



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

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TOWN OF BROOKLINE
Town of Brookline
Massachusetts

Town Hall, 1st Floor
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Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

**TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2010-0021**

Petitioner, Barbara Merzel-Osband, applied to the Building Commissioner for permission to construct an addition at the rear of her home at 101 Blake Road. The application was denied and an appeal was taken to this Board.

On April 29, 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 June 24, 2010 at 7:00 p.m. in the Selectmen's Hearing Room, 6th floor, Town Hall, as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to the 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 June 3 and 10, 2010 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

**LEGAL NOTICE
TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEAL
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: Barbara Osband

Owner: Barbara Osband

Location of Premises: 101 BLAKE RD

Date of Hearing: June 24, 2010

Time of Hearing: 7:00 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. 5.43; Exceptions to Yard and Setback Regulations, special permit required.**
- 2. 5.50; Front Yard Requirements, variance required. (garage)**
- 3. 5.53; Accessory Buildings in Front Yards, variance required. (garage)**
- 4. 5.70; Rear Yard Requirements, variance required.**
- 5. 6.04.5.c.1; For the Design of All Off-Street Parking Facilities, variance required. (garage)**
- 6. 8.02.2; Alteration or Extension, special permit required.**

Of the Zoning By-Law to add an addition requiring Board of Appeals relief per plans at 101 BLAKE RD BRKL

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, Jesse Geller and Board Members, Christopher Hussey and Jonathan Book.

The petitioner, was represented by her builder, Lee Dearborn of Lee Dearborn Building and Remodeling, 4 Hawthorn Street, Acton, MA 01720.

Mr. Dearborn described the home at 101 Blake Road as a two-and-a-half story brick single-family dwelling near the intersection of Blake and Gardner Roads. He said that the property encompasses two lots; the dwelling is located on the southern-most lot, while a detached brick two-car garage is located on the other lot. The property has well-maintained landscaping and some large trees. The grade drops in elevation from the front lot line towards the rear where there is a walk-out basement.

Mr. Dearborn said that his client, Barbara Osband, would like to remove the small additions and screened-in porches at the rear of the dwelling and replace them with a larger first floor addition, approximately 54'11" wide by 15' 5½" deep, providing space for a new living room, sitting area and study. The proposal also includes a second floor addition 16' 8" wide by 8' deep constructed above the new first floor addition to provide for an expanded master bath. The addition would be finished with stucco and wood trim, with casement windows to match the existing dwelling. While most of the addition would have either a shed or flat roof; that portion of the addition protruding beyond the dwelling's side would have a gable roof. The entire addition would be on posts as yet to be designed and would retain the existing basement access at the rear. The total additional square footage is approximately 780 s.f.

Mr. Dearborn presented to the Board a landscape plan for the property, post construction, delineating extensive additional plantings to serve as a counterbalancing amenity pursuant to **Section 5.43** of the Zoning By-Law.

Board Member Hussey inquired as to whether the new construction would necessitate the removal of any existing plantings and Ms. Osband replied that it would not.

Mr. Dearborn referring to the Planning Board's concern regarding putting the addition on piers stated that his client wanted to minimize the disturbance to the landscape and would like to utilize the area under the addition as an outdoor covered patio.

Board Member Hussey, an architect, commented that the posts supporting the structure appeared to be undersized from an aesthetic perspective and opined that larger, more detailed columns would be more appropriate given the mass of the proposed addition.

Chairman Geller commented on the Planning Board recommendation regarding the installation of some sort of lattice to at least partially obscure the space under the addition. Mr. Dearborn responded that his client felt the extensive plantings in front of the area would provide adequate screening.

Board Member Book asked about the width of the proposed patio under the addition and Mr. Dearborn responded that the width would be about 15 feet. Mr. Book also expressed concern about the closed-in, tunnel effect such a patio would have given the limited headroom. Mr. Book inquired as to whether the petitioner communicated with her neighbors regarding the proposed addition. Ms. Osband said she had spoken to several of her neighbors, and in general they were supportive of the proposal. Mr. Book asked specifically whether any contact was made with the neighbors at 91-97 Sommerset and Ms. Osband responded that she had not spoken with them but that they recently did a big addition and she had no issues with it. Ms. Osband reported that the land slopes significantly to the rear and there is a large retaining wall separating the properties.

Board Member Hussey stated that a landscape plan, drawn to scale, should be provided by the petitioner and it should include plans for the patio under the addition if desired. He spoke of some trellis as recommended by the Planning Board a patio limited in area rather than the whole length of the addition.

