



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

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2012 MAY 23 AM 10:25  
*Town of Brookline*  
BUILDING DEPT.  
TOWN OF BROOKLINE *Massachusetts*

Town Hall, 1<sup>st</sup> Floor  
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Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2012-0022

Petitioners, Rafeeqe and Zebun Bhadelia, applied to the Building Commissioner to construct an addition on the southern end of their home at 75 Hilltop Road. The application was denied and an appeal was taken to this Board.

On March 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 May 10, 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 April 29 and 26, 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: **BHADELIA RAFEEQUE A & ZEBUN R**  
Owner: **BHADELIA RAFEEQUE A & ZEBUN R**

Location of Premises: **75 HILLTOP RD**  
Date of Hearing: **MAY 10, 2012**  
Time of Hearing: **7:00PM**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup> floor**

A public hearing will be held for a variance and/or special permit from:

**5.43; Exceptions to Yard and Setback Regulations, special permit required.**

**5.54; Exceptions for Existing Alignment, variance required.**

**8.02.2; Alteration or Extension, special permit required.**

of the Zoning By-Law to Demolish addition to south (rear) elevation of house at **75 Hilltop Road**

Said premise located in an **S-15 (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  
Christopher Hussey  
Jonathan Book**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Enid Starr, Board Members, Jonathan Book and Christopher Hussey. The case was presented by the Petitioner Rafeeqe Bhadelia. Mr. Bhadelia waived reading of the notice.

Mr. Bhadelia described the property as a single family home in the Chestnut Hill area. The house is the second house from the intersection of Fairway Road. Along the front property line is a tall hedge of arborvitae screening the house from the street. Mr. Bhadelia said that he is constructing an addition to

the side and front of his house. He said the front addition is needed to connect the two wings of the house. He said the house meets the 25 foot front yard setback but is subject to front yard alignment requirements and requires the house be in alignment with the abutting houses. He is seeking a special permit for the front yard alignment and for extending a non-conforming use. Mr. Bhadelia presented two letters from direct abutters in support of his addition, from Michael Elwood at 65 Hilltop Road and Edward Buckbee of 85 Hilltop Road.. There was also a letter submitted in opposition from Frank Lloyd of 59 Hilltop Road.

Chairman Starr asked for comments from the board. Board member Hussey asked the petitioner about the corner where the addition was going. The petitioner stated that there was currently a bathroom in that location and there will be another bathroom added. The petitioner stated that by constructing the addition in the manner proposed he would be able to leave the existing stairs in their current condition and not have to modify them. Board member Hussey asked about the floors not aligning. Mr. Bhadelia stated that the existing ceilings were very low and the new ceilings would be higher resulting in the uneven floor alignment.

Chairman Starr stated that in order to grant the special permit the petitioner would need to provide counterbalancing amenities. Chairman Starr asked what kind of counterbalancing amenities the petitioner was prepared to provide. The petitioner stated that he planned to have additional landscaping installed.

Member Book asked if the neighbors who have provided letter of support are direct abutters on either side. The petitioner said yes. Member Book also asked what the location was of the abutter that submitted a letter of opposition. It was determined that the abutter at 59 Hilltop Road was two houses to the right on the same side of the street.

Chairman Starr asked whether anyone in attendance wished to speak in favor of or against the proposed relief. No one rose in opposition or support.

Chairman Starr called on Polly Selkoe, Assistant Director of Regulatory Planning to present the Planning Board's Recommendations.

**Section 5.54 – Exceptions for Existing Alignment**

If the alignment of two or more existing buildings on lots on either side of the property on the same side of the street is farther back than the required front yard depth, the required front yard setback is the average of the alignment of all buildings within 150 feet of said front yard. The front yard setback for the house to the left, which is a corner lot, ranges from 46.6' to 62.9' (average 52.9'), and the house on the right ranges from 31.3' to 40.3' (average 34.8').

<b>Dimensional Requirements</b>	<b>Req.</b>	<b>Req. with averaging</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Front Yard Setback</b>	25'	43.8'	37.8'-39.7'	30.9'-35.3'	Special Permit*

\* Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant will be providing additional landscaping.

**Section 8.02.2 – Alteration or Extension**

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

Ms. Selkoe said the Planning Board supports the relief necessary to allow this addition. The front yard setback proposed is 10 feet greater than what would ordinarily be required in this zoning district. The addition is attractive and will largely not be seen from the street because of the tall arborvitae along the front and side property lines. The two abutters to either side of the house have submitted support letters.

Therefore, the Planning Board recommends approval of the plans by FKA Consultants, dated 2/10/2012, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan indicating all counterbalancing amenities 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; 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, for the report from the Building Department. Mr. Yanovitch stated that the Building Department had reviewed the plans for the addition and they appear to be well designed. The Building Department supports the Planning Departments recommendations and has no issue with the petitioners request for relief.

During deliberations Board member Hussey asked Ms. Selkoe if the Planning Board took in to account the aesthetics of the addition. Ms Selkoe said since there was no requirement for Design Review there was not much discussion regarding the aesthetics.

The Board, having deliberated on this matter and having considered the foregoing testimony, concluded that it was desirable to grant the requested relief 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 a final landscape plan indicating all counterbalancing amenities 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; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

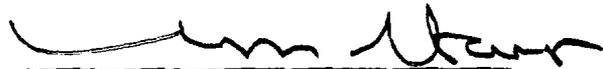
Unanimous Decision of  
The Board of Appeals

Filed Date: May 22, 2012

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals



Enid Starr, Chairman

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