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TOWN OF BROOKLINE

Town of Brookline Massachusetts

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

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Brookline, MA 02445-6899
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2012-0062

Petitioners, Robert and Ulla Strecker, applied to the Building Commissioner for permission to construct an addition at the rear of 255 Summit Avenue. The application was denied and an appeal was taken to this Board.

On August 1, 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 November 29, 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 November 1, 2012 and November 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: **STRECKER ROBERT E LARSEN ULLA**

Owner: **STRECKER ROBERT E LARSEN ULLA**
Location of Premises: **255 SUMMIT AVE**
Date of Hearing: **November 29, 2012**
Time of Hearing: **7:15 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**
2. **5.70; Rear Yard Requirements**
3. **8.02.2; Alteration or Extension**

of the Zoning By-Law to construct a parking area **Construct a 16 foot by 16 foot addition at the rear**

Said premise located in a **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 Mark Zuroff and Jonathon Book. The case was presented by Gerry Lindsey of Lindsey and Associates, 707 Main Street Millis, MA.

Mr. Lindsey described the property is a two-story single family home that was constructed in 1950. The home is on a corner lot and has frontage on both Summit Avenue and Jenness Road. There is a recessed single car garage at the basement level of the house on the side of the property along Jenness

Road. The garage is accessed by a 15' long driveway that is supported by retaining walls on both sides, one of which has recently been replaced and the other needs to be replaced. The surrounding uses are primarily single family homes and the lot is located very close to the town line.

Mr. Lindsey said the lot is a corner lot and according to the Zoning By-Law the rear lot line can be chosen by the petitioner. He said the petitioner wishes to use the lot line on the Summit Avenue side of the house as the rear yard. Mr. Lindsey felt that this was the best option because the encroachment into the required yard was least on that side. He said the proposal is to construct a 16 foot by 16 foot addition at the southeast side of the structure which would need rear yard relief. The petitioner submitted an updated plan for the project, which was entered into the record of the Hearing as Exhibit 1.

Board Member Book asked what the petitioner would propose for counterbalancing amenities under **Section 5.43** of the Zoning By-Law. Mr. Lindsey said the lot will be fully landscaped and a landscape plan will be presented to the Assistant Director of Regulatory Planning prior to filing for a building permit. Board Member Book also asked if the proposal had the support of the abutters. Robert Strecker, petitioner, said he had presented a copy of the drawings to the neighbors and he is not aware of any opposition.

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

Tim Richard, Planner for the Town of Brookline, delivered the findings of the Planning Board.

FINDINGS

Section 5.43 – Exceptions to Yard and Setback Regulation

Section 5.70 – Rear Yard Requirements

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
Rear Yard Setback	30'	30.2'	24'	Special Permit*

* Under Section 5.43, the Board of Appeals may waive setback requirements if a counterbalancing amenity is provided. The applicant is proposing to provide new landscaping and climbing vines near the new retaining wall.

Section 8.02 – Alteration or Extension

A special permit is required to alter a nonconforming structure or use.

Mr. Richard said the Planning Board is supportive of the proposal to construct an addition to the rear of the property. The addition is slightly larger than the existing porch and is not expected to impact the neighbors in the area. The Planning Board recommends that the applicant provide a counterbalancing amenity in the form of additional landscaping.

Therefore, the Planning Board approves the plans by CSEC Design Services, dated 7/16/2012, and the site plan by Lindsey & Associates, LLC, dated 7/17/2012, subject to the following conditions:

1. Prior to issuance of a building permit, final elevations, indicating all exterior alterations and proposed materials, shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit, the applicant shall submit a final site plan and final landscaping plan, subject to the review and approval of the Assistant Director of Regulatory Planning.

3. Prior to 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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Tim Richard, planner, delivered the comments for the Building Department. Mr. Richards said the Building Department has no objections to the requested relief. He said the relief is minimal and the addition is modest and if the Board feels the proposal meets the requirement for the grant of a special permit, the Building Department will work with the petitioner to ensure compliance with the code and any conditions.

The Board then determined, by unanimous vote that the requirements for special permits pursuant to **Sections 5.43; 5.70** and **Section 8.02.2** of the Zoning By-Law were met. The Board 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:

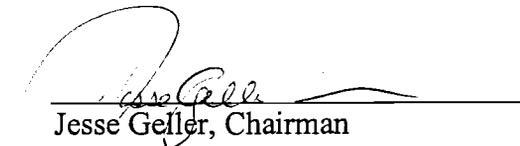
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review and approval.

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3. Prior to 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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

RECEIVED
TOWN OF BROOKFIELD
TOWN CLERK
2013 APR 23 A 11:04

Unanimous Decision of
The Board of Appeals



Jesse Geller, Chairman

Filing Date: April 23, 2013

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals