



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

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2010-0031

Petitioners, Dan and Caroline Bowden applied to the Building Commissioner for permission to construct an addition to their home at 36 Bowker Street. The application was denied and an appeal was taken to this Board.

On 15, July 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 5, August 2010, at 7:30 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 15 and 22, July 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: **BOWDEN, DAN & CAROLINE**
Owner: **BOWDEN, DAN & CAROLINE**
Location of Premises: **36 BOWKER ST**
Date of Hearing: **August 5, 2010**
Time of Hearing: **7:30 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. **5.22.3.c; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, special permit required.**
3. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
4. **5.60; Side Yard Requirements, variance required.**
5. **5.70; Rear Yard Requirements, variance required.**
6. **5.91; Usable Open Space, variance required.**
7. **8.02.2; Alteration or Extension, special permit required**

of the Zoning By-Law to residential addition requiring Board of Appeals relief at **36 BOWKER ST 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 Mark Zuroff. Mr. Jason LaGorga representing the Architect, Jonathan Raisz, of 26 Thorndike Street, Brookline, MA presented the case on behalf of the homeowners, Dan and Caroline Bowden.

Mr. LaGorga said that 36 Bowker Street is an attached single-family home that was constructed in 1900. The property is three stories and features a gambrel roof. Both units in the duplex have private, fully fenced rear yards which are heavily landscaped and have limited visibility to neighboring properties. 36 Bowker Street has a walk-out basement, while 34 Bowker Street does not. The neighborhood is predominately residential with the John E. Murphy Playground at the end of Bowker Street.

He said that the petitioners are proposing to construct a 64 square foot addition to the rear of their unit. The addition will project an additional 3' from the rear of the structure and will be approximately 20.5' wide to accommodate a larger kitchen. The addition will be supported by stilts and will be clad in clapboard with an asphalt roof to match the existing materials. Finally, the applicants will be constructing a new deck that will extend 6' beyond the new addition and will be 15'4" wide. The deck stairs will be L-shaped with a 3'6" x 3'6" landing. He said that the homeowners would provide additional landscaping as a counterbalancing amenity.

The Chairman asked whether anyone wished to speak in favor or opposed to the application before the Board. No one rose to speak.

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

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	1.0 100%	.96 96%	.98 98%	Complies
Floor Area (s.f.)	4,480 s.f.	4,313 s.f.	4,377 s.f.	

Section 5.60 – Side Yard Requirements

Section 5.70 – Rear Yard Requirements

Section 5.91 – Useable Open Space

Dimensional Requirements	Required	Existing	Proposed	Relief
Side Yard Setback	10'	6.8'	6.8'	Special Permit*
Rear Yard Setback	30'	24.2'	15.3'	Special Permit*
Landscaped Open Space	10% 437.7 s.f.	18.7% 810 s.f.	18.5% 810 s.f.	Complies
Useable Open Space	30% 1,313.1 s.f.	31.4% 1,358 s.f.	30.9% 1,353 s.f.	Special Permit**

* Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant has indicated they will provide additional landscaping as a counterbalancing amenity.

****Under Section 5.91.2.e, open space above ground level may be counted up to 50% of the required useable open space provided that for every two percent counted toward open space, an additional one percent of open space shall be provided at ground level. The applicant is providing a new deck (which requires a dimensional waiver per Section 5.43 as the deck measures 6' x 15'4") as well as 59 s.f. of open space below the deck at grade with the walkout basement entrance.**

Section 8.02.2 – Alteration or Extension

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

Ms. Synoweic reported that the neighbor at 34 Bowker Street provided a letter of support for the project. She said that the Planning Board was supportive of the proposed 64 square foot addition. The applicants have indicated the residents at 34 Bowker Street, the other half of the duplex, are supportive of the proposed addition. The rear yard is fenced and the addition should have very limited visibility to 34 Bowker Street and other neighboring properties. The proposed addition is rather small and should not have any negative impacts on the neighborhood. The Planning Board requested the applicant submit letters of support from their neighbors. Therefore, the Planning Board recommended approval of the proposal by Jonathan Raisz, dated 6/21/10, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all dimensions and materials 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 landscape plan indicating all counterbalancing amenities.
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 said the addition was rather small only 64 sf. and would complement the home. He said the entire addition fit within the footprint of the existing patio and the decks, and that the stairs would make the ground level patio more accessible. He said that the Building Department was supportive of the proposal as well as the conditions proposed by the Planning Board.

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 5.43, Section 8.02 and Section 9.05 of the Zoning By-Law 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.

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 and elevations indicating all dimensions and materials 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 landscape plan indicating all counterbalancing amenities.
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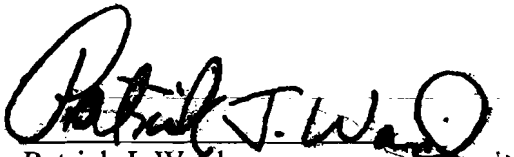
Unanimous Decision of
The Board of Appeals

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK

Date August 24, 2010

Attest:
ATTEST:


Jesse Geller, Chairman


Patrick J. Ward
Clerk, Board of Appeals