



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

Town of Brookline

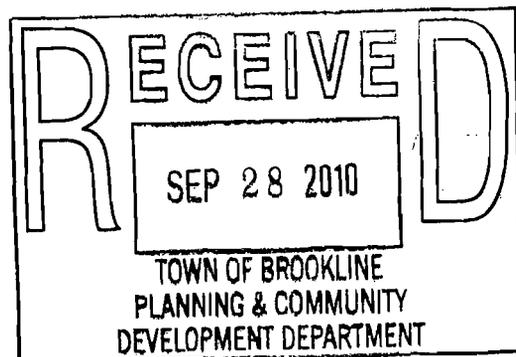
Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2010-0039

Petitioners, Polly and Gregg Ribatt, applied to the Building Commissioner for permission to combine two lots into one and construct an addition to the existing structure at 29 Hilltop Road and demolish the existing structure at 19 Hilltop Road. The application was denied and an appeal was taken to this Board.

On 22, 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 2, September 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 19, and 26, 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: Polly Ross Ribatt & Gregg S. Ribatt
Owner: Robert C. Zinnershine, as Trustee of EAJ Realty Trust
Location of Premises: 29 Hilltop Road
Date of Hearing: September 02, 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 req. (5.22 request for relief)**
- 2. 5.22.3.b.1)c; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, special permit required.**

Modification, as necessary, BOA Decision case #080037 dtd, 5 December 2008

of the Zoning By-Law to Convert to combine the two lots at 19 and 29 Hilltop Road into one lot and construct an addition to the existing structure at 29 Hilltop Road and demolish the structure at 19 Hill upon completion of the addition.

Said Premise located in a S-15 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, Jesse Geller and Board Members Jonathan Book and Mark Zuroff. The Petitioner was represented by Kenneth B. Hoffman of Holland & Knight LLP, 10 St. James Avenue, Boston, Massachusetts 02116.

29 Hilltop Road is a single-family two-and-a-half story clapboard colonial home with a slate roof that was built in 1935. The house has an attached garage with an interior entrance through a mudroom. The main house contains the living room, family room, dining room, and several bedrooms; the secondary part of the house contains the mudroom, kitchen, and garage on the first floor, and two bedrooms on the second floor. The property is screened from the neighboring property on the garage side with a dense hedge of hemlock trees. The neighborhood is comprised of larger single family homes, and is near, but not in, the Chestnut Hill Historic District.

19 Hilltop Road is a Colonial style dwelling that was constructed in 1940. The demolition stay will be released March 9, 2011. Both homes are situated on undersized lots for the zoning district, and both currently exceed the allowed FAR.

The applicant, Polly Ribatt, is proposing to construct an addition to the rear and side of the main house and an attached recreational structure which includes one parking space. The applicant are proposing to convert part of the existing 21' x 23.5' garage into an ADA accessible guest suite and bath for the applicant's parents which will add an additional 490 square feet of gross floor area. The other part of the garage will be used as a family room in combination with a new rear addition that will project 11.5' from the existing rear wall of the garage and 8.5' from the side wall of the garage (toward the proposed attached recreational structure), which will add

an additional 345 square feet of gross floor area. The rear addition will also extend along the existing 182 square foot kitchen, which will be bumped out 12' and result in an additional 172 square feet of gross floor area. The applicants are proposing to construct a rear second story deck off the master bedroom suite above the new projections created by the first floor additions. Finally, the applicant is proposing to construct a 30' x 40'4" two-story recreational structure to accommodate an indoor half basketball court. The recreational structure will have a full basement which will accommodate a single car garage and a storage area.

The addition and rear façade of the recreational structure will have a more contemporary appearance in terms of design, while the front façade of recreational structure will mimic the Federalist style of the existing house.

Mr. Hoffman noted that the guest suite will not be a legally separate unit. Mr. Hoffman emphasized that the project is very much in line with the Zoning Bylaw because it brings several non-compliant aspects of the two parcels into greater compliance with the Zoning Bylaw.

