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SUBJECT
TOWN OF BROOKLINE

Town of Brookline Massachusetts

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

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. 2011-0015

Petitioners, Michael Dowd and Amy Hummel, applied to the Building Commissioner for permission to enclose an existing porch and construct an addition on the front of the second floor at 226 Clark Road. The application was denied and an appeal was taken to this Board.

On March 24, 2011, 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 April 28, 2011 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 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 April 7 and 14, 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: **DOWD MICHAEL V & HUMMEL AMY L**
Owner: **DOWD MICHAEL V & HUMMEL AMY L**
Location of Premises: **226 CLARK RD**
Date of Hearing: **APRIL 28, 2011**
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. **5.09.2.j; Design Review, special permit required.**
2. **5.10; Lot Size, variance required. (pre-existing, non-conforming)**
3. **5.22.3.c; Exceptions to Maximum Floor Area Ratio for Residential Units, special permit required.**
4. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
5. **5.50; Front Yard Requirements, variance required.**
6. **8.02.1.a; Alteration of Extension, special permit required.**

of the Zoning By-Law to **ADDITION REQUIRING BOA RELIEF at 226 CLARK RD**

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.

**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, Christopher Hussey and Mark Zuroff. Due to a scheduling conflict, the site of the hearing was moved to the Selectmen's conference room, adjacent to the hearing room. Appropriate notice was posted throughout the building advising of the change in location. Ms. Hummel and Mr. Dowd were in attendance during the hearing. Ms. Hummel presented the case before the Board.

Ms. Hummel described her home at 226 Clark Road as a single-family two-story clapboard home with an existing front porch built in 1915. The dwelling is located in a single-family residential district that intersects with Sumner Road and is north of Boylston Street. The porch has frontage on Clark Road and the front door is on the right side of the home by the driveway. The residence has a basement and a detached garage. The neighborhood is primarily comprised of homes of similar sizes and lots and is located ¼ mile from the Beaconsfield T stop.

Ms. Hummel said that she and her husband, Michael Dowd, are proposing to construct a two-story addition on the front façade of their home. She said that they would like to enclose the existing porch to create a new family room and build a bay above it to accommodate a second full bath in the house. The first floor renovation will be 237 square feet and the new bay with bath on the second floor will add 113 square feet for a total of 350 square feet of new gross floor area. The new foundation will be clad in brick veneer, and the existing columns will be re-finished and re-used. The new bay will have clapboards to match the house with corner boards to add detail. New windows will be energy efficient and match the existing as closely as practicable. Ms. Hummel, when asked about counterbalancing amenities responded that they intended to provide landscaping in the front where they removed a large hedge and will have the entire house freshly painted.

Board Member, Christopher Hussey, asked about the functionality of the enclosed porch as a family room given its location and odd proportions. Ms. Hummel responded that she needs additional space for her growing children. She agreed that the location of the family room may not be ideal but she was trying to retain the character of her home and her family would adjust to the space.

The Chairman asked whether anyone in attendance wished to speak in favor or against the proposal. No one rose to speak. Ms. Hummel reported that they had reviewed the plans with her neighbors and she had letters of support from her direct abutters at 222 and 230 Clark Road as well as others in the neighborhood.

Assistant Director for Regulatory Planning, Polly Selkoe, reviewed 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 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 proposed addition is not anticipated to disturb the existing landscape or any trees as the addition is in the footprint of the pre-existing porch.
- b) **Relation of Buildings to Environment:** The proposed addition is not anticipated to cause shadowing on neighboring buildings as it is on the front facade. The addition should relate harmoniously to the landscape.
- c) **Relation of Buildings to the Form of the Streetscape and Neighborhood:** The proposed addition is consistent in style with the existing dwelling as well as with neighboring dwellings.
- d) **Open Space:** The applicant is proposing to make improvements to the landscaped areas in the front yard.
- e) **Circulation:** The proposal will retain the existing driveway and is not anticipated to impact circulation.

