



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline

Massachusetts

Town Hall, 1st 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. 2011-0010

Petitioner, Carla Cabot, applied to the Building Commissioner for permission to construct additions to the rear of her home at 45 Hallwood Road. The application was denied and an appeal was taken to this Board.

On February 10, 2010, 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 March 24, 2011, at 7:00p.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 his 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 March 3 and 10, 2011, 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: **CABOT, CARLA P.**
Owner: **CABOT, CARLA P.**
Location of Premises: **45 HALLWOOD RD**
Date of Hearing: **March 24, 2011**
Time of Hearing: **7:00PM**
Place of Hearing: **Selectmen's Hearing Room, 6th. floor**

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

1. **5.09.2.j; Design Review, special permit required.**
2. **5.22.3.b.1.b; Exceptions to Maximum Floor Area Regulations for Residential Units, special permit required.**
3. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
4. **5.70; Rear Yard Requirements for Triangular Lots, variance required.**
5. **8.02.2; Alteration or Extension, Special Permit Required**

Of the Zoning By-Law to construct additions to the rear of the home at 45 Hallwood Road.

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.

**Enid Starr
Jesse Geller
Robert De Vries**

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 Jonathan Book and Mark Zuroff. The petitioner, was represented by Attorney Ashley F. Walter and Attorney William H. Shaevel of Shaevel & Krems, LLP, 141 Tremont Street, Boston, MA 02111. Also present on the behalf of the petitioner was the Project Architect, Steven W. Spandle of Judge Skelton Smith Architects,

16 Joy Street, Boston, MA 02114 and Mr. Joseph Boyland of 45 Hallwood Road, on behalf of the petitioner, Carla Cabot.

Ms. Walter described the property at 45 Hallwood Road as a single-family, two-story dwelling situated on a triangular shaped lot. The brick, Georgian Revival home was designed by architect Harry Ramsay and built in 1937. A driveway from Hallwood Road provides access to a parking area and an attached garage on the front right side of the structure. The lot is landscaped with mature trees on all sides and abuts two single-family residences. Hallwood Road is a short loop road, approximately 0.2 miles in length, running through a residential neighborhood composed primarily of single-family homes that intersects with Newton Street at both ends.

Mr. Shaevel distributed to the Board Members materials entitled "Summary of Proposal" in support of the petitioner's application, which were collectively accepted as Exhibit A. Mr. Shaevel also submitted to the Board plans consisting of three pages; a site plan dated March 3, 2011, a preliminary landscape plan dated March 21, 2011 and another site plan dated March 3, 2011 depicting existing plantings on the site, which plans were collectively accepted as Exhibit B. Ms. Walter reported that her client, Carla Cabot, is proposing to construct two additions to the rear of the building. One two-story addition, approximately 22 feet wide by 23 feet deep, will add a new family room and facilitate the renovation of the existing kitchen, pantry, and powder rooms on the first floor. A new bedroom and bathrooms will be added on the second level over the family room. Another addition will create a mudroom, approximately 22 feet wide and 7 feet deep, at the rear of the garage. The proposed alterations will add an additional 989 s.f. to the existing 4,225 s.f. of gross floor area. Ms. Walter stated that the proposal is a modest one that will allow her clients to remain in Brookline to raise their growing family. Ms. Walter

reviewed the documents submitted as Exhibit A explaining in detail the improvements that were contemplated by the petitioner and the proposed landscaping at the site.

Ms. Walter said that the proposal required relief in the form of special permits. She said that a special permit under 5.09.2.j was required because the petitioner was also seeking floor area ratio relief under Section 5.22.3.b.1. Ms. Walter stated that because her client's home was on a triangular lot, twice the required rear yard setback is required under the Zoning By-Law and therefore, special permit relief is required. She said relief could be granted under Section 5.43 since her client is proposing to install substantial landscaping as a counterbalancing amenity. Ms. Walter stated that her client was working on a landscaping plan that would help ameliorate the privacy concerns of their neighbors, Ronda and Jonathan Canter of 21 Hallwood Road.

The Chairman asked whether anyone in attendance wished to speak in favor or against the proposal. Mr. Joseph Boyland, a resident of 45 Hallwood Road, spoke about the addition as well as the extensive landscape improvements that were contemplated.

Mr. Canter addressed the Board regarding two areas of concern. The first was related to drainage and his wish that all the water runoff from the site and building be contained within the petitioner's property. The second was related to the proposed landscaping. Mr. Canter explained that because of the close proximity of his backyard to the proposed addition, he was afraid that the privacy he has enjoyed in the past could become compromised. He stated that trees should be planted at such a height, density and distance to present an effective screen between the properties. As an example, Mr. Canter referenced trees that were planted several years ago along the left side of the driveway (as you face the garage) at 45 Hallwood that almost immediately provided a formidable screen. The Chairman continued the hearing to allow the

petitioner and the Canters to discuss a private screening agreement. The petitioners and the Canters having successfully negotiated such an agreement, the continued hearing was reopened.

Michael Shepard, Building Commissioner, delivered the findings of the Planning Board.

Section 5.09.2.j – Design Review

A special permit is required for any exterior additions to structures in the S-15 zoning district requesting an exception to the maximum floor area ratio under Section 5.22. The applicant has submitted a Community and Environmental Impact and Design Standards statement. Comments on the most relevant standards are as follows:

- *Preservation of Trees and Landscape:* The additions will not remove existing trees or landscaping on this property. Current landscaping consists primarily of mature trees and shrubs.
- *Relation of Buildings to the Form of the Streetscape and Neighborhood:* The proposed additions match the building style, materials, and scale of the existing structure, and will blend in with the architectural style of other single-family homes in the neighborhood. The expansion will not be especially visible from the street and will not alter the height of the building. Additionally, the building’s massing will not be out of scale with other neighborhood buildings.
- *Circulation:* The applicant is not proposing any changes to the on-site circulation. The addition is in the rear and will not interfere or impact current access to the lot, interior walks, or public sidewalks.
- *Stormwater Drainage:* All rainfall on the new addition will be guttered, mitigating runoff to the adjoining land.
- *Energy Efficient:* New insulation and energy efficient HVAC will be provided.