The architects, Maryann Thompson and Evan Mathison, presented the site conditions plans and the architectural renderings, including elevations. In response to a question from the Board, Ms. Thompson confirmed that the ceiling in the recreational structure exceeded twelve feet in height and that the requisite multiplier provided in the Zoning By-Law was utilized for calculation of the gross floor area and the floor area ratio. The Chairman asked whether the additional floor area attributable to exterior construction exceeded thirty five percent of the additional floor area allowed by special permit. Ms. Thompson, after calculation of the additional floor area attributable to exterior construction, confirmed that the additional floor area

attributable to exterior construction did not exceed thirty five percent of the additional floor area allowed by special permit.

The Chairman of the Board inquired if anyone wanted to speak in favor of the application. No one spoke in favor. The Chairman then asked if anyone wanted to speak in opposition to the application. No one spoke in opposition.

Ms. Courtney Synowiec, planner presented 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 applicant intends to preserve all existing plantings within the yard setbacks and the mature pine trees which screen the property from neighboring properties. To lessen the impact of the recreational structure, the applicant also intends to plant trees and other vegetation to screen the new building from the street as well as neighboring properties.
- b) **Relation of Buildings to Environment:** With the demolition of the neighboring structure at 19 Hilltop Road and the combining of two lots to create one larger lot, the applicant is slightly reducing the overall lot coverage and FAR. The applicant is also creating a more conforming situation as both houses previously had deficient side yard setbacks and the structure now complies with all setbacks. The applicant also has done a shadow study and has found the existing house and new structure will not cast shadow on any neighboring properties.
- c) **Relation of Buildings to the Form of the Streetscape and Neighborhood:** While the rear façade of the house and recreational structure have a more contemporary appearance, the proposed alterations to the front of the structure are consistent in style. The front façade of the recreational structure was designed to have an appearance that is consistent with the main house and also New England barn vernacular. The alterations will also provide for the applicant to no longer have garage doors facing the street.
- d) **Open Space:** The applicant is reducing lot coverage on the combined lot with the demolition of one structure which will result in a net increase of open space.

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.25 100%	.33 132%	.32 129%	Special permit*
Floor Area (s.f.)	6,831.3	4,487	8,795	

* Under Section 5.22.3.b.1, the Board of Appeals may grant a special permit for up to 130% of the permitted gross floor area for a combination of interior conversions and exterior additions.

** Calculations based on the existing 4,487 s.f. house on a 13,484 s.f. lot at 29 Hilltop Road.

Ms. Synowiec said that the Planning Board was supportive of the proposed additions as they should make the interior space of the existing house more useable for the family who lives there, and the recreational structure, while large, is well integrated into the design of the main house. As outdoor basketball courts tend to create nuisance issues with respect to noise, the Planning Board believes enclosing the basketball court may be of some benefit to the neighborhood. Additionally, the Planning Board encourages the applicant to consider narrowing the curb cut of the driveway in front of the house, then allowing it to widen near the garage to lessen the visual impact on the street. Finally, the Planning Board notes that the installation of new landscaping to screen the new recreation structure should be done carefully so as to lessen the impact of the mass of the building on neighboring properties. Therefore, the Planning Board approves the plans by Maryann Thompson architects, submitted 8/12/2010, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating materials and dimensions 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 landscaping plan indicating the location of the new plantings and driveway 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 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 Building Commissioner expressed support for the project.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant a special permit and that the petitioner has satisfied the requirements necessary for relief under Section 5.09.2.j, 5.22.3.b.1 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 materials and dimensions 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 landscaping plan indicating the location of the new plantings and driveway 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 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



Jesse Geller, Chairman

Filing Date: September 28, 2010

A True Copy
ATTEST:



Patrick J. Ward, Clerk, Board of Appeals

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