



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. 2010-0044

Petitioner, Jonathan Small, applied to the Building Commissioner for permission to construct an addition including a deck to his home at 677 Hammond Street. The application was denied and an appeal was taken to this Board.

On 14, 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 7, October 2010, at 7:00p.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 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 16 and 23, September 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: **SMALL JONATHAN**
Owner: **SMALL JONATHAN**
Location of Premises: **677 Hammond Street**
Date of Hearing: **October 07, 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.**
3. **5.52; Fences and Terraces in Front Yards, variance required.**
4. **5.70; Rear Yard requirements, variance required.**
5. **8.02.2 Alteration or Extension, special permit required.**

Of the Zoning By-Law to **PROPOSED ADDITION REQUIREING BOARD OF APPEALS RELIEF at 677 HAMMOND ST. BRKL**

Said premise located in a **T-6 (two-family and attached 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 Mark Zuroff and Jonathan Book. The petitioner was represented by Attorney Jacob Walters, 7 Harvard Street, Brookline, MA 02445.

Mr. Walters described the subject property at 677 Hammond Street as one of five single-family homes built on a narrow common drive off of Hammond Street. The house is two stories and features a cross gable roof and dormers on the “front” façade. The existing house is 1,290 square feet. Given the unique configuration of the common drive (which dead ends, in a tandem parking arrangement located approximately 15’ from the house), for the purpose of zoning, the actual front of the house is the side of the house that faces the common drive and parking (where the applicant is proposing to construct an addition and deck). The surrounding uses are primarily residential, with the exception of the cemetery in the rear of the property.

Mr. Walters said that his client, Jonathan Small, is proposing to construct a two-story addition on the west (front) elevation of the house and a new deck next to the addition. The addition will measure 7’ x 20’, and will encompass a new entry and pantry closet on the first floor and new bathroom and laundry closet on the second floor. The proposed additions will add 180 square feet of floor area. The applicant is also proposing to construct a new 12’10” x 10’9” deck to the side of the addition, which will have a 3’ x 11’ landing to connect the new entry to the deck.

In addition to relief under **Section 8.02.2** for a pre-existing non-conforming structure, Mr. Walters said his client also needed dimensional relief as to set-back and he opined that the Board could grant the requested relief under **Section 5.43** of the Town of Brookline Zoning By-Law. Mr. Walter’s said that his client is refurbishing an existing structure that appears to be in a state of decline. He said the restoration, including addition, would become an asset to the neighborhood. Mr. Walters also said that a landscaping plan would be submitted delineating significant landscape improvements at the front of the home. The improvements to the structure and the significant landscaping improvements would be the counterbalancing amenity required under **Section 5.43** of the Zoning By-Law. Mr. Walters represented that the Planning

Department received several letters of support from neighbors. Mr. Walters reviewed the requirements of **Section 9.05** of the Zoning By-Law relative to the issuance of Special Permits and said the proposal before the Board met those requirements.

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

Courtney Synowiec delivered the findings of the Planning Board.

Section 5.50 – Front Yard Requirements

Section 5.52 – Fences and Terraces in Front Yards

Section 5.70 – Rear Yard Requirements – The rear yard is a pre-existing nonconformity.

Setbacks	Required	Existing	Proposed	Finding
Front Yard (House)	15'	Est. 16'	9.8'	Special Permit**†
Front Yard (Deck)	7.5'	N/A	2.9'	Special Permit**†
Rear Yard (House)	30'	22'	22'	Special Permit*

* Under *Section 5.43* of the Zoning By-Law, the Board of Appeals may waive dimensional requirements if a counterbalancing amenity is provided. The applicant is proposing to install landscaping in the front yard as a counterbalancing amenity.

† Under *Section 2.12* of the Zoning By-Law, the definition of a lot specifically excludes any land within the limits of a public or private way, even if the fee to such a way is in the owner of the lot. Therefore, the front yard setback from this property must be measured from the side line of the common way.

Section 8.02.2 – Alteration or Extension: A special permit is required to alter or extend a non-conforming structure.

Ms. Synowiec said that the Planning Board was supportive of the proposed addition and deck.

While the setbacks for the house and deck appear to be very close to the parking area for the residence at 677 Hammond Street, the existing condition of the common way does not end in a cul-de-sac, but follows the pavement edge as noted on the site plan. The Planning Board noted that the existing house is rather small and the addition of 180 square feet is a modest proposal

and should substantially increase the functionality of the home. The Planning Board also noted the property is in rather poor condition. In addition to providing landscaping in the front yard as a counterbalancing amenity, the Planning Board believes the gut renovation project the applicants are performing on the home is also an amenity as it will extend the life of this structure for many years to come. Therefore, the Planning Board recommended approval of the proposal referencing plans by Hamlin & Co. Inc., dated 7/8/10, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all 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 final landscape plan indicating all counterbalancing amenities and fencing details 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; 2) final building elevations stamped and signed by a registered architect; and 3) evidence the 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 commented that the house is rather small and was in need of significant updating. He said that the addition appeared to integrate well with the existing structure and agreed with the Planning Board that the result will become an asset to the streetscape. Mr. Shepard stated 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.

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 5.43 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 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 final landscape plan indicating all counterbalancing amenities and fencing details 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; 2) final building elevations stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.**

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK

2010 OCT 22 A 6:50

Unanimous Decision of
the Board of Appeals

Filing Date: October 22, 2010

Jesse Geller, Chairman

A True Copy

ATTEST:

A handwritten signature in black ink, appearing to read "Patrick J. Ward". The signature is written in a cursive style with a large initial "P" and "W".

Patrick J. Ward

Clerk, Board of Appeals