



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

Town of Brookline

Massachusetts

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

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 090045

Petitioner, Judith G. Edersheim, applied to the Building Commissioner for permission to construct an addition in the front yard of her home at 126 Wallis Road. The application was denied and an appeal was taken to this Board.

On 2 July 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 20 August 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 30 July and 6 August 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: EDERSHEIM, JUDITH G

Location of Premises: **126 WALLIS RD BRKL**
Date of Hearing: **08/20/09**
Time of Hearing: **7:00p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th floor**

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

5.43; Exceptions to Yard and Setback Regulations, Special Permit required.
5.50; Front Yard Requirements, Variance Required.
5.54.2; Exceptions for Existing Alignment, Variance required of the Zoning By-Law to construct an addition within the front yard at **126 WALLIS RD BRKL**.

Said Premise located in a **S-10** (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 Allen. The petitioner, Judith Edersheim, was represented by Moira Breen of Maynard Design and Architecture, 160 Lincoln Road P.O. Box 457, Lincoln, MA 01773.

Ms. Breen described the home at 126 Wallis Road as a two-and-a-half story Colonial Revival single-family structure that was built in 1935. There is a small front porch that is covered by a pediment with an elliptical arch cut out that is supported by columns on either side. The front entry is flanked on either side by mature rhododendrons. She said that the rear yard has a

downward sloping topography, and a walkout basement. There was a two-story addition done on the side of the home approximately ten years ago that encompasses a single room on both floors. The neighborhood is comprised of a variety of different styles of single family homes.

Ms. Breen said that her client is proposing to construct an addition on the front of the home which will extend and enclose the front porch. The existing porch measures roughly 4' deep and 9' wide and the addition will measure 10' deep and 11' wide. The addition will be done in the same neoclassical style as the pediment, with a combination of materials including painted paneling, trim boards, and brick that should be consistent in appearance with the existing materials. The proposed addition will provide an area to create a first floor bathroom for Ms. Edersheim's elderly parents and a hall closet.

The Chairman asked whether any of the other Members of the Board had any questions. Board Member Allen asked whether any consideration was given to screening or hiding the exhaust vent on the new roof from view. Ms. Breen answered that the architectural staff was still considering ways to accommodate the requirement for a vent without detracting from the structure. Michael Shepard, Building Commissioner commented that the vent bay may be located on the freeze board or in the soffit of the overhang. If this could not be done, he recommended painting the roof vent to closely approximate the color of the roof shingles. Mr. Geller asked Ms. Breen to describe provision for counterbalancing amenities under Section 5.43 of the Zoning By-Law. Ms. Breen said that additional landscaping would be provided as a counterbalancing amenity.

The Chairman asked whether anyone in attendance wished to speak in favor of the proposed relief. Edward Koplou, a direct abutter at 134 Wallis Road, asked about the overall height of the addition and stated that he supports the requested relief if the addition is limited to one story.

Ms. Synowiec stated that the addition was one story and the peak of the roof terminated slightly below the existing windows on the second floor.

The Chairman asked whether anyone in attendance wished to speak against the proposed relief. No one spoke against the proposed relief.

Courtney Synowiec, Planner, delivered the findings of the Planning Board.

Section 5.50 – Front Yard Setbacks

Setbacks	Required	Existing	Proposed	Finding
Front Yard Setback	26.5 ft.*	25.8 ft.	20.2 ft.	Special Permit**

* Under Section 5.54.2, Exceptions to Existing Alignment, if the alignment of two or more existing buildings on lots on fronting on the same street is farther from the street than the required front yard depth, the average of the existing alignment of all buildings within 150 feet of said lot shall be the required front yard. The front setback requirement in an S-10 district is 20 ft.

** Under Section 5.43, Exceptions to Yard and Setback Requirements, a special permit may be issued by the Board of Appeals to waive setback requirements if a counterbalancing amenity is provided. The applicant has indicated they will be providing landscaping, including preservation of the mature rhododendrons around the front portico, as a counterbalancing amenity.

Ms. Synowiec reported that the Planning Board was supportive of this proposal. The alterations to the front porch appear to be consistent in style with the existing home, and should blend nicely. She said that the Board understood the applicant’s desire for a first floor bathroom in order to improve the quality of life for her elderly parents, who live with her, and there are few available locations for such an addition. The Board thought that the front windows next to the addition would appear more attractive if shutters on both sides of the windows can be maintained. Otherwise they said that the proposal is a reasonable request and attractively designed. Therefore, the Planning Board recommended approval for the plans entitled 126 Wallis Road by Maynard Design and Architecture, dated 4/9/09, subject to the following conditions:

1. **Prior to the issuance of a building permit, final elevations indicating all materials shall be submitted to the Assistant Director of Regulatory Planning for review and approval.**
2. **Prior to the issuance of a building permit, a final landscaping plan indicating all counterbalancing amenities, or indicating preservation of the existing rhododendron plants, shall be submitted to the Assistant Director of Regulatory Planning for review and approval.**
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 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.**

Michael Shepard, Building Commissioner, delivered the comments from the Building Department. He said that the front setback for the zoning district was 20 feet and the addition was at 20.2 feet from the front lot line. He said that because properties in the same block were slightly farther back from the road, this petitioner needed relief from average alignment. Mr. Shepard stated that the addition appeared well designed and was in proportion to the façade of the house. He said that the Building Department was supportive of the relief as well as the conditions proposed by the Planning

The Board Members, having heard all the testimony, deliberated on the merits of the application. Mr. Book and Mr. Allen said that they were in favor of granting the requested relief subject to modifications to the conditions. The Board then determined, by unanimous vote that the petitioner has met the requirements necessary for grant of a Special Permit in accordance with **Section 5.43** and **Section 9.05** of the Zoning By-Law to waive the requested setback requirements if appropriate counterbalancing amenities are provided and subject to the conditions provided below and makes the following specific findings pursuant to said **Section 9.05**:

- 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, final elevations indicating vertical dimensions of the addition as well as all materials and details, including without limitation, the bathroom exhaust vent shall be submitted to the Assistant Director of Regulatory Planning for review and approval.**
2. **Prior to the issuance of a building permit, a final landscaping plan indicating all counterbalancing amenities, including additional landscaping as well as the preservation of the existing rhododendron plants, shall be submitted to the Assistant Director of Regulatory Planning for review and approval.**
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 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

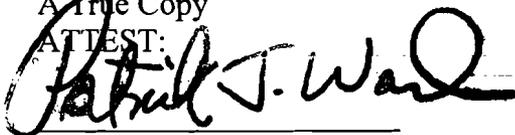
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Meeting Date: August 28, 2009



Jesse Geller, Chairman

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

RECEIVED
TOWN CLERK
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