



Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Christopher Hussey

Town of Brookline Massachusetts

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BUILDING DEPT.
TOWN OF BROOKLINE

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. 2012-0029

Petitioner, Elisabeth Murphy, applied to the Building Commissioner for permission to construct an addition at the rear of her home at 200 Reservoir Road. The application was denied and an appeal was taken to this Board.

On 19, April 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 14, June 2012, at 7:00p.m. in the Selectmen's Conference Room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, 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 May 24 and May 31, 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: **MURPHY ELIZABETH**
Owner: Location of Premises: **200 RESERVOIR**
Date of Hearing: **June 14, 2012**
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:

5.20; Floor Area Ratio, variance required.
5.43; Exceptions to Yard and Setback Regulations, special permit required.
5.60; Side Yard Requirements, variance required.
8.02.2; Alteration or Extension, special permit required.

Of the Zoning By-Law to Construct an addition at the rear of your dwelling
at **200 RESERVOIR RD.**

Said premise located in a **S-15 (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, Jesse Geller and Board Members Lisa Serafin and Mark Zuroff.

David Kelly, builder, whose professional address is 10 Edgewood Drive Ashland, Massachusetts, presented the case for the petitioner.

Mr. Kelly described the property as a two-story center entrance Colonial style single family home. The property is located on a hill, and there is an attached garage with two stories of living area above [in a salt box shape] that is setback slightly from the front and rear of the main portion of the home. The neighboring uses are primarily single family residential structures.

Mr Kelly said his clients are proposing to extend the rear section of the home two and one half feet which will expand a bathroom and kitchen on the first floor. He said there is no second floor to the addition and no basement. The addition will be on footings. The addition will make the house more livable.

Chairman Geller asked if the original Certificate of Occupancy was over ten years old. The applicant confirmed that it was. The Chairman asked if anyone wished to speak in favor of the proposal. No one rose to speak. The Chairman then asked if anyone wished to speak in opposition. No one rose to speak.

Lara Curtis Hayes, Planner, delivered the findings of the Planning Department.

FINDINGS

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 addition is very modest in size, but will disturb some existing landscaping in the rear of the house. There is an existing shrub and a mature rhododendron which will need to be removed but will not result in a loss of screening along the property lines.

b. Relation of Buildings to Environment – There will be no shadowing on neighboring properties generated by the new addition.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood – The work will be done on the rear of the home and will have no impact on the streetscape.

d. Open Space – The new deck will enhance the usability of the rear yard.

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio	.25	.31	.32	Special Permit*
(% of allowed)	100%	107%	109%	
Floor Area (s.f.)	3,074	3,275	3,336	

* Under §5.22.3.b.1.b, 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.

Section 8.02.2 – Alteration or Extension

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

Ms. Hayes said the Planning Board is supportive of this proposal. The addition will enhance the functionality of the structure while having no impact on the streetscape. In addition, although the deck does not require zoning relief, the Planning Board is also supportive of its installation as it will enhance the usability of the rear yard.

Therefore, the Planning Board recommends approval of the plans by David Kelly, submitted 5/29/2012, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit more detailed final plans and elevations indicating all salient dimensions and materials, as well as an FAR analysis 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, to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no issue with the request for relief and agrees with the Planning Board's recommendations.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant the Special Permit relief requested and that the petitioner has satisfied the requirements necessary for relief under Sections 5.22.3.b.1.b, 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 more detailed final plans and elevations indicating all salient dimensions and materials, as well as an FAR analysis 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



Jesse Geller, Chairman

Filing Date: June 29, 2012

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Approved Copy
ASSENT:


Patrick J. Ward
Clerk, Board of Appeals