



BOARD OF APPEALS
Jesse Geller, Chair
Kate Poverman

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Town of Brookline Massachusetts

2019 AUG 21 P 2:39

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. 2019-0039
83 PAYSON ROAD, BROOKLINE, MA

Petitioner, Ivan Efremov, applied to the Building Commissioner for permission to an addition on the left side of the house at 83 Payson Road. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed August 1, 2019 at 7:00 PM., in the Select Board's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioners, to their 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 July 18, 2019 and July 25, 2019 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. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

83 PAYSON ROAD, BROOKLINE, MA 02467 - BP 2018-002190 Project description: extend the garage toward the road in line with the rest of the house, extend the bedroom above the garage, change dormers in the other bedroom, rebuild the foyer. Proposed FAR = 0.43. Height of the house is not changed. Setbacks to the neighbors on either side are not changed. in a(n) S-7 SINGLE-FAMILY on August 1, 2019 at in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Ivan V Efremov) Precinct 16

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

§5.01 - Table of Dimensional Requirements

§5.09.2.J – DESIGN REVIEW

§5.10 - MINIMUM LOT SIZE

§5.15 - EXCEPTION TO MINIMUM LOT SIZE & LOT WIDTH REQUIREMENTS

§5.22 - EXCEPTIONS TO FLOOR AREA RATIO REGULATIONS FOR RESIDENTIAL UNITS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§8.02 - ALTERATION OR EXTENSION

Any additional relief the Board may find necessary.

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: www.brooklinema.gov.

The Town of Brookline does not discriminate in its programs or activities on the basis of disability or handicap or any other characteristic protected under applicable federal, state or local law. Individuals who are in need of auxiliary aids for effective communication in Town programs or activities may make their needs known by contacting the Town's ADA Compliance Officer. Assistive Listening Devices are available at the Public Safety Building for public use at Town of Brookline meetings and events. Those who need effective communication services should dial 711 and ask the operator to dial the Town's ADA Compliance Officer.

If you have any questions regarding this Notice or the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

*Jesse Geller, Chair
Christopher Hussey
Mark Zuroff*

Publish: 7/18 & 7/25

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Kate Poverman and Board Members Stephen Chiumenti and Randolph Meiklejohn. Also present at the hearing were Zoning Coordinator / Planner Charlotte Leis, Assistant Director of Regulatory Planning Polly Selkoe, and Deputy Building Commissioner Joseph Braga.

The case was presented by applicant Ivan Efremov. Chairman Poverman called the hearing to order at 7:00 p.m. Mr. Efremov waived the reading of the public notice.

Mr. Efremov gave an overview of the proposal and explained why they were requesting relief. Chair Poverman asked if any neighbors had commented. Mr. Efremov said they are generally very supportive and that many are dealing with the same issue of a small house on a small lot.

Mr. Chiumenti said the left-side house looks quite a bit bigger than 83 Payson. Mr. Efremov said it is, and making his house bigger will make it look more harmonious with that abutter. Yefim Massarsky, architect for the project, said that he had worked hard to make house look good and fit the owner's needs.

Chair Poverman asked if anyone was there to speak for or against the project. No one spoke.

Chairman Poverman then called upon Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the findings of the Planning Board. Ms. Selkoe noted the following:

FINDINGS

Section 5.10: Minimum Lot Size

Section 5.15: Exceptions to Minimum Lot Size & Lot Width Requirements

Section 5.43: Exceptions to Yard and Setback Regulations

The S-7 District has minimum lot size requirement of 7,000 SF. The subject lot has an area of 5,003 SF. A Special Permit is required and may be granted if counterbalancing amenities are provided. The applicant has not explicitly offered specific counterbalancing amenities, but staff suggests that additional landscaping may be feasible along the left-side property line.

Section 5.20: Floor Area Ratio

Section 5.22: Exceptions to Floor Area Ratio (FAR) for Residential Units

Section 5.09.2.j: Design Review

The existing structure does not comply with the FAR requirements of the S-7 district laid out in Table 5.01 and the altered structure will intensify this condition, therefore requiring a Special Permit.

Floor Area	Allowed	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	.35 (100%)	.39 (111%)	.43 (123%)	Special Permit*
Floor Area (s.f.)	1751	1927	2159	

** Under Deadrick, the Board of Appeals may allow an extension of an existing non-conformity if it finds there is no substantial detriment to the neighborhood.*

Because the proposed work is subject to the provisions of §5.22, Design Review is required, as per §5.09. Below are the relevant Community and Environmental Impact and Design Standards from §5.09.4:

- Preservation of Trees and Landscape
- Relation of Buildings to Environment
- Relation of Buildings to the Form of the Streetscape and Neighborhood
- Open Space
- Stormwater Drainage
- Utility Service
- Heritage

The proposed addition only slightly increases the footprint of the building so no significant changes to the landscape are proposed. The addition and resulting house are consistent with the scale and style of the neighborhood and are unlikely to have significant impact on abutters. Utilities are underground, existing drainage patterns are unlikely to be affected, and no significant heritage-related concerns are present. Staff is of the opinion that the design standards of §5.09.4 are satisfied.

Section 8.02: Alteration or Extension

The existing structure is nonconforming and therefore may be altered as allowed by §8.02.2, provided that no nonconforming condition is increased. The proposal complies with this section.

PLANNING BOARD COMMENTS

The Planning Board is supportive of this proposal. The proposed alteration is a reasonable extension of the existing dwelling that maintains the character of the home as viewed from the public way. The addition/renovation will have a very minimal visual impact on the public way and abutters, especially if landscaping is provided along the left side property line. The proposal generally satisfies all of the criteria and standards for Design Review.

Therefore, the Planning Board recommends approval of the site plan by Delaney Group, dated 12/20/18 and the architectural plans by YM Design. Inc. dated 12/19/2018 subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations subject to the review and approval of the Assistant Director of Regulatory Planning.
1. Prior to the issuance of a building permit, the applicant shall submit a final 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, 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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.
Chair Poverman wants a condition requiring that the landscape plan to be approved as well.

Mr. Efremov provided pictures of landscaping improvements they've done recently on the property. Mr. Chiumenti said the project mostly affects the left neighbor and that the landscaping counterbalancing amenities should benefit them. Ms. Selkoe suggested that the applicant should add landscaping as screening on the left side.

Joe Braga, Deputy Building Commissioner, said the Building Department had no objections to the relief being sought.

Mr. Chiumenti said he is fine with the project and it looks compatible with neighboring properties, but he wants some landscaping to benefit the neighbor to the left.

Mr. Meiklejohn said they applicant has done a good job with the architecture. Chair Poverman said she agrees.

The ZBA members voted unanimously to approve the special permit relief per the site plan by Delaney Group, dated 12/20/18 and the architectural plans by YM Design. Inc. dated 12/19/2018 subject to the following conditions:

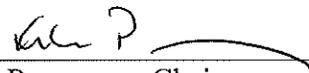
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1) a final site plan stamped and signed by a registered engineer or land surveyor; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals

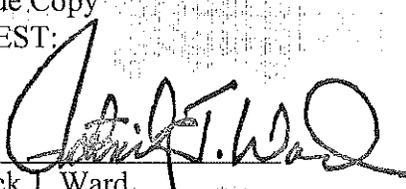
Filing Date: 8/21/19



Kate Poverman, Chair

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals