



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

Town of Brookline

Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2012-0067

Petitioners, Katie and Matthew Sawatzky, applied to the Building Commissioner for permission to construct a new hip dormer and shed dormer at 54 Hilltop Rd. The application was denied and an appeal was taken to this Board.

On December 6, 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 January 10, 2013 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 December 20, 2013 and December 27, 2013 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: Katie and Matthew Sawatzky

Owner: **Katie and Matthew Sawatzky**
Location of Premises: **54 Hilltop Road**
Date of Hearing: **January 10, 2013**
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 **Add a new hip dormer and a new shed dormer**

Said premise located in a **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.

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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 Mark Zuroff and Jonathon Book. The case was presented by Henry Ladd, General Contractor, 22 Hall Street, Jamaica Plain.

Mr. Ladd stated that the structure on the property as is a single family dwelling that was built in 1984. The neighborhood and vicinity are zoned for single family uses. The property is located along Hilltop Road, which is off Fairway Road. Hilltop Road curves around the front of the lot, creating a

property configuration with only three property lines. He said the proposal is to construct two new dormers on the house. Mr. Ladd said it will not add or extend the footprint of the house and it will not extend into any setback any more than the existing house. He said the relief is needed because the house is non-conforming and is located within the existing rear yard setback.

Member Book asked the petitioner, if relief were to be granted, what would be provided for counterbalancing amenities? Mr. Ladd said there is already a plan for additional landscaping. Chairman Starr noted that there were multiple letters of support submitted.

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

Section 5.70 – Rear Yard Requirements

| Dimensional Requirements | Required | Existing | Proposed | Relief |
|---------------------------------|-----------------|-----------------|-----------------|---------------|
| Rear Yard Setback | 40' | 15.2 | 15.2' | Special |

* Under *Section 5.43*, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided.

Section 8.02.2 – Alteration or Extension

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

Mr. Richard said the Planning Board supports the relief necessary to allow the dormer additions. The footprint of the structure will not be increased, and the proposed additions do not go further into the yard setback than the existing house. The Board recommends the applicant install landscaping as a counterbalancing amenity, required for special permit approval.

Therefore, the Planning Board recommends approval of the plans by Hickox Williams Architects, Inc, dated 9/24/12, 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 a final landscape plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.
3. 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 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 on Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch said the Building Department is supportive of the request for relief. He said the project does not exacerbate the non-conformance and is modest in nature and is only before the Board due to the fact that the property has two rear lot lines.

The Board then determined, by unanimous vote that the requirements for a variance and for **Sections 5.43; 5.70** and **Section 8.02.2** were met. The Board made the following specific findings pursuant to said **Section 9.05**:

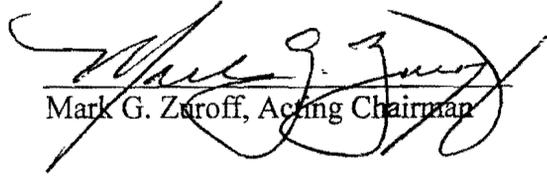
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the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

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

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 a final landscape plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.
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Unanimous Decision of
The Board of Appeals

Filing Date: February 14, 2013


Mark G. Zeroff, Acting Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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TOWN CLERK

2013 FEB 14 P 3:42