



Town of Brookline

Massachusetts

PLANNING BOARD

Town Hall, 2nd Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2130 Fax (617) 730-2442

Mark J. Zarrillo, Chairman
Linda K. Hamlin, Clerk
Robert Cook
Steven Heikin
Sergio Modigliani
Jonathan Simpson

To: Brookline Board of Appeals

From: Brookline Planning Board

Date: September 4, 2014

Subject: Legalize fence within the side yard setback exceeding allowed height maximum

Location: **292 Warren Street/246 Dudley Street**

Atlas Sheet: 91	Case #: 2014-0033
Block: 350	Zoning: S-40
Lot: 05	Lot Area (s.f.): 104,914

Board of Appeals Hearing: October 2, 2014 at 7:30 p.m.

BACKGROUND

After a complaint by the side abutter at 274 Dudley Street, the Building Department confirmed that the fence in question is over 7' and asked the applicant to address the issue. The applicant has responded by filing a legalization request.

SITE AND NEIGHBORHOOD

292 Warren Street/246 Dudley Street is a 2-story stucco house situated on a 2.4 acre rear lot half way between Warren and Sears Road and connected by a long right-of-way to Dudley Street. The Renaissance Revival style house was constructed in 1907 and designed by architects Winslow and Bigelow and has had several additions since then by special permit.

APPLICANT'S PROPOSAL

The applicants, Robert and Marjie Kargman, are proposing to legalize the existing fence on the property. The height of the fence in places is greater than 7', which is above the allowed height limit within the side yard setback. This fence is located on a portion of the side property line.

FINDINGS**Section 5.43 – Exceptions to Yard and Setback Regulations****Section 5.60 – Side Yard Requirements****Section 5.62 – Fences and Terraces in the Side Yard**

Dimensional Requirements	Required/Allowed	Proposed	Relief
Fences in Side Yards	7'	7'+	Special Permit*

* Under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant has indicated they will provide landscaping as a counterbalancing amenity.

* Under **Section 5.62**, the Board of Appeals may allow a special permit to allow fences over 7' high where it is determined that it is warranted to mitigate noise or other detrimental impact or provide greater safety, such as when a property is bounded by active train tracks.

PLANNING BOARD COMMENTS

The Planning Board does not support relief for allowing a fence greater than 7' high within the side yard setback. A 7' fence as measured from the lowest adjacent natural grade would have served adequately to screen the yards from each other and would have complied with the Zoning By-Law.

Therefore, the Planning Board recommends denial of the site plans by Reed Hilderbrand Associates Inc., dated 1/12/05.

1. Prior to the issuance of a building permit, a final landscaping plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
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; 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Pss/tcr