



Town of Brookline

Massachusetts

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

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

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2010-0036

Petitioner, Margaret F. Bergstrand applied to the Building Commissioner for permission to construct an addition, including a playroom, mud-area and expanded kitchen/dining with related appurtenances on her home at 86 Fernwood Road. The application was denied and an appeal was taken to this Board.

On 24, June 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 26, August 2010, at 7:30p.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 29, July and 5, August 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: BERGSTRAND, MARGARET F

Owner: Margaret Bergstrand

Location of Premises: 86 Fernwood Road

Date of Hearing: August 26, 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.b.1).b); 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. 5.70; Rear Yard Requirements, variance required.**
- 5. 8.02.2; Alteration or Extension, special permit required.**

Modification, as required, of BOA case# 3361 and 3361A.

of the Zoning By-Law to ADDITION REQUIRING BOARD OF APPEALS RELIEF at 86 FERNWOOD ROAD BRKL.

Said premise located in a **S-15 (single family)** residence 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, Jesse Geller and Board Members Jonathan Book and Mark Zuroff. Mr. Mark Armstrong of a+sl studios, 9 Pond Street, Boston, MA presented the case on behalf of the petitioner, Margaret Bergstrand.

Mr. Armstrong provided a history of relief that had been granted related to the subject property. In October of 1978 the Planning Board approved the "Fernwood Estates" subdivision, which included the property at 86 Fernwood Road. In December of 1982 the Planning Board approved the final location of the house, driveway and pool area and in October of 1996 the Board of Appeals approved a 330 square foot addition to the rear of the house which required rear yard setback relief by Special Permit.

Mr. Armstrong said that the home at 86 Fernwood Road is an interesting contemporary two-story single-family home that was constructed in 1983 and the design intent is to exploit the southern exposure and light available to the structure. Fernwood Road is located off of Clyde Street which intersects with Lee Street. The lot to the rear of the property is over 120,000 square feet and is owned by the SYDA Foundation, a spiritual and cultural organization. The County Club is also located nearby.

Mr. Armstrong said that his client is proposing to construct several small additions to the side of the house at 86 Fernwood Road that will result in a total 1,503 additional square feet of gross floor area. He said that although the house was touted as a solar house, it has very small windows. He said the additions will add a layer of circulation that will enhance the spaces within the home and improve access to the yard. He said that the design intent is to exploit the southern exposure and the beautifully landscaped yard. He said that the result will be a real

energy efficient passive solar home. Mr. Armstrong said that winter sunlight will stream through the windows and be controlled by automatic blinds and sunshades. He said that due to the depth of the windows, the summer sun will be shaded in the interior of the home. Mr. Armstrong said that the second story of the house is stepped-in and does not have the same volume as the main floor, which will allow for the construction of a deck and a green roof over the first story of the house. The additions will be clad in stucco with mahogany woodwork and windows to match the existing house.

As to the relief sought by the petitioner, Mr. Armstrong said that relief was needed in the form of Special Permits from Section 5.09.2.j, Design Review, Section 5.22.3.b.1.b, Floor Area Ratio, Section 5.43, Dimensional Relief for Appropriate Counterbalancing Amenities, and Section 8.02.2, Alteration or Extension.

Regarding counterbalancing amenities Mr. Armstrong said the construction was intended to complement the twenty year old landscape design provided by a renowned landscape architect. Also, because of the topography, they intend to improve the drainage by rerouting an existing compromised drain keeping it entirely on the subject property to terminate at the public way.

Chairman Geller asked whether the Board Members had any question. Mr. Book asked whether the abutting neighbors were in favor of the proposal. Mr. Armstrong replied that they were generally supportive of the proposal. The neighbor to the Southeast is particularly supportive since the drainage issue will be ameliorated. Chairman Geller asked whether the prior decision that granted rear setback relief was by a variance or special permit. The decision was reviewed and it was found that the prior relief was by Special Permit under Section 5.43 of the Zoning By-Law.

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

Lara Curtis-Hayes 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-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 proposed construction should not disturb a substantial amount of existing landscaping and vegetation. During the course of construction it is anticipated that several bushes will need to be relocated, which the applicant intends to do. The applicant also intends to provide additional trees and flowering shrubs to replace areas of landscaping in the yard which have thinned over the years.

b) **Relation of Buildings to Environment:**

The applicant has oriented the design of the addition to integrate with the existing landscape. The building has a recessed second story to allow for a green roof to provide additional vegetation on the property and is clad in earth tones and natural materials.

c) **Relation of Buildings to the Form of the Streetscape and Neighborhood:**

Fernwood Road has an eclectic variety of traditional and contemporary homes. Some homes are oriented toward the street, while others are oriented to maximize privacy. 86 Fernwood Road is among those that are oriented with the intention of offering more privacy, which the addition should not impact.

d) **Open Space:**

The addition encroaches into existing open space, but with exception to the playroom, the encroachment is less than 5' and rather minimal. The applicants will be installing new landscaping, a green roof and second story patio which should all be improvements to the open space on this site.

e) **Stormwater Drainage:**

The applicant intends to make many improvements on the site with respect to stormwater management. The site is located in a basin and manages stormwater from many of the properties at a higher elevation. In order to improve drainage and reduce erosion, the applicant intends to repair the previously blocked connection to the Town's stormwater drain connection. They also will be repaving the driveway with revised slopes and installing drainage swales and subsurface cisterns for on-site irrigation.

Section 5.20 – Floor Area Ratio

Section 5.70 – Rear Yard Requirements

Dimensional Requirements	Allowed/Required	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.15 100%	.14 91%	.17 117%	Special Permit*
Floor Area (s.f.)	5,978.7	5,467	6,970	
Rear Yard Setback	50'	39.5'	32.6'	Special Permit**

* Under **Section 5.22.3.b.1.b.**, the Board of Appeals may grant a special permit for up to 120% of the permitted gross floor area for exterior additions. The applicant is proposing to construct a 1,503 square foot addition.

** Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant is proposing to provide significant drainage improvements to the site to reduce surface run-off and erosion as well as install additional landscaping.

Section 8.02.2 – Alteration or Extension

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

Ms. Curtis-Hayes said that the Planning Board was supportive of the proposed additions. The additions are well integrated into the design of the existing structure, while making a number of improvements to the functionality of the home particularly with respect to energy efficiency. The new additions will be clad to match the existing stucco on the home while accentuating the existing mahogany details. Finally, the Planning Board believed the applicant is providing sufficient counterbalancing amenities to ameliorate the additional encroachment into the setback. Therefore, the Planning Board approved the plans by a+sl studios, dated 8, October 2009, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all pertinent 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 subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit a drainage plan subject to the review and approval of the Director of Transportation and Engineering.
4. 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 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 Michael Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard said that the relief requested was relatively minor. He also reported the counterbalancing amenities seemed more than adequate for the setback relief requested. Mr. Shepard stated that the addition appeared well designed and that the Building Department was supportive of the proposal as well as the conditions proposed by the Planning Board. He stated that his Department will enforce the provisions of the State Building Code and that the original certificate of occupancy for the subject property had been issued well in excess of the ten years required in 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 Sections 5.09.2.j, 5.22.3.b.1.b, 5.43, 8.02.2, and 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.

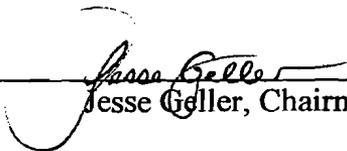
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all pertinent 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 subject to the review and approval of the Assistant Director of Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit a drainage plan subject to the review and approval of the Director of Transportation and Engineering.
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RECEIVED
 TOWN OF BROOKLINE
 TOWN CLERK
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Unanimous Decision of
 the Board of Appeals

Dating Date: September 03, 2010


 Jesse Geller, Chairman

A True Copy
 ATTEST:



Patrick J. Ward
 Clerk, Board of Appeals