



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. 080036

Petitioners, Philip Yuen and Jeanette Ng, applied to the Building Commissioner for permission to construct a second floor addition to their home at 146 Bellingham Road. The application was denied and an appeal was taken to this Board.

On 13 August 2008, 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 17 September 2009, at 7:00 p.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 its 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 27 August and 3 September 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: YUEN, PHILIP & NG, JEANETTE

Location of Premises: **146 BELLINGHAM ROAD BRKL**
Date of Hearing: **09/17/2009**
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 Ratiom Variance Required.

5.22.3.b.l.b, Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, Special Permit Required.

5.43, Exceptions to Yard and Setback Regulations, Special Permit Required.

5.60, Side Yard requirements, Variance Required

8.02.2, Alteration or Extension, Special Permit Required of the Zoning By-Law to construct a second floor addition per plans at **146 BELLINGHAM RD BRKL.**

Said Premise located in a 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.

**Enid Starr
Jesse Geller
Robert De Vries**

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, Philip Yuen was represented by his architect, Lewis Colten of 303 Worcester Road, Framingham, MA 01701.

Mr. Colten reported that the petitioner had been before the planning Board on two previous occasions and on both occasions he was asked to revise his proposal. Mr. Colten said since then he had been retained and prepared the proposal now before the Board.

Mr. Colten described the property at 146 Bellingham Road as a single-family house between the Walnut Hills Cemetery and the Putterham Shopping Center at the Francis X. Ryan Circle in South Brookline. Built in 1950, the one story ranch-style house has an attached one-car garage below grade and a partially finished basement. The exterior of the house has a brick façade with vinyl sided cross gables and an asphalt shingle roof. The surrounding neighborhood consists of single-family homes in a variety of architectural styles, including ranches on either side of 146 Bellingham Road and traditional and renovated two-story homes. Walnut Hills Cemetery abuts the rear of the property, and Allandale Farm is a short distance away.

Mr. Colten said that his client is proposing to construct a second floor addition. The partially finished basement will remain unaltered. The first floor consists of three bedrooms, a study room, kitchen, dining room, living room, and a staircase leading to the attic. The proposed new second floor would encompass an estimated 685.8 s.f. of new habitable floor area to accommodate two bedrooms and a bathroom. To create a habitable second floor, the roof will be raised 6' and two 7' wide gable dormers will be installed bumped out 3'8" from the roof on the front façade of the home. Three dormers will be installed on the rear façade of the home, with two dormers that are 4' wide and bump out 4'8" from the roof on either side of a wider dormer in the center which will be 10'3 ¼" wide. Mr. Colten said that one double hung window will be installed in each of the gable ends of the addition. Mr. Colten said relief was needed from **Section 5.09**, Design Review, of the Zoning By-Law, a Special Permit in accordance with **Section 5.22.3.b.1.b**, a Special Permit under **Section 5.43** to waive certain pre-existing yard and

setback non-conformities and a Special Permit under Section 8.02.2 for the pre-existing non-conforming side set-backs. Mr. Colten said that the petitioner intends to provide additional landscaping to meet the requirements of Section 5.43.

The Chairman asked the Board Members whether they had any questions. Board Member Allen asked about the Planning Board’s concern regarding windows in the gable ends. Mr. Colten responded that the Building Code requirements have changed and in fact windows are allowed in the gable ends of the structure.

The Chairman then asked whether anyone wished to speak in favor or against the application. Noone rose to speak.

Polly Selkoe, Assistant Director for Regulatory Planning delivered the findings of the planning department staff.

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 most relevant sections of the design review standards are described below:

- a. Preservation of Landscape – The proposed second floor is entirely above the existing structure and is not anticipated to disturb existing landscaping.
- b. Relation of Buildings to Environment - The second story will add an additional 6’ to the height of the roof. Given the undersized setback, a counterbalancing amenity is required to mitigate the impact on neighboring properties.
- c. Relation of Buildings to the Form of the Streetscape and Neighborhood –The surrounding neighborhood consists of an eclectic variety of architectural styles, including ranches, converted ranches and 2.5 story colonials. The proposed dormers will give this home a Cape Cod style appearance which is consistent with other homes in the neighborhood.

Section 5.20– Floor Area Ratio

Section 5.60 – Side Yard Requirements

	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	0.30 100%	0.26 89%	.36 119%	Special permit*

Floor Area (s.f.)	2,296.8	2,052	2,737.8	
Side Yard Setback	10	8.6	8.6	Special Permit**

* Under Section 5.22.3.b.1.b – Exceptions to FAR Regulations for Residential Units, the Board of Appeals may grant, by special permit, an increase in gross floor area for an external addition up to 120% of the permitted gross floor area.

** Under Section 5.43 – Exceptions to Yard and Setback Requirements, the Board of Appeals may waive yard and setback requirements if the applicant provides a counterbalancing amenity. In this case, landscaping will serve as the amenity.

Ms. Selkoe said that the Planning Board had no objection to the construction of an addition to provide this house with more habitable space. The Planning Board applauded the applicant’s renewed efforts to create a functional plan for this home. The Planning Board is pleased with the outcome of the third redesign and feels the applicant has done as much as possible to create an attractive second story addition. Ms. Selkoe said that the only concern the Planning Board had was that one gable end does not have any windows, and they would like to see windows on both gable ends. Therefore, the Planning Board recommends approval of the plans by Lewis Colten, dated 7/17/09, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, final elevations indicating building materials shall be submitted 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 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 asked the petitioner whether he planned on having windows in both gable ends of the addition. Mr. Yuen replied that he would have one window in each of the gable ends. Mr. Shepard said that the petitioner had been before the Planning Board for quite some time and due to the efforts of all, the design currently before the Board appears well proportioned and will, in

his opinion, compliment the neighborhood. Mr. Shepard said that the Building Department supports the recommendation of the Planning Board as well as its proposed conditions.

During deliberations, Board Member Allen suggested modifying condition number two to evidence the definitive requirements for the gable end windows and inclusion in elevations. Mr. Book said that he was supportive of the proposal as well as the suggested modification by Mr. Allen. Mr. Geller concurred with Mr. Allen and Mr. Book.

The Board, having deliberated on this matter and having considered the foregoing testimony, concluded that the conditions of Section 5.22.3.b.1b (exceptions to maximum floor area ratio), Section 5.09.2.j, (design review), Section 5.43 (waiver of yard and setback requirements, Section 8.02.2, (alteration or extension of a pre-existing, non-conforming structure) and Section 9.05 of the Zoning By-law necessary for the granting of the requested relief have been satisfied and that it is desirable to grant Special Permits in accordance with said Sections. The Board made the following findings pursuant to 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.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

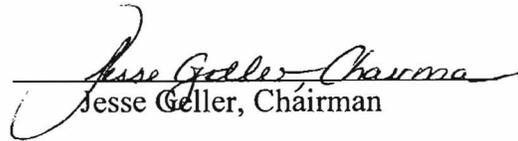
1. Prior to the issuance of a building permit, the applicant shall submit a landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, all final building elevations evidencing, without limitation, one or more windows in each gable end and building materials, by a Registered Architect, shall be submitted 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 the Board of Appeals decision has been recorded at the Registry of Deeds.

RECEIVED
 TOWN OF BROOKLINE
 TOWN CLERK

6749

Unanimous Decision of
 The Board of Appeals

Filing Date: 10/07/2009


 Jesse Geller, Chairman

A True Copy
 ATTEST:



Patrick J. Ward
 Clerk, Board of Appeals