



BOARD OF APPEALS
Jesse Geller, Chair
Mark G. Zurroff

Town of Brookline Massachusetts

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2019 SEP 19 A 10:58

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0047
10 RICE STREET, BROOKLINE, MA

Petitioner, Carl Dumas, applied to the Building Commissioner for permission to build a 20' dormer on an existing house at 10 Rice Street. 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 29, 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 August 15, 2019 and August 22, 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:

10 RICE STREET, BROOKLINE, MA 02445 - Building a 20-foot dormer on the existing home in a(n) M-1.0 APARTMENT HOUSE on 08/29/2019 at 7:00PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Carl Dumas) Precinct 5

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

§5.13 - LOT WIDTH

§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
Mark G. Zuroff**

Publish: 08/15/2019 & 08/22/2019

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

Applicant Carl Dumas appeared with the owner, Omar Mabrouk, and gave an overview of the case. They are planning to build a 20' shed dormer on left side of house which needs relief for the 2.1'

setback. The project is consistent with the neighborhood where many properties are on property line. The dormer allows the finished attic to be accessible since the staircase up to it currently has insufficient headroom, but the dormer will increase the headroom and make it easier to use the stairs. Mr. Mabrouk said they have talked to the neighbors, none of whom expressed objections. Mr. Dumas said architectural style is consistent with the neighborhood.

Chair Zuroff asked what counterbalancing amenities are being provided under §5.43. Mr. Dumas said they discussed it at the Planning Board meeting and are going to come up with a planting plan that would add green areas to the lot; they are beautifying the landscaping. Mr. Mabrouk said the front of the house is in disrepair, and they are going to make it nicer.

Mr. Chiumenti asked what they do about parking. Mr. Mabrouk said they rent from a neighbor, but hoping to eventually create a parking space on the lot where they can charge an electric car. Chair Zuroff said that is a matter for another night.

Chair Zuroff asked if there was anyone present who wished to speak in support or opposition of the project. No one spoke.

Chair Zuroff asked to hear from the Planning Department. Ms. Leis, Zoning Coordinator / Planner, presented the findings and recommendation of the Planning Board. She noted the following:

Findings

Section 5.01 and 5.60 – Table of Dimensional Requirements (Sideyard Setback)

Section 5.13 – Minimum Lot Width

Section 8.02.2 – Alteration or Extension

A special permit is required to alter this pre-existing non-conforming structure.

	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Finding</u>
Lot Width	40'	30'	30'	<u>Special Permit*</u>
Side Setback	7.5'	2.2'	2.2'	<u>Special Permit**</u>

* Under **Section 8.02**, the Board of Appeals may grant a special permit to alter a pre-existing non-conforming structure.

** Under **Section 5.43**, the Board of Appeals may waive by special permit the required yard setbacks if counterbalancing amenities are provided. The applicant has not yet indicated the counterbalancing amenity, and landscaping would be appropriate.

Planning Department Analysis

The Planning Department believes that this is a reasonable proposal, especially given that it is a single-family home in a multi-family district. The third floor dormer should have minimal impact on the surrounding neighborhood. New landscaping should serve as the counterbalancing amenity.

Planning Board Comments

The Planning Board was supportive of the proposal but expressed frustration with the inaccuracy of the plans. The applicant agreed to submit revised plans prior to the ZBA meeting that more accurately reflected the existing and proposed structure. Some members of the Board stated that they would prefer to see the dormer pushed back from the wall plane of the house, but nonetheless approved the application.

Therefore, the Planning Board recommends approval of this application per the site plan by EMB, dated March 26, 2019, and elevations and floor plans by Kneeland Construction Corp, dated March 14, 2019 and revised July 22, 2019, 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.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan 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: a) a final site plan stamped and signed by a registered engineer or land surveyor; b) final floor plans and elevations stamped and signed by a registered architect or engineer; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chair Zuroff asked to hear from the Building Department. Mr. Braga, Deputy Building Commissioner, said the Building Department had no objections to the relief being sought.

Mr. Meiklejohn said he knows the neighborhood well and agrees that the addition is appropriate and is very supportive of improving the front yard landscaping.

The ZBA members voted unanimously to approve the special permit relief per the site plan by EMB, dated March 26, 2019, and elevations and floor plans by Kneeland Construction Corp, dated March 14, 2019 and revised July 22, 2019, 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.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan 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:
a) a final site plan stamped and signed by a registered engineer or land surveyor; b) final floor plans and elevations stamped and signed by a registered architect or engineer; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals

Filing Date: 09/19/19

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals


Mark G. Zuroff, Chair

