



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

Town of Brookline

Massachusetts

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. 2010-0071

Petitioners, Mara Krechevsky and Steven Lipsitt, applied to the Building Commissioner for permission to construct a two story addition on the rear of their single-family home at 26 Davis Avenue. The application was denied and an appeal was taken to this Board.

On 28, October 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 13, January 2011, at 7:15p.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 23 and 30, December 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: **Mara Krechevsky & Steven Lipsitt**
Owner: **Mara Krechevsky & Steven Lipsitt**
Location of Premises: **26 Davis Avenue**
Date of Hearing: **January 13, 2011**
Time of Hearing: **7:15 PM**
Place of Hearing: **Selectmen's Hearing Room, 6th. floor**

A public hearing will be held for a variance and/or special permit from:

1. **5.40; Walls Not Parallel to Lot Lines, variance required.**
2. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
3. **5.50; Front Yard Requirements, variance required.**
4. **5.60; Side Yard Requirements, variance required.**
5. **5.70; Rear Yard Requirements, variance required.**
6. **5.71; Projections Into Rear Yards, variance required.**
7. **8.02.2; Alteration or Extension, special permit required.**

Modification as necessary Board of Appeals case # 2741 Dated 31 December 1986.

Of the Zoning By-Law to **construct a two story addition to the rear of your home** at 26 Davis Avenue.

Said premise located in a **T-5 (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, Jonathan Book and Christopher Hussey. The Petitioner, Steven Lipsitt, presented his case before the Board.

Mr. Lipsitt described his home at 26 Davis Avenue as a two-story, single family that was built in 1930. The property is a rear lot situated behind the dwelling at 28 Davis Avenue and is accessed through a private alley. The home is located on a lot which slopes downward from Davis Avenue toward White Place and is supported by a series of wood and stone retaining walls. The rear of the property is also screened by an existing 6' wood fence. The property is located between Emerson Garden and Brookline Village, the street consists mostly of other similarly built two-family buildings.

Mr. Lipsitt said that he is proposing to remove the existing one-story addition, deck and stairs and construct a new 525 square foot two-story addition to the rear of his home. The addition will run the entire length of the rear façade and will measure 9' x 28' with an additional 2'6" x 7" bay window projection. The addition will be clad in painted shingle siding and like the previous addition, will be supported by steel columns above the walk-out basement. The addition will be constructed within the rear and side yard setbacks.

Mr. Lipsitt said that in order for the Board to grant special permit relief, the findings of **Section 9.05** must be made. He said that since his home is a single-family, located in a one and two family district, that the site is an appropriate location for such a use, structure, or condition. Also, since his neighbors are in support of the proposal, the use as developed will not adversely affect the neighborhood. He explained that his is a rear lot and therefore there will be no nuisance or serious hazard to vehicles or pedestrians and since he has been residing at this

location for quite some time, adequate and appropriate facilities will be provided for the proper operation of the proposed use.

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

Courtney Synowiec, Planner delivered the findings of the Planning Board. She reported that in 1985 the Board of Appeals granted a special permit for dimensional relief to construct a 6' x 13'6" two-story addition within the rear yard setback.

Section 5.50 – Front Yard Setback Requirements

The subject property is a rear lot, thus the front yard setback is twice the required setback for the zoning district. The required setback for a T-District is 15 feet; therefore the required setback for this property is 30 feet.

Section 5.70 – Rear Yard Setback Requirements

Section 5.71 – Projections into Rear Yards

Dimensional Requirements	Required/Allowed	Existing	Proposed	Relief
Front Yard Setback	22.5 feet*	9.5 feet	9.5 feet	Pre-existing Nonconforming
Side Yard Setback – Existing (east elevation)	5.5 feet*	2.8 feet	2.5 feet	Pre-existing Nonconforming
Side Yard Setback – Addition (east elevation)	5.5 feet*	n/a	4.5 feet	Special Permit**
Rear Yard Setback – Bay	10 feet	n/a	7.4 feet	Special Permit**
Rear Yard Setback – Addition	30 feet	13 feet	9.7 feet	Special Permit**

* Under **Section 5.40**, Building walls that are not parallel to the lot line shall not be narrower at any point than three-fourths the required width or depth. The front wall of this structure on the north elevation is not parallel to the lot line thereby reducing the required setback to 22'6". The side wall on the east elevation also is also not parallel to the lot line thereby reducing the required setback to 5'6".

** Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if counterbalancing amenities are provided. The applicant is proposing to provide a green screen as a counterbalancing amenity in addition to the tree removal they have already performed.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter a nonconforming use or condition.

Ms. Synowiec reported that the Planning Board was supportive of the proposal to construct a two-story addition. The new addition is modest in size and should substantially increase the functionality of this home while not extending substantially further into the rear yard than the existing addition and deck. The Planning Board suggested the applicant could wrap the steel columns that support the addition in wood or brick to give them a more substantial appearance should he desire to do so, but did not feel it was an absolute necessity as the columns are not visible from neighboring properties. Finally, the Planning Board found the proposed "green screen" to be a sufficient counterbalancing amenity. Therefore, the Planning Board recommends approval of the plans by Hamlin & Co. Inc., dated 10/21/10, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations 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 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 Chairman then called upon Michael Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard stated that the home and the neighborhood in general were well kept and conducive to a family atmosphere. He said that since it was a rear lot determining relief that was necessary was rather complicated. He said that the Building Department is comfortable with the relief required as well as the recommended conditions of the Planning Board. Mr. Shepard also stated that he agreed with the Planning Board regarding the

columns and opined that additions of this size should be “grounded” to the earth to avoid the appearance of “floating” in air.

During deliberations, Board Member Book inquired as to whether Mr. Lipsitt had spoken to his neighbors about the proposal. Mr. Lipsitt responded that he had and they all seemed in favor of the addition. He noted that the file contained letters of support. Mr. Book also inquired as to the usefulness of the backyard, post construction. Mr. Geller inquired about the proposed counterbalancing amenity under Section 5.43 of the Zoning By-Law. Mr. Lipsitt responded that he intended to plant arborvitae or small firs to provide the “green screen” mentioned in the Planning Board report. Board Member Hussey also expressed concern relative to the small backyard but noted that in this district the addition could be even larger. Mr. Hussey noted that a cross section of the lot and homes below on White Place might have made understanding the spatial relationships easier. Chairman Geller noted that since there seemed to be no neighborhood opposition to the proposal that it appears to represent no adverse impact to the neighbors.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that all the requested relief could be granted by special permit. The Board found that the petitioner has satisfied the requirements necessary for relief under Sections 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 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 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

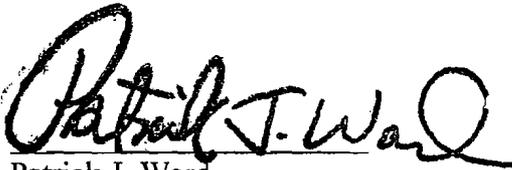
The Board of Appeals

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
JAN 21 A 37

Date: January 21, 2011


Jesse Geller, Chairman

True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals