



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

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Town of Brookline
BUILDING DEPT.
TOWN OF BROOKLINE *Massachusetts*

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2012-0012

Petitioner, Robert and Chrysaline Schmults, applied to the Building Commissioner for a permit to construct a front entry and expand kitchen on their home at 166 Walnut Hill Road. The application was denied and an appeal was taken to this Board.

On February 02, 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 April 5, 2012, at 7:30 p.m. in room 111 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 15, and March 22, 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: **SCHMULTS ROBERT C & CHRYSALINE**
Owner: **SCHMULTS ROBERT C & CHRYSALINE**
Location of Premises: **166 WALNUT HILL RD**
Date of Hearing: **March 05, 2012**
Time of Hearing: **7:30 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. **5.43; 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 front entry and expand the kitchen

At **166 WALNUT HILL RD**

Said Premise located in an S-10 (**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, Enid Starr and Board Members Jonathan Book and Christopher Hussey.

The contractor, Matthew Fischer, presented the case on behalf Robert and Chrysaline Schmults before the Board.

Mr. Fischer stated that the project consisted of adding a decorative and practical entry way to the front of the house as well as to renovate and build an addition to the kitchen approximately 5' by 6'.

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 5.09.2.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 most relevant sections of the design review standards are described below:

- *Preservation of Trees and Landscape:* This proposal would not remove any significant landscaping or trees on site. The proposed additions are small and would be located where there is already paved or hardscaped area.
- *Relation of Buildings to the Form of the Streetscape and Neighborhood:* The proposed additions are modest and would not detract from the existing streetscape or neighborhood.

Section 5.22.3.c – Exceptions to Maximum Floor Area Ratio for Residential Units: The Board of Appeals may grant a special permit for an increase in floor area of up to 350 s.f. provided the resulting gross floor area of the building is not more than 150% of the gross floor area.

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.30 100%	.379 126%	.385 128%	Special Permit*
Floor Area (s.f.)	3,229.5	4,076	4,146	

*See Section 5.22.3.c discussed above.

Section 8.02.2 – Alteration or Extension: A special permit is required to alter or extend a pre-existing non-conforming structure.

Ms. Synowiec stated that the Planning Board is supportive of the proposed additions as they are modest and in character with the existing dwelling and neighborhood. The Board expects the additions will improve the livability of the kitchen and front entryway, and they should improve the home's exterior appearance.

Therefore, the Planning Board recommends approval of the proposal and the plans, prepared by SHED and dated 10/27/2011, subject to the following conditions:

- 1) Prior to the issuance of a building permit, 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 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 Chief Building Inspector, Michael Yanovitch, to deliver the recommendations of the Building Department. Mr. Yanovitch stated that the Building Department supported the relief request and had no issues with the design.

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. The Board granted relief from Section 5.09.2.i, 5.22.3.c 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:

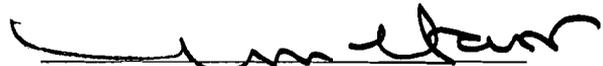
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

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

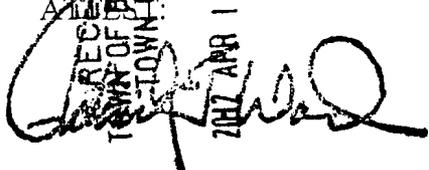
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Unanimous Decision of
The Board of Appeals


Enid Starr, Chairman

Filing Date: April 17, 2012

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Patrick J. Ward
Clerk, Board of Appeals