



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

# *Town of Brookline*

## *Massachusetts*

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**Patrick J. Ward, Clerk**

**TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2011-0024**

Petitioner, Anthony Simboli, applied to the Building Commissioner for permission to construct an addition to the existing structure at 92 Harvard Street. The application was denied and an appeal was taken to this Board.

On April 7, 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 June 9, 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 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 19 and 26, 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: **Anthony J. Simboli**  
Owner: **EVANGELAKOS, WILLIAM & ELENI**  
Location of Premises: **92 HARVARD ST**  
Date of Hearing: **JUNE 09, 2011**  
Time of Hearing: **7:15 p.m.**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup> Floor**

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

- 1. 5.09.2.a; Design Review, special permit required.**
- 2. 8.02.2; Alteration or Extension, special permit required**

of the Zoning By-Law to **Addition requiring BOA relief at 92 HARVARD ST.**

Said premise located in a **L-1.0 (local)** business 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, Mark Zuroff and Board Members, Jonathan Book and Christina Wolfe.

The case was presented by Attorney Robert Allen of 300 Washington Street, Brookline MA.

Attorney Allen described 92 Harvard Street as a one to two-story commercial building built in the early 1980s at the corner of Harvard and School Streets near the Pierce School. The building

is finished in stucco and has a large sunroom that wraps around the building's corner. Parking is provided in the rear yard. Residential properties exist to the north and rear of the property; other properties in the immediate area are commercial or educational in nature. The building has always been used as a restaurant but is currently proposed to be used as a third location for the Little Corner Schoolhouse the other locations are at 110 Harvard Street and 396 Washington Street, both of which are less than a block away from 92 Harvard Street.

Attorney Allen said that his client, Anthony Samboli and Ina Brother Santuosso of Little Corner Schoolhouse, are proposing to construct an addition that will wrap around the side and rear of the building as well as a new fenced in play area on the rear of the building. The Petitioner's architect Joo Kun Lim, of Twinspine Architects explained that the addition will measure 293 square feet and will accommodate a new rear entrance with an awning overhang as well as a portion of a new room for infant care. The addition will be clad in concrete panels and will have new fiberglass windows trimmed with cementitious board. Ms. Santusso is also proposing to utilize the concrete panel system with awning overhang on the front entry as well.

The Chairman asked whether anyone in attendance wished to speak in favor of or against the proposal. Andrew Haber of 58 Beals Street, owner/operator of another child care facility in Brookline stated that he had concerns that the Petitioner would not get a childcare license and that she was planning on additional work to the property and that the Board should be aware of. Attorney Allen informed the Board that any additional work would need to come back before them.

Courtney Synowiec, Planner, delivered the findings of the Planning Board.

**Section 5.09.2.a – Design Review** – An exterior addition within 100’ of Harvard Street requires a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. 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 will not impact any existing vegetation as it will be constructed on an area that is already paved.
- b) **Relation of Buildings to Environment:** The addition is rather modest in size and should not cause any shadows on neighboring properties.
- c) **Relation of Buildings to the Form of the Streetscape and Neighborhood:** The style of the addition is consistent with commercial architecture and should be a visual improvement to the appearance of the rear of the building.
- d) **Open Space:** The applicant is creating a fenced in play area in the rear yard which should positively impact the open space on the site.
- e) **Circulation:** The addition should not impact parking or circulation on the site. However, the use of the building, particularly with respect to the fact that it is located across the street from a K-8 school, and is less than a block for the other two daycare locations (both of which have substandard parking facilities), does raise concerns that there will be a detrimental impact on circulation between Washington, Harvard, Cypress and School Streets as well as on Aspinwall Avenue.

**Section 8.02.2 – Alteration or Extension**

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

Ms. Synowiec said that the Planning Board was supportive of the proposal to construct an addition on this building and make alterations to the front entry. The building has been left in a partially painted disrepair following the closure of Min Sok and the Planning Board believed it would be a benefit to the neighborhood to have the space reactivated. The Planning Board noted that the applicant will need to return before the Board with final plans for signage at a later date. Therefore, the Planning Board approved the plans by Twinspine, dated 2/18/11, subject to the following conditions:

1. Prior to the issuance of a building permit, final plans and elevations indicating all salient dimensions and materials shall be submitted subject to the review and approval of the

Assistant Director of Regulatory Planning.

2. The applicant shall return to the Planning Board with plans for signage.
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 and signed 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 upon Michael Shepard, Building Commissioner, for the report from the Building Department. Mr. Shepard stated that the addition appeared well designed and would complement the neighborhood. He said that the Building Department was supportive of the relief and would insure that the construction is done in accordance with the requirements of the Building Code.

During deliberations the Board unanimously agreed that the proposal was pleasing and met the requirements for relief under the Zoning By-Law.

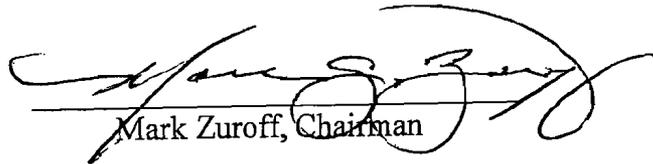
The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits and that the petitioner has satisfied the requirements necessary for relief under Section 5.09.2.a and 8.02.2. The Board also made the following specific 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:

1. Prior to the issuance of a building permit, final plans and elevations indicating all salient dimensions and materials shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. The applicant shall install a "no left turn" sign near the egress of the parking lot if deemed necessary by the Town's Director of Transportation.
3. The applicant shall obtain an open-air parking license from the Board of Selectman for any rental parking on the site.
4. The applicant shall return to the Planning Board with plans for signage.
5. 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 and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of  
The Board of Appeals



Mark Zuroff, Chairman

Filing Date: July 01, 2011

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals

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