Section 5.22.3.b.1.b – Exceptions to Maximum Floor Area Regulations for Residential Units

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.70 – Rear Yard Requirements for Triangular Lots

Dimensional Requirements	Allowed	Allowed by Special Detail	Existing	Proposed	Findings
Floor Area Ratio (% of allowed)	0.25 100%	0.31 120%	0.22 86%	0.27 107%	Special Permit*
Floor Area (s.f.)	4,892	5,870	4,225	5,214	
Rear Yard Setback (ft)	80	--	78	65	Special Permit**†

* Under Section 5.22.3.b.1.b, the Board of Appeals may grant a special permit in S districts for an increase in floor area, so long as the addition does not exceed 20% of the permitted gross floor area. The proposed addition is 656 square feet less than the excess 20% of gross floor area allowed by special permit.

** Under Section 5.43, the Board of Appeals may by special permit allow for the substitution of other dimensional requirements for yard and setback requirements if counterbalancing amenities are provided.

† Under *Section 5.70*, structures on triangular lots with no rear lot line require a rear yard setback that is twice the minimum setback, which is measured from the corner of the lot farthest from the front line.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a nonconforming structure or use. The structure is nonconforming with regard to rear yard setback.

Mr. Shepard reported that the Planning Board was supportive of the proposed additions that will add new living space for this single-family home. The additions are consistent with the architectural style of the existing home and the surrounding neighborhood. Although the addition exceeds the allowed floor area ratio for an S-15 district, it is significantly below the maximum area allowable by special permit. Further, as rearward expansion of the home is largely constrained by the required double rear yard setback for a triangular lot, the Planning Board believes that unique condition warrants consideration for a special permit. Finally, the Planning Board would like the applicant to submit a detailed landscape plan indicating the locations and species of existing as well as proposed plantings that will serve as counterbalancing amenities. The Planning Board would like the landscaping to include a row of evergreens screening the addition along the lot line adjacent to 21 Hallwood Road. Therefore, the Planning Board recommends approval of the proposal and plans, prepared by Judge-Skelton-Smith and last dated 1/20/2011, subject to the following conditions:

1. Prior to 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 issuance of a building permit, final floor plans and elevations of the rear additions shall be submitted subject to the review and approval of the Assistant Director for Regulatory Planning.
3. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) a final site

plan, stamped and signed by a registered land surveyor or engineer; 2) final floor plans, stamped and signed by a registered architect or engineer; 3) final elevations, stamped and signed by a registered architect or engineer; and 4) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard commented that in his opinion the agreement reached between the parties regarding landscaping would ameliorate the concerns of the neighbor at 21 Hallwood Road. Regarding the issue of drainage, Mr. Shepard suggested that the Board consider adding a condition requiring the submission of a drainage plan, prepared by a registered engineer for the review and approval of the Town Engineer. Mr. Shepard commented that the addition appeared well designed and would complement the existing structure as well as others in the neighborhood. Mr. Shepard said that should the Board consider the grant of the requested relief that the Building Department would ensure compliance with the Massachusetts State Building Code.

During deliberations, Board Members discussed drainage on the property and suggested the inclusion of the aforementioned additional condition. The Board Members were pleased that the neighbors came to a reasonable solution regarding landscaping that would be beneficial to both. The Chairman stated that the unusual triangular shape of the lot was a consideration. All the Board Members agreed that the addition was well designed and would benefit the neighborhood.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that all the requested relief could be granted by special permit. The Board found that that the petitioner has satisfied the requirements necessary for relief under **Sections 5.09.2(i), 5.22.3.b.1.b, 5.43, 5.70, 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.

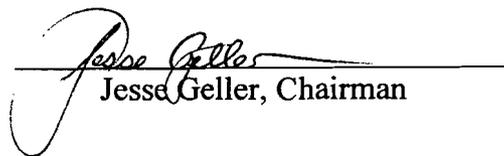
Additionally, the Board accepted the Planning Board's findings and found the petitioner to have adequately addressed the Community and Environmental Impact and Design Standards. Lastly, it was determined that zoning relief, in the form of a variance was unnecessary and inappropriate for this site.

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

1. **Prior to issuance of a building permit, the applicant shall submit a final landscape plan indicating all counterbalancing amenities consistent with the private agreement reached between the parties, subject to the review and approval of the Assistant Director of Regulatory Planning.**
2. **Prior to issuance of a building permit, final floor plans and elevations of the rear additions shall be submitted subject to the review and approval of the Assistant Director for Regulatory Planning.**
3. **Prior to the issuance of a building permit, a drainage plan, prepared by a registered engineer, shall be submitted for the review and approval of the Town Engineer.**
4. **Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered land surveyor or engineer; 2) final floor plans, stamped and signed by a registered architect or engineer; 3) final elevations, stamped and signed by a registered architect or engineer; and 4) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.**

Unanimous Decision of
The Board of Appeals

RECEIVED
 TOWN OF BROOKLINE
 TOWN CLERK
 2011 MAY - 1


 Jesse Geller, Chairman

Filing Date: April 1, 2011

A True Copy
ATTEST:

A handwritten signature in black ink that reads "Patrick J. Ward". The signature is written in a cursive style with a large initial "P" and a distinct "W".

Patrick J. Ward
Clerk, Board of Appeals