



# *Town of Brookline*

## *Massachusetts*

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

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Brookline, MA 02445-6899  
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Patrick J. Ward, Clerk

**TOWN OF BROOKLINE**  
**BOARD OF APPEALS**  
**CASE NO. 2010-0003**

Petitioners, Daniel and Stephanie Mishkin applied to the Building Commissioner for permission to construct a single story addition to the kitchen of their home at 84 Beaconsfield Road. The application was denied and an appeal was taken to this Board.

On 7 January 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 25 February 2010, at 7:00 p.m. in the Selectmen's conference room, 6<sup>th</sup> floor, Town Hall 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 11 and 18 February 2010 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: MISHKIN, DANIEL**

Owner: **MISHKIN, DANIEL AND STEPHANIE**  
Location of Premises: **84 BEACONSFIELD RD**  
Date of Hearing: **02/18/10**  
Time of Hearing: **7:00p.m.**  
Place of Hearing: **Selectmen's Conference Room, 6<sup>th</sup> floor**

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

- 5.43; Exceptions to yard and setback regulations, special permit required.**
- 5.70; Rear Yard requirements, variance required.**

of the Zoning By-Law to construct a single story kitchen addition at **84 BEACONSFIELD RD.**

Said Premise located in a T-6 (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, Mark Zuroff and Board Members, Jonathan Book and Enid Starr. The petitioner, Dr. Daniel Mishkin presented his case before the Board.

Dr. Mishkin described his home at 84 Beaconsfield Road as a single family home that was constructed in 2004. The home is situated on a lot that slopes down toward the MBTA trolley tracks. The property has a walkout basement and a first floor deck in the rear yard. The rear yard is relatively flat due re-grading for a patio. The surrounding properties are primarily two-family and multifamily houses.

Dr. Mishkin said that he and his wife Stephanie are proposing to construct a 99 square foot addition to the rear of their home to accommodate a kitchen table. The addition will be clad in clapboard with asphalt roof shingles. He said that are considering putting a foundation underneath the addition but are currently proceeding with the intent to put the addition on stilts. In either event, he said, the exterior appearance of the foundation and the addition will be consistent in materials existing house.

Dr. Mishkin said that they needed set-back relief from the rear lot-line. He said that the Board could waive setback requirements under §5.43 with appropriate counterbalancing amenities. He said that they intend to provide addition plantings as an appropriate counter balancing amenity.

Chairman Zuroff asked whether anyone in attendance wished to speak for or against the proposal. No one rose to speak.

Lara Curtis, Senior Planner, delivered the findings of the planning department staff.

**Section 5.60 – Side Yard Setbacks**

<b>Setbacks</b>	<b>Allowed/Req.</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Rear Yard</b>	30'	36.5'	25.3'	Special Permit**

\* Under Section 5.43 the Board of Appeals may waive setback requirements if a counterbalancing amenity is provided. The applicant is proposing to install landscaping in the rear yard as a counterbalancing amenity.

Ms. Curtis said that the Planning Board was supportive of this proposal. This small addition is visible primarily from the MBTA trolley tracks, and the decreased setback really affects only the applicants. She said that the Board felt the addition is consistent in appearance with the existing house; however they cautioned the applicants they will likely be more pleased with the functionality of the addition if they put a foundation beneath it. One member of the Planning Board also suggested that if the addition is to be constructed on stilts, the applicant consider cladding the space underneath the addition with lattice to screen any storage that may occur there.

While the Planning Board had some design suggestions, they were satisfied with the addition as proposed and felt that either construction method (foundation or stilts) would be acceptable.

Therefore, she said, the Planning Board approves the plans by Jasbir Gandhi, dated 12/11/09, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans for the addition, 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 landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to 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, including, grading details; 2) final building elevations; and 3) evidence the decision has been recorded at the Registry of Deeds.

Michael Shepard, Building Commissioner, delivered the comments of the Building Department. Mr. Shepard reported that the lot and home were kept in pristine condition. This effort reflects an obvious pride in ownership. He said that as a young, growing family, the Mishkins were having difficulty with the layout of the existing kitchen. Mr. Shepard said that this modest addition will blend well with the existing exterior and provide much needed space relief in the kitchen. The Commissioner said that the Building Department enthusiastically supports the grant of the requested relief as well as the conditions suggested by the Planning Board.

The Board, having heard all the testimony, deliberated on the merits of the application. All Board Members were in agreement that the addition was relatively small and relief could be granted without detriment to the Zoning By-Law. As to the requirements of **§9.05** relative to the conditions of approval for a special permit, the Board found that:

- 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.

The Board then determined, by unanimous vote that the requirements necessary for grant of a special permit related to Section 5.43 were satisfied. 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 for the addition, 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 landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.**
- 3. **Prior to 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, including, grading details; 2) final building elevations; and 3) evidence the decision has been recorded at the Registry of Deeds.**

Unanimous Decision of  
The Board of Appeals

Filing Date: March 8, 2010

A True Copy Attest:

  
Patrick J. Ward  
Clerk, Board of Appeals

  
Mark Zuffo, Chairman

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