Section 5.10 – Lot Size: Where a minimum lot size is specified in Table 5.01 no main building or use shall be erected or established on any lot of lesser size, except as may be permitted by 5.15. The 6,297 square foot lot is a pre-existing, non-conforming condition for this S-7 district.

Section 5.22 – Floor Area Ratio:

| Floor Area | Allowed | Existing | Proposed | Relief |
|-------------------|---------|----------|----------|-----------------|
| Floor Area Ratio | 0.35 | 0.31 | 0.37 | Special permit* |
| (% of allowed) | 100% | 91% | 107% | |
| Floor Area (s.f.) | 2,204 | 1,997 | 2,360 | |

* Under Section 5.22.3.c, the Board of Appeals may grant a special permit for up to 150% of the permitted gross floor area provided the addition is less than 350 square feet. The applicant is proposing to construct a 350 square foot addition which meets the requirement for a special permit.

Section 5.50 – Front Yard Requirements:

| Dimensional Requirements | Required/Allowed | Existing | Proposed | Relief |
|--------------------------|------------------|----------|----------|---------|
| Front Yard Setback (ft.) | 20 | 17 | 17 | Special |

*Under Section 5.43, the Board of Appeals may waive by special permit yard and setback requirements if counterbalancing amenities are provided. The applicant is planning to provide landscaping in the front where they removed a large hedge and will have the entire house freshly painted.

Section 8.02.1.a – Alteration of Extension

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

Ms. Selkoe reported that the Planning Board was generally supportive of the proposal since the addition is well-designed and sensitive to the character of the home. The addition should not negatively impact the streetscape of this single-family neighborhood since the proposed construction would enclose a pre-existing deck without significantly altering the dwelling nor obstructing neighbors' views. The Planning Board believed that the proposed landscaping will be an asset to the appearance of the home. The Planning Board has received letters from neighbors in support of the applicant's addition and believe the improvement will have a positive visual impact on the neighborhood. Therefore, she said, the Planning Board recommended approval of the proposal and plans, including the plot plan prepared by AGH Engineering and last dated

9/23/2010, and the elevations, renderings, and floor plans by Silvana Sawaya dated 2/19/2011 and 3/21/2011, subject to the following conditions:

1. Prior to issuance of a building permit, final plans and elevations of the proposed addition shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities to the Assistant Director of Regulatory Planning for review and approval.
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 elevations, stamped and signed by a registered architect or engineer; and 3) evidence the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Shepard, Building Commissioner, for the report from the Building Department. Mr. Shepard reported that the plans seemed well crafted and the petitioners were sensitive to the streetscape by retaining the porch columns. Mr. Shepard said that he was supportive of the conditions recommended by the Planning Board and if approved would insure the addition is built in accordance with the conditions and the requirements of the state building code.

During deliberations, Board Member, Christopher Hussey, opined that he was familiar with the neighborhood and while he feels that over time its character is being changed due partially to the elimination of the front porches, he would support the grant of the requested relief in this particular case.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant the Special Permit relief as requested and that the petitioner has satisfied the requirements necessary for relief under **Section 5.43** to waive the front yard requirement from the required 20' to 17'. Also, relief was granted under **Section 5.22.3.c** to allow an addition of up to 350 sf beyond the maximum allowed gross floor area for the Zoning

District and Section 8.02.2 because of a pre-existing, non-conformity. The Board also 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:

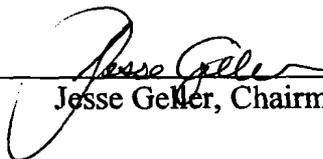
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Unanimous Decision of
The Board of Appeals

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TOWN OF BROOKLYN
TOWN CLERK
MAY 18 2011
A 9 40

Date: May 16, 2011

True Copy
ATTEST.



Jesse Geller, Chairman

Patrick J. Ward

Patrick J. Ward
Clerk, Board of Appeals