



**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*

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

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2012-0023

Petitioner, David Charytan, applied to the Building Commissioner to enclose the second floor porch on his home at 171 Gardner 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 7:15 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 19 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: **CHARYTAN DAVID JACOBS SHOSHANA**  
Owner: **CHARYTAN DAVID JACOBS SHOSHANA**  
Location of Premises: **171 GARDNER RD**  
Date of Hearing: **MAY 10, 2012**

Time of Hearing: **7:15 p.m.**

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:

1. **5.09.2.k; Design Review, special permit required.**
2. **5.20; Floor Area Ratio, variance required.**
3. **5.22.2.b; Exceptions to Maximum Gross floor Area Ratio (FAR) For Residential Units, special permit required.**
4. **8.02.2; Alteration or Extension, special permit required.**

of the Zoning By-Law to Demolish addition to south (rear) elevation of house at **171 GARDNER ROAD.**

Said premise located in a **S-7 (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 the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.*

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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, Enid Starr and Board Members, Jonathan Book and Christopher Hussey. The case was presented by the applicant's Attorney Diane Gordon.

Atty. Gordon described the home as a two-story single family home that was constructed in 1933. The home is clad in brick with asphalt shingles, with a clapboard clad dormer on the rear of the structure that is not visible from the street. There is an existing single story bump out on the eastern side of the

structure with a second story porch above it. The surrounding properties are primarily single family homes.

Atty. Gordon said the petitioner wanted to enclose an existing second floor porch for additional living space to accommodate a growing family. The addition will contain a larger master bedroom and family room area. The addition will add 189 square feet to the existing house. The addition will be slightly cantilevered over the first floor. Attorney Gordon said that the petitioner is pleased with the Planning Board's position and would be happy to meet the suggested conditions.

Chairman Starr called attention to eight letters in support of the petition. Attorney Gordon said they have spoken with all abutters. Chairman Starr asked if any members of the board had any comments. There were no comments. Chairman Starr asked whether anyone in attendance wished to speak in favor of or against the proposed relief. No one rose to speak.

Polly Selkoe, Assistant Director for Regulatory Planning, delivered the findings of the Planning Board.

*Section 5.09.2.j – 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). All the conditions have been met, and the most relevant sections of the design review standards are described below:

a. Preservation of Trees and Landscape – The new addition is not anticipated to disturb any existing vegetation as it will be replacing an existing covered second-story deck.

b. Relation of Buildings to Environment – The front façade of the home has southern exposure and as the addition is pulled back slightly from the front to accommodate the balcony, it is unlikely the addition will result in substantial shadowing on neighboring properties.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood – The addition complements the existing house and has widespread support from nearby neighbors.

d. Open Space – No open space is being lost because it is a second floor addition and the deck it is replacing does not meet the minimum dimensions to count toward usable open space requirements.

**Section 5.20 – Floor Area Ratio**

<b>Floor Area</b>	<b>Allowed</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Floor Area Ratio (% of allowed)</b>	.35 100%	.48 138%	.51 146%	Special Permit/ Variance*
<b>Floor Area (s.f.)</b>	2,457	3,394	3,583	

\* Under *Section 5.22.3.c*, the Board of Appeals may grant a special permit for up to 150% of the allowed Gross Floor Area provided the addition does not exceed 350 square feet. The addition is only 189 s.f.

**Section 5.22.2b** – This section is not applicable because this is not a conversion of the attic.

**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 is supportive of this proposal to provide more living space for the owners. The addition is attractive and complements the style of the existing house. Several support letters have been submitted by neighbors who have no objection to the expansion of the second floor onto an existing deck. **Therefore, the Planning Board recommends approval of the plans by Sami Kassis and Lisa Wasserman Sivan, dated 4/02/2012, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit final 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; 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 said the Building Department has reviewed the plans and the addition appears to be well designed. The addition of 189 square feet does not contribute significantly to the bulk of the structure. The building department has no issue with the request for relief.

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:

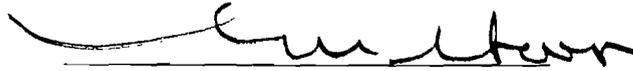
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

of Deeds.

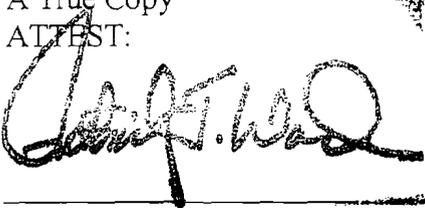
Unanimous Decision of  
The Board of Appeals



Enid M. Starr, Chairman

Filing Date: May 15, 2012

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals

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