



BOARD OF APPEALS
Jesse Geller, Chair
Mark Zurroff

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0052
305 CLARK ROAD, BROOKLINE, MA

Petitioners Rupa and Jason Cornell applied to the Building Commissioner for permission to build a rear second story addition at 305 Clark 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 September 19, 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 25, 2019 and August 1, 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:

305 CLARK ROAD, BROOKLINE, MA 02445 - Construct two-story wood addition at rear over crawlspace foundation in a(n) S-7 SINGLE-FAMILY on 09/19/2019 at 7:00PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: SEAN DONOVAN) Precinct 12

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:

§5.09.2.J – DESIGN REVIEW

§5.20 - FLOOR AREA RATIO

§5.22.3.B.1.C – EXCEPTIONS TO FLOOR AREA RATIO (FAR) FOR RESIDENTIAL UNITS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.50 - FRONT YARD REQUIREMENTS

§5.51 - PROJECTIONS INTO FRONT YARDS

§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: 09/05/2019 & 09/12/2019

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chair Lark Palermo and Board Members Randolph Meiklejohn and Kate Poverman. Also present at the hearing were Zoning Coordinator/Planner Charlotte Leis and Deputy Building Commissioner Joseph Braga.

The case was presented by Rupa Cornell, owner, and Sean Donovan, general contractor for the project. Chair Palermo called the hearing to order at 7:00 p.m. Ms. Cornell waived the reading of the public notice. Ms. Cornell gave an explanation of why they want to construct the rear addition. Mr. Donovan explained that the addition gives the applicant a little extra room for their family, and allows for a master suite without cannibalizing an existing bedroom on the second floor. He explained that they are expanding the porch at the front of house to give the façade more architectural balance. He gave an overview of zoning issues related to setbacks and FAR, and said he doesn't believe the project is detrimental to the neighborhood.

Board Member Meiklejohn asked what the front façade looks like currently. Mr. Donovan said the family room is replacing a 3-season porch, and all they are doing to the front façade is expanding the front porch sideways a little bit to make it feel more centered.

Chair Palermo asked if anyone was present to speak in support of the project. No one spoke. The applicant noted that 2 abutters had sent letters to the Board in support of the project.

Chair Palermo asked if anyone was present to speak in opposition to the project. No one spoke.

Chair Palermo 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

ZONING: S-7	Required/ Allowed	Existing	Proposed	Relief
Use		1-family	1-family	None
Lot Size	7,000sf	7,602sf	7,602sf	None
Floor Area Ratio	0.35 / 100% 2,660sf	0.37 / 106% 2,844sf	0.45 / 129% 3,451sf	Special Permit*, §5.22¹
Lot Width	65'	66.68'	66.68'	None
Height	35'	27'	27'	None

Setbacks: F/S/R	20/7.5/30	20.1 /9.0 / 53.7	20.1/9.0/ 53.5	Special Permit, §5.43²
OS: Landscaped/Usable	10%/30%	119% / 136%	97% / 111%	None

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

¹Section 5.22 - Exceptions to Floor Area Ratio for Residential Units

This section allows the FAR of a structure to be increased through exterior additions to 120% of what is allowed by-right. This proposal goes beyond the 120% allowed under this section, and thus this section does not apply. Nevertheless, §5.09.2.j is addressed below. The proposal can still receive a special permit under *Deadrick* as noted above.

²Section 5.43 - Exceptions to Yard and Setback Requirements

Setback relief is required because the front porch does not comply with §5.51 (see below). No counterbalancing amenities have been indicated by the applicant. Staff suggests that landscaping would be an appropriate counterbalancing amenity for this proposal.

Other Zoning Requirements

Section 5.51 - Projections into Front Yards

This section allows porches to project into the front yard up to 3.5', which in this case allows porches to be within 16.5' of the front lot line. The existing covered front porch is 16.1' from the front lot line. The proposal to extend the non-conforming porch is allowed by Special Permit under *Deadrick* and under Section 8.02.

Section 8.02 - Alteration or Extension

A Special Permit is required to alter and/or extend this non-conforming structure.

Section 5.09.2.j - Design Review

The most relevant sections are listed and addressed below. Also see the applicant's impact statement.

- Preservation of Trees and Landscape
- Relation of Buildings to Environment
- Relation of Buildings to the Form of the Streetscape and Neighborhood
- Open Space
- Heritage
- Energy Efficiency

No trees will be removed as part of this proposal, and the footprint of the building is not increasing as much as the change in Open Space would suggest. The house was found to be non-significant by Preservation Staff, and the only changes visible from the public way are relatively minor. The renovation will include wiring for the possible future installation of solar panels and an electric car charging station. Overall, this project satisfies the criteria of Design Review.

PLANNING DEPARTMENT COMMENTS

The Planning Department recommends approval of this project. The two-story addition complies with all setback requirements and abuts MBTA tracks rather than another home. From the perspective of the properties to the left and right sides, the rear addition is noticeable, but the resulting house is of a similar

scale and massing to the neighboring houses. The only noticeable change from the street is the small extension of the covered porch, which slightly improves the look of the house by making the front façade look more balanced. Staff believes the proposal is not substantially more detrimental to the neighborhood than existing conditions.

PLANNING BOARD RECOMMENDATION

The Planning Board is supportive of this proposal. The Board felt that the addition is reasonable and that the existing building will benefit from the added space. The Board recognized that the project is subject to a Section 6 finding of no substantial detriment to the neighborhood. While the Board has previously suggested that any project that exceeds 120% of FAR should be considered substantially more detrimental to the neighborhood, the Board decided that, in this case (and possibly others), that standard should be relaxed depending on the context of the property and the surroundings. All Board members agreed that the addition proposed in this case is not substantially more detrimental to the neighborhood than the existing structure. The applicant submitted new plans at the meeting with a slightly revised orientation of the master bedroom; the revised plans had no effect on the footprint or zoning relief.

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

Board Member Poverman said the Board appreciates having counterbalancing amenities specified at the hearing, and asked what the applicant's general plans are for counterbalancing amenities.

Mr. Donovan said the garage is an opportunity for a counterbalancing amenity; it is in poor repair. Ms. Cornell said they intend to put in nice landscaping at the front of the property. Mr. Cornell said the front of the property will be professionally landscaped in concert with the rest of the neighborhood.

Board Member Meiklejohn said he appreciates plantings that benefit neighborhood generally, and believes the addition is appropriate for the neighborhood. Board Member Poverman said she appreciates that the house is being updated rather than being torn down.

The ZBA members voted unanimously to approve the special permit relief per the site plan by Michael P. Clancy, dated 3/25/19 and revised 7/26/19, and the floor plans and elevations by Pauli & Uribe Architects LLC, dated 9/12/19, subject to the following conditions:

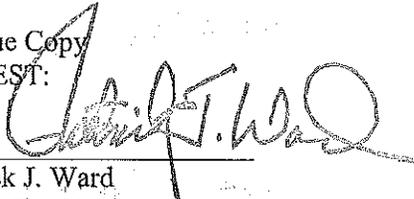
1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, floor plans and elevations subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan showing all counterbalancing amenities 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 floor plans and elevations stamped and signed by a registered architect or engineer; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals


Lark Palermo, Chair

Filing Date: 9/30/19

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals