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BUILDING DEPT.
TOWN OF BROOKLINE

Town of Brookline Massachusetts

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

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2012-0003

Petitioner, Steven Gurdin, applied to the Building Commissioner for permission to construct a porch on the side of his home at 29 Payson Road. The application was denied and an appeal was taken to this Board.

On January 29, 2012, 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 March 22, 2012, 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 (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 March 1, and March 8, 2012, 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: **GURDIN STEVEN & Lisa**
Owner: **GURDIN STEVEN & Lisa**
Location of Premises: **29 PAYSON RD.**
Date of Hearing: **March 22, 2012**
Time of Hearing: **7:00 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 to Yard and Setback Regulations, special permit required.**
- 2. 5.60; Side Yard Requirements, variance required.**
- 3. 5.61; Projections Into Side Yards, variance required.**
- 4. 8.02.2; Alteration or Extension, special permit required** of the Zoning By-Law to construct a new deck on the side of your home at **29 PAYSON ROAD.**

Said Premise located in an 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 the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Enid Starr
Jesse Geller
Christopher Hussey**

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 Christopher Hussey.

The petitioner, Steven Gurdin, presented his case before the Board.

Mr. Gurdin described his property at 29 Payson Road as a single family home that was constructed in 1950. The property is located at the intersection of Payson and Risley Roads and

is a corner lot with two front yards. The home was constructed in a raised ranch style and has a recessed two car garage facing the street. The lot slopes downward from the street and the home has a walk-out basement and existing rear deck [that the applicant is seeking to reconstruct, cover and enlarge] on the first floor. The surrounding properties are comprised of other single family homes that were also developed during the Post-War period.

Mr. Gurdin said that he is seeking to reconstruct and enlarge his first-floor rear porch. The new porch will measure 6' x 27'1". The porch will be bookended on both sides by steps leading down to an existing patio or the rear yard. The porch will be constructed of Azek decking with an Azek railing system. He said that they will also be constructing a shed style dormer on the roof to overhang the porch so that it is covered. The roof extension will be sided [on the sides] to match the existing siding on the home and will have asphalt shingles. Mr. Gurdin said that he and his wife are planning to provide additional landscaping as a counterbalancing amenity.

The Chairman asked whether anyone in attendance wished to speak in favor of or against the proposal. No one rose to speak.

Courtney Synowiec, Planner delivered the findings of the Planning Board.

Section 5.60 – Side Yard Requirements

Section 5.61 – Projections into Side Yards

Dimensional Requirements	Required	Existing	Proposed	Relief
Side Yard Setback	4'	Est. 4'	1.7'	Special Permit*

*Under **Section 5.43**, the Board of Appeals may by special permit waive yard and setback requirements if counterbalancing amenities are provided. The applicant is proposing to provide additional landscaping as a counterbalancing amenity.

Section 8.02.2 – Alteration or Extension

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

Ms. Synowiec stated that the Planning Board was supportive of this proposal. The new porch should increase the functionality of the outdoor space on the property and will have little impact

on the streetscape. Further, the design of the porch is well supported by the neighbors on abutting properties who would see the deck. Finally, the Planning Board noted the applicant should consider installing landscaping around their air conditioning condenser as part of their counterbalancing amenities. Therefore, the Planning Board recommended approval of the plans by I.S. Hernandez Design Services, dated 1/16/12, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all salient dimensions and materials shall be submitted 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 landscape plan 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 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 then called upon the Building Commissioner, Michael Shepard, to deliver the recommendations of the Building Department. Mr. Shepard noted that the Building Code requires that structures within a certain distance to the lot-line be built of fire resistant materials. He said that the Department would be looking for this information on the plan submitted for a building permit should the Board grant the requested relief. Mr. Shepard also recommended that the third condition recommended by the Planning Board be modified to eliminate the requirement for “plans stamped and signed by a registered architect”. He said that the Building Code does not require an architect for single and two-family homes and the proposed addition was relatively simple. He said that the Building Department supported the relief requested and would insure compliance with the Building Code.

During deliberations, Board Member Book stated that he was in favor of granting the requested relief. Board Member Hussey stated that he was also in favor but agreed with the Planning Board recommendation of plantings around the air conditioning condenser to screen it from the street and suggested that the homeowner paint the air conditioning pipes on the side of his home to blend better with the façade. He also suggested that some form of lattice work be installed under the deck because of its height in relation to the adjoining property.

The Board, having deliberated on this matter and having considered the foregoing testimony, concluded that it was desirable to grant all the relief required by special permit. After finding that adequate counter-balancing amenities were to be provided, namely, landscaping satisfactory to the Assistant Director for Regulatory Planning, the Board granted relief from **Sections 5.43** and **8.02.2** of the Town of Brookline Zoning By-Law. The Board also made the following specific findings pursuant to **Section 9.05**:

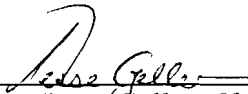
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the 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 final plans and elevations indicating all salient dimensions and materials shall be submitted 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 landscape plan including 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 building elevations; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

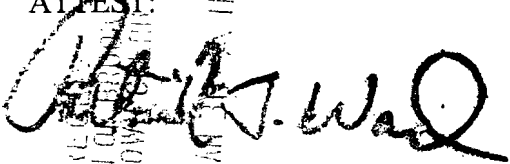
Unanimous Decision of
The Board of Appeals



Jesse Geller, Chairman

Filing Date: March 30, 2012

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals