



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

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BUILDING DEPT.
TOWN OF BROOKLINE
Town of Brookline
Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2011-0074

Petitioners, Leo and Lorraine Arnfeld, applied to the Building Commissioner for permission to install an elevator at the rear of their home at 1531 Beacon Street. The application was denied and an appeal was taken to this Board.

On January 5, 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 26, 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 January 19 and 26, 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: ARNFELD LEO & LORRAINE

Owner: **ARNFELD LEO & LORRAINE**
Location of Premises: **1531 BEACON**
Date of Hearing: **January 26, 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 to:

1. **5.09.2.a; Design Review, special permit required.**
2. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
3. **5.70; Rear Yard Requirements, variance required** of the Zoning By-Law to
CONSTRUCT AN ELEVATOR ON THE REAR OF YOUR HOME REQUIRING BOA RELIEF at
1531 BEACON ST.

Said premise located in a **M-1.5 (apartment house)** 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 Christopher Hussey. The case was presented by the attorney for the petitioner, Robert L. Allen Jr., 300 Washington Street, Brookline MA 02445.

Mr. Allen described the property located at 1531 Beacon Street as a two-family wood shingle home on the south side of Beacon Street. It is in a M-1.5 district and was built in 1890; and is located between Washington Square and Coolidge Corner. There have been numerous modifications to the

property over the years, including: the addition of a three level extension and roof deck on the rear; and a small property to the rear was subdivided off in 1940 which is a single family residence and remains in the same ownership as the front lot, owned by Leo and Lorraine Arnfeld. A driveway shared by the front lot with the adjacent apartment building at 1525 Beacon Street to the east provides vehicular access to the rear of the lots and to the front of 1529 Beacon Street. The parking areas are completely paved over and used for parking. Surrounding buildings are primarily large multi-family residential dwellings. This is one of the few Victorian era homes left on this stretch of Beacon Street. Leo and Lorraine Arnfeld, are long time active members of the Brookline community who take pride in the fact that they have maintained one of the few residential homes in this area of Beacon Street. Ms Arnfeld is suffering from mobility issues, but they are determined to continue living in their property. They are proposing constructing a 6' by 8' elevator on the rear of 1531 to provide accessibility from the parking area to all three floors of their home at 1531 Beacon Street and convert a 3rd floor deck to an enclosed sunroom of 150 s.f. The new floor area of the proposed addition will be approximately 350 s.f., and the total floor area of the structure will be less than 6,000 s.f., with an FAR of approximately .71, far below the allowed FAR of 1.5.

Mr. Allen explained that the Planning Board closely reviewed the design of the elevator by Tise Architects and were in unanimous approval. They are beautiful drawings, very few questions were asked by the Planning Board and it was noted that the elevator was located in the appropriate place to minimize any impact on the neighborhood or the structure.

The Board had no questions regarding the architectural drawings,

Mr. Allen discussed several zoning issues regarding the proposal. Regarding Bylaw 5.09.2a for design review, Mr. Allen stated that the only standards of Design Review applicable to this are the Preservation of Trees and Landscape and Relation of Buildings to the Form of the Streetscape and

Neighborhood. Regarding the former, Mr. Allen state that The proposal will not involve the removal of landscaping because the rear of the property is completely asphalted for parking. Regarding the latter, it was stated that the new enclosure is set back approximately 60' from the front property line on Beacon Street and will not exceed the ridge height of the primary structure. The part of the new structure facing the rear will be clad with cedar shingles to match the main part of the house The roof will match the existing asphalt roof shingles.

Mr. Allen further discussed Section 5.70 regarding Rear Yard Setbacks. 30 inch setbacks are required under the Bylaw and there currently is a 16.7 inch set back. The proposal would require relief as there would remain 10.7 inches after construction. Mr. Allen reminded the Board that under Section 5.43, the Board has the authority to waive yard and setback requirements if a counterbalancing amenity is provided. Mr. Allen stated that the applicants are proposing both the installation of similar high quality materials to the structure and roof as were proposed to the Planning Board as well as some additional landscaping as a counterbalancing amenity. Mr. Allen said that, in consideration of the counterbalancing amenities, the applicants meet the standard for special permit. The specific site is an appropriate location for such use, structure, or condition, as it is Built in the rear of the property to minimize visual impact. He explained that the use as developed will not adversely affect the neighborhood, stating that other properties to the rear of the lot, except for 1529 Beacon Street which is owned by the applicant, should not be impacted as they are at a significantly lower grade than the subject property. Letters of support from 1517, 1525-1527 and 1537 Beacon were submitted. Mr. Allen mentioned that there will be no nuisance or serious hazard to vehicles or pedestrians and adequate and appropriate facilities will be provided for the proper operation of the proposed use. The development as proposed will not have a significant adverse effect on the supply of housing available for low and

moderate income people. On the contrary, Mr. Allen stated that, in fact, this proposal allows long time Brookline residents to continue to live in the house that they love.

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

Polly Selkoe, Planner, delivered 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 Section 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 it is located under the cantilevered second story.
- b) Relation of Buildings to Environment: The proposed addition is not anticipated to cause shadowing on neighboring buildings.

Section 5.70 – Rear Yard Requirements

Rear Yard Setback	Required 30'	Current 16.7'	Proposed 10.7''	Special Permit*
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Ms. Selkoe reported that the Planning Board was supportive of this proposal. Therefore, the Planning Board recommends approval of the plans by Tise Design Associates, dated 1/9/12, subject to the following conditions:

1. Prior to the issuance of a building permit, a final site plan 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. Prior to the issuance of a building permit, final plans for landscaping or the use of quality materials shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning to serve as a counterbalancing amenity.
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, to deliver the comments of the Building Department. Mr. Shepard stated that he fully supports the efforts of the applicant and reported that the Building Department was supportive of the requested relief.

The Board, having heard all the testimony, deliberated on the merits of the application. Board member Geller applauded the applicant's proposal and said that preservation of an older building is a counterbalancing amenity in its own right.

The Board then determined, by unanimous vote that the requirements of **Section 5.09.2.j** and **Section 5.70** 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, a final site plan 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. Prior to the issuance of a building permit, final plans for landscaping plan or the use of quality materials shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning to serve as a counterbalancing amenity.
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.

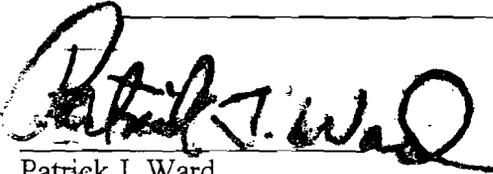
Unanimous Decision of
The Board of Appeals



Enid Starr, Chairman

Filing Date: February 15, 2012

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals