



# *Town of Brookline*

## *Massachusetts*

**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Jonathan Book  
Christopher Hussey

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Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2014-0018  
**Owner: Diane Krause and Craig Hagan**

Petitioners, Diane Krause and Craig Hagan, applied to the Building Commissioner for permission to construct a second story deck on the rear at 107-109 Colbourne Crescent. 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed May 15, 2014 at 8:00 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 their attorney 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 May 1, 2014 and May 8, 2014 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: **DIANE KRAUSE & CRAIG HAGAN**

Owner: **DIANE KRAUSE & CRAIG HAGAN**

Location of Premises: **107-109 COLBOURNE CRESCENT**

Date of Hearing: **MAY 15, 2014**

Time of Hearing: **8:00 PM**

Place of Hearing: **SELECTMEN'S 6<sup>TH</sup> FLOOR CONFERENCE ROOM**

A public hearing will be held for a variance and/or a special permit from

**Section 5.43: Exceptions to Yard and Setback Regulations**

**Section 5.70: Rear Yard Requirements**

**Section 6.71: Projections into the Rear Yard**

**Section 8.02.2: Extensions and Alterations**

of the Zoning By-Law to **CONSTRUCT A SECOND STORY DECK ON THE REAR** at 107-109 COLBOURNE CRESCENT. Said Premises is located in a **SC-7 (Single Family and Converted for Two-Family) Residence 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 Office of the Town Clerk at 617-730-2007 or check the meeting calendar at: [www.brooklinema.gov](http://www.brooklinema.gov).*

*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 **Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).***

**Jesse Geller  
Jonathan Book  
Christopher Hussey**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jonathan Book, and Board Members Christopher Hussey and Mark Zuroff. The petitioner, Diane Krause presented the case.

Ms.. Krause described 107-109 Colbourne Crescent as a two-family Colonial Revival style dwelling with a gambrel roof that was built in 1920. The property is located within proximity to the Lotta Bradburn Schick Park. The neighborhood is comprised of single and two-family dwellings

Mrs. Krause said the proposal is to construct a second story deck on the rear of 107 Colbourne Crescent. The second story deck will be open and unenclosed, and will be 28.25' from the rear yard setback. The applicant is also planning to construct a new footing and frost wall under the existing mudroom.

The Chairman asked if anyone wished to speak in favor of the proposal or in opposition to the proposal. There was no one present to speak.

The Chairman called upon Lara Curtis Hayes, Senior Planner, to deliver the findings of the Planning Board:

**FINDINGS**

**Section 5.43 – Exceptions to Yard and Setback Regulations**

**Section 5.70 – Rear Yard Setback**

**Section 5.71 – Projections into the Rear Yard**

Dimensional Requirements	Required	Existing	Proposed	Relief
Rear Yard Setback	30'	31.1'	28.3'	Special Permit*

\* Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The Planning Board suggests that the applicant install additional landscaping as a counterbalancing amenity.

**Section 8.02.2 – Alteration or Extension**

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

Ms. Hayes said the Planning Board is supportive of the proposal to construct an uncovered second story deck on the rear of the existing dwelling. The proposal requires a special

permit because the second floor deck is two feet within the rear yard setback. The Board finds the proposal to be modest and does not expect it to be a negative impact on neighboring properties. The Planning Board recommends the applicant install additional landscaping as a counterbalancing amenity.

**Therefore, the Planning Board recommends approval of the plans by Hamlin & Co. Inc., dated 1/29/14, and the site plan by Scott M. Cerrato, P.L.S., dated 1/29/14, subject to the following conditions:**

1. Prior to the issuance of a building permit, final plans and elevations, and a final site plan indicating all proposed setback dimensions, shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities to the Assistant Director of Regulatory Planning for review and approval.
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 that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Yanovich, Chief Building Inspector, to deliver the comments of the Building Department. Ms. Hayes delivered Mr. Yanovitch's comments in his absence. Mr. Yanovich stated that the Building Department had no objections to the relief sought under this application. The relief requested is minimal, the use is compatible with the area, and the Building Department will work with the Petitioner if relief is granted to ensure all codes are complied with.

The Board deliberated on the merits of special permit relief as requested. The Board voted unanimously that the requirement have been met for the issuance of a special permit under Sections, 5.43, 5.70, 6.71 and 8.02 of the Zoning By-Law. The Board made the following specific findings pursