



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

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2009 DEC 28 AM 8:40
Town of Brookline
BUILDING DEPARTMENT
TOWN OF BROOKLINE
Massachusetts

Town Hall, 1st Floor
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 090071

Petitioner, Deborah Moses, applied to the Board of Appeals to extend the special permit relief granted in case #080044 for an additional year.

On 5 November 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 3 December 2009, at 7:45 p.m. in the Selectmen's hearing room, 6th floor, Town Hall as the time and place of a hearing on the request. 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 12 and 19 November 2009 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: **MOSES DEBORAH W**
Location of Premises: **74 CLYDE ST BRKL**
Date of Hearing: **12/03/09**

Time of Hearing: 7:45p.m.

Place of Hearing: Selectmen's Hearing Room, 6th floor

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

Modification of Board of Appeals Case #BOA080044 to extend for one year the time required to start the project at 74 CLYDE ST BRKL.

Said Premise located in a S-40 (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, Mark Zuroff and Board Members, Jonathan Book and Christopher Hussey. Richard Shepard of S/Q Design Associates Inc., 300 Horseneck Road, South Dartmouth, MA 02467, the architect for the petitioner, presented the case before the Board.

On 5 December 2008, the Board of Appeals filed a decision in case #080044 with the Town Clerk. The decision was not appealed and was subsequently recorded at the Norfolk County Registry of Deeds on 4 December 2009 (Book 27277, Page 565). The relief granted was for design review, floor area, side yard setbacks and alteration for an addition and two accessory structures.

Mr. Shepard said his client received relief in 2008 to demolish part of the rear of the main house and construct an addition, as well as two new accessory buildings in the yard. The proposed addition to the main house will be two stories, and extend the kitchen on the first floor and bedrooms on the second floor. In order to construct the addition, one rear dormer and portico will be removed from the back of the house as well as a side entryway and a number of windows. The addition to the main house will extend beyond the house by 6', and will be 216 square feet on each floor for a total of 432 new square feet on the main house. The materials used for the proposed addition will be consistent with the existing materials on the dwelling.

Mr. Shepard said that he and the petitioner, Deborah Moses have been working on the landscape modifications required by the 2008 decision. He also said that due to the current economic climate it has been difficult to obtain the services of a qualified contractor. He said that he expected work would begin within six months but to be sure, he was requesting up to a one year extension as provided in the By-Law.

Both Board Members, Book and Hussey, asked about access to the site and Mr. Shepard responded that during construction, some access may be off Lee Street but when the project is finished, access to the site can only be gained from Clyde Street as it is done currently.

The Chairman asked whether anyone in attendance wished to speak in favor or opposed to the request and no one rose to speak.

Polly Selkoe, Assistant Director for Regulatory Planning, delivered the findings of the Planning Staff.

Section 9.07 – Time Limits for Special Permits and Variances

A one year time extension for special permits may be allowed by the Board of Appeals.

Ms. Selkoe said that the Planning Board was supportive of this application to construct a pool house and garage in the rear yard. She said that the applicant worked extensively with staff and their neighbors to minimize impacts on abutting properties during the permitting process. As there have been no alterations to the previously approved plans, the Planning Board was supportive of granting the time extension. Therefore, the Planning Board recommended approval of the requested one year time extension per the plans by Richard Shepard, dated 11/3/08, subject to the original conditions approved by the Board of Appeals.

1. Prior to the issuance of a building permit, final elevations of the addition and new accessory buildings shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit a landscaping plan including plant buffers along the side and rear lot lines 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; 3) a construction management plan; and 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Michael Shepard, Building Commissioner, inquired of the petitioner whether the 2008 decision had been recorded at the Registry of Deeds. The petitioner stated that she didn't think it had been recorded and Mr. Shepard reminded her that the relief granted in the 2008 decision is not effective until the decision is recorded. Mr. Shepard questioned whether the Board could grant an extension if the original decision was not recorded within the statutory one year period to start work. He opined that if the petitioner recorded the original decision on Friday 4 December 2009, it would be within the one year anniversary of the filing of the original decision. Mr. Shepard said he was supportive of the requested extension and said many citizens were having difficulty starting projects in the current economic climate.

The Chairman agreed that the petitioner must record the decision on 4 December; otherwise she would have exhausted the rights granted under the original decision.

Board Member Book recalled from the original hearing that there was a requirement for a construction management plan and he thought this requirement should be included in the decision regarding the extension of time limit.

The Board Members unanimously agreed that it was appropriate to extend the relief granted in Board of Appeals case #080044 for a period of one year subject to the original conditions as follows:

1. Prior to the issuance of a building permit, final elevations of the addition and new accessory buildings shall be submitted to the Assistant Director for Regulatory Planning for review and approval.

2. Prior to the issuance of a building permit a landscaping plan including plant buffers along the side and rear lot lines 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; 3) a construction management plan; and 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

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TOWN OF BROOKLINE
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DEC 17 AM 11:35

Continous Decision of
The Board of Appeals


Mark Zuroff, Chairman

Filing Date: December 17, 2009

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals