked if anyone in attendance wanted to speak in opposition to the proposal. No one spoke

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

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.60 – Side Yard Requirements

Section 5.61 – Projections into the Side Yard

	Required	Existing	Proposed	Finding
Side Yard Setback (south)	7.5'	4.6'	4.6'	Special Permit*

**Under Section 5.43, the Board of Appeals by special permit may allow the substitution of other dimensions for yard and setback requirements if counterbalancing amenities are provided.*

Section 8.02.2 – Alteration or Extension: A special permit is required to alter and/or extend this non-conforming structure.

Mr. Richard said the Planning Board is supportive of the proposal to construct a 70 square foot addition. The addition is modest, and the Board does not feel that it will negatively impact the neighborhood. The additional floor area will allow the applicant to have better usability of the dwelling. 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 proposal and plans by Constantine Cacos, dated 7/3/13, and the site plan by George C. Collins, dated 4/25/13, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, a landscaping plan, floor plans, and elevations, 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; 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

Tim Richard delivered the comments of the Building Department. The Building Department has no objections. The addition is modest and the relief can be granted via special permit.

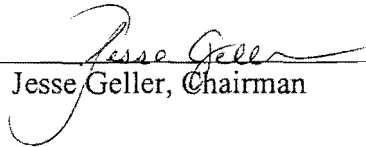
The Board deliberated on the merits of special permit relief. The Board voted unanimously the requirements for the grant of relief from the provisions of **Section 5.60** of the Zoning By-Law and **Section 5.61** and **Section 8.02.2** of the Zoning By-Law by special permit pursuant to **Sections 5.43**, and **9.05** of the Zoning By-Law were satisfied. 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 final site plan, a landscaping plan, floor plans, and elevations, 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; 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



Jesse Geller, Chairman

Filing Date: September 17, 2013

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A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals