



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. 090014

Petitioner, Joseph Makalusky, applied to the Building Commissioner for permission to construct an addition to the rear of his home at 61 Shaw Road. The application was denied and an appeal was taken to this Board.

On March 16, 2009 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 May 28, 2009 at 7:00 p.m. in the Selectmen's hearing Room, 6th floor, Town Hall 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 May 7 and 14, 2009 in the Brookline Tab, a newspaper published in Brookline. 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: **JOSEPH M. MAKALUSKY**

Location of Premises: **61 SHAW RD BRKL**
Date of Hearing: **5/28/2009**
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:

5.09.2.j, Design Review; Special Permit Required.
5.20, Floor Area Ratio, Variance Required.
5.22.3.c., Exceptions to Maximum Floor Area (FAR) Regulations for Residential Units, Special Permit Required.
8.02.2, Alteration or Extension, Special Permit Required of the Zoning By-Law to construct an addition per plans at **61 SHAW RD BRKL.**

Said Premise located in an **S-10 (single family)** 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, Enid Starr and Board Members, Kathryn Ham and Rob De Vries.

The petitioner was present and the ease was presented by Mr. Stephen Sousa of Sousa Design Architects, 75 Newbury Street, Boston, MA 02116.

Mr. Sousa described the property at 61 Shaw Road as a single family 2 ½ story Tudor home built in 1927. The home is situated on an undersized lot, amidst a number of other similarly styled Tudors and Colonials on conforming and nonconforming lots. The home is

located on a hill with a walkout basement, and there is a large deck that serves the first floor in the rear yard. He said that the petitioner is seeking to construct an addition of 226 s.f. on the rear of the home at the first floor level. The addition will accommodate space for a laundry room, a bathroom and a sitting area in the kitchen. There will be two skylights installed over the kitchen sitting area. The addition will replace a small existing structure on the rear of the house and a small part of the existing deck will be removed to accommodate the increased size of the addition. The area under the addition will be enclosed and used for storage. Mr. Sousa said that they needed relief under Section 5.09.2.i, design review, Section 5.22.3.c, exceptions to maximum floor area, and Section 8.02.2, alteration or extension of a pre-existing, non-conforming structure.

The Chair asked if there was anyone present in opposition or in favor of this proposal. No one appeared. The petitioner provided a petition signed by several neighboring residents in support of the proposal. The Chair asked the Clerk to retain the petition in the file.

Planner, Courtney Synowiec delivered the finding of the Planning Department.

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-1). The applicant has provided a Community and Environmental Impact Statement. The most relevant sections of the design review standards are described below:

- a. Preservation of Trees and Landscape*
The current residence has a variety of mature trees and landscaping. This proposal will not disturb any of the existing trees or landscaping.
- b. Relation of Buildings to Environment*
The proposed addition is planned for the rear of the dwelling and the massing fits the residential scale of the neighborhood.
- c. Relation of Buildings to the Form of Streetscape and the Neighborhood*
The proposed addition does not affect the streetscape as it will not be visible from the street

Section 5.20 – Floor Area Ratio

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	0.30 100%	.36 118%	.37 125%	Special permit**/ Variance
Floor Area (s.f.)	2,849	3,376	3,556	

* Under Section 5.22.3.c the Board of Appeals may grant by special permit to increase floor area up to 350 s.f. if the resulting gross floor area of the building is less than 150% of the permitted gross floor area.

Section 8.02.2 – Alteration or Extension

A special permit is required for alterations to a dimensionally nonconforming structure.

Ms. Synowiec said that the Planning Board was supportive of this proposal for a modest addition on the rear façade of this residence. The addition is attractively designed and will be an improvement to the appearance of the home while enhancing its functionality. The Planning Board had concerns about the out of scale dimensions on the site plan that was submitted for the Planning Board hearing and requested the applicant submit a corrected site plan for the Board of Appeals hearing. The applicant has done so which should satisfy the first recommended condition by the Planning Board. Ms. Synowiec said that the Planning Board recommended approval of the plans by Sousa Design Architects dated 4/13/09 subject to the following conditions:

1. Prior the Board of Appeals hearing, the applicants shall submit a new site plan indicating the correct, properly scaled dimensions of the lot.
2. Prior to the issuance of a building permit, final plans shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
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 Board then heard from the Building Commissioner Michael Shepard. Mr. Shepard stated that the addition appeared well designed and would complement the exterior of the

home. He said that all the relief could be granted by special permit. Mr. Shepard said that the building department supported the proposal, the relief required, and the conditions suggested 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 pursuant to Section 5.09.2.i, design review, Section 5.22.3.c, exceptions to maximum floor area, and Section 8.02.2, alteration or extension of a pre-existing, non-conforming structure and makes the following findings pursuant to Section 9.05 of the Zoning By-Law:

1. The specific site is an appropriate location for such a use, structure or condition.
2. The use as developed will not adversely affect the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.
4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
5. The development as proposed will not have any adverse effect on the supply of housing available for low and moderate income people.

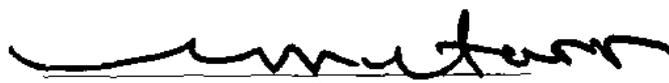
The Chair noted that since the amended site plan requested by the Planning Board had been submitted, condition #1 recommended by the Planning Board was moot. She therefore suggested that the recommended condition be removed.

Accordingly, the Board grants the noted special permit relief subject to the conditions set forth below.

- 1. Prior to the issuance of a building permit, final plans shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**

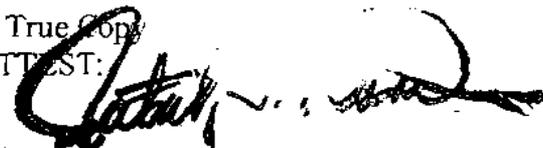
2. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and 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


Enid Starr, Chairman

Filing Date: June 12, 2009

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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