



Jesse Geller, Chair
Christopher Hussey
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Town of Brookline Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0073
Owner: Avi and Heidi Liss

Petitioners, Avi and Heidi Liss, applied to the Building Commissioner for permission to construct a second story bathroom addition at the rear. 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 7:00 PM October 3, 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, 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 September 19th and 26th, 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: **Avi and Heidi Liss**
Owner: **Avi and Heidi Liss**
Location of Premises: **77 Eliot Street**
Date of Hearing: **October 3, 2013**
Time of Hearing: **07:00 PM**
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 to Yard and Setback Regulations**
- 2. 5.70; Rear yard Requirements**
- 3. 8.02.2; Extension and Alteration**

Of the Zoning By-Law to **construct a second story bathroom at the rear
At 77 Eliot Street**

Said premise located in an **T-5 (Two-Family and Attached Single-Family)** residence 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

**Jesse Geller
Jonathan Book
Christopher Hussey**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jonathan Book , members Christopher Hussey and Mark Zuroff.

Petitioner Avi Liss presented the case on his own behalf.

Mr. Liss said his home, 77 Eliot Street, is a two-story single-family dwelling near the intersection of Eliot Street and Loveland Road. The hip-roofed dwelling is on a small lot whose elevation is somewhat above Eliot Street, and a set of stairs provides access from the sidewalk to the front entrance. Neighboring dwellings are either single- or two-families with a similar street orientation, however most of these dwellings already have parking, either with a front yard parking space or garage.

Mr. Liss said he is proposing to construct a second story bathroom addition at the rear of the dwelling above the existing footprint of the structure. The additions will be constructed in both the front and the rear of the dwelling. The front addition will be above an existing balcony, and will not expand the footprint. The rear addition will also be constructed above existing floor area, and will be within the rear yard setback, but will not expand the footprint. The materials used for the addition will match the existing dwelling.

The Chairman then asked if anyone in attendance wished to speak in support or in opposition to the petitioner's proposal. No one asked to be heard.

Tim Richard, Planner, delivered the findings of the Planning Department.

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.70 – Rear Yard Requirements

Dimensional Requirements	Required	Existing	Proposed	Relief
Rear Yard Setback	30'	14.4'	14.4'	Special Permit*

* Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter this non-conforming structure

Mr. Richard said the Planning Board is supportive of this proposal. The addition is attractively designed and it is not anticipated that the impact will be detrimental to the neighborhood character. Furthermore, the addition is not expected to be well visible from the street, as it is located to the rear of the dwelling. The Planning Board recommends the applicant install additional landscaping as a counterbalancing amenity required for a special permit.

Therefore, the Planning Board recommends approval of the plans by DiLullo Associates Inc., dated 5/2/13, and site plan by New England Land Survey, dated 7/17/12 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final 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 a final site plan and landscaping plan indicating a counterbalancing amenity, subject to the review and approval of the Assistant Director of Regulatory Planning.

3. 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 wall elevations stamped by an architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department has no objection. He said all the relief can be granted by special permit and the addition is a small addition that will provide much needed living space for a growing family.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits and that the petitioner has satisfied the requirements necessary for relief under **Sections 5.43, 5.70, 8.02.2 and 9.05** of the Zoning By-Law and made the following specific findings pursuant to **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.

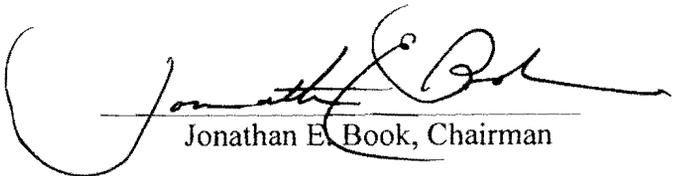
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final 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 a final site plan and landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.
3. 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 wall elevations stamped by an 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: November 12, 2013


Jonathan E. Book, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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TOWN CLERK

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