Chairman Geller asked whether anyone in attendance wished to speak in favor or against the petition. No one rose to speak.

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

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.50 – Front Yard Requirements (garage): The garage serving this dwelling is located on the adjoining lot 20 feet back from the front lot line. *This is a pre-existing condition that is not being altered with this proposal.*

Section 5.53 – Accessory Buildings in Front Yards (garage): Accessory buildings are not permitted in required front yards. *The garage is a pre-existing structure that is not being altered with this proposal.*

Section 5.70 – Rear yard Requirements

Section 6.04.5.c.1 – For the Design of All Off-Street Parking Facilities (garage): If vehicles park in the driveway serving the existing detached garage, they would violate the front yard setback for parking spaces. *This is a pre-existing condition that is not changing with this proposal.*

	Required	Existing	Proposed	Finding
Rear Yard Setback	30 feet	29 feet	17.3 feet	Special Permit*

*Under **Section 5.43**, the Board of Appeals by special permit may waive yard and setback requirements if appropriate counterbalancing amenities are provided.

Section 8.02.2 – Alteration or Extension: A special permit is required to alter a pre-existing non-conforming structure. In this case, the dwelling does not conform to rear yard setback requirements. *Special permit required.*

Ms. Synowiec said that the Planning Board was not opposed to this proposal to construct a rear addition to this single-family if an appropriate landscaping treatment is implemented to screen and make use of the stilted design. The Board did have concerns that the addition is rather large to be put on piers, and there may not be enough headroom underneath the addition for the applicant's proposed patio. Therefore, the Board recommended that the applicant consider either a foundation for the addition, wrapping the posts so that they appear more substantial and architectural, and/or screening the open area underneath. A new trellis to screen the area and additional landscaping would be an appropriate counterbalancing amenity for the proposal they said. Otherwise, the addition, while large, complies with all other dimensional requirements, including FAR, and will

not be very visible from the streetscape. Therefore, the Planning Board recommended approval of the proposal and the submitted plans, prepared by Lee Dearborn Jr. and dated 3/10/2010, subject to the following conditions:

- 1) Prior to issuance of a building permit, final plans and elevations, indicating gross square footage and views of all sides of the addition, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 2) Prior to issuance of a building permit, a final landscaping plan, indicating all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 3) Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval 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 building 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 the Building Commissioner to deliver the comments of the Building Department. Mr. Shepard opined that since the counterbalancing amenity suggested by the petitioner was landscaping and given that the property is already extensively landscaped, it must have been a difficult task adding further landscaping. He stated that the proposed additional landscaping is in excess of what is traditionally proposed by petitioners. He noted that the Assistant Director for Regulatory Planning will be reviewing the plans and is probably best suited to determine whether a trellis is desirable at the rear of the addition. Mr. Shepard stated that the Building Department supports the proposal as well as the conditions recommended by the Planning Board.

The Board, having heard all the testimony, deliberated on the merits of the application. Board Member Book stated that he was in favor of granting the requested relief subject to some modification of the Planning Board's recommended conditions. Board Member Hussey inquired as

to whether the proposed addition would compromise future development of the second lot. Mr. Shepard responded that he had spoken with the petitioner about this possibility and the fact that a new ANR plan, should she wish to separate the lots, would have to be approved by the Planning Board. Mr. Shepard said that the petitioner understood that the lots would have to stand on their own if separated and both would have to be conforming. Mr. Hussey commented that if the proposed addition made the second lot not buildable that this too could serve as another counterbalancing amenity; a single house on a large lot.

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 of Sections 5.43, 8.02.2 and 9.05 of the Zoning By-Law with respect to the relief requested 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.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

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

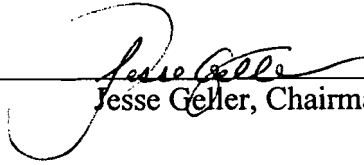
- 1) Prior to issuance of a building permit, final scaled plans and elevations, indicating gross square footage, patio, screening and treatment of support posts for the addition as required by the Assistant Director for Regulatory Planning shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**

- 2) Prior to issuance of a building permit, a final landscaping plan, indicating all counterbalancing amenities, shall be submitted to the Assistant Director for Regulatory Planning for review and approval.

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TOWN CLERK

Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval 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 building 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.

Filing Date: August 24, 2010


Jesse Geller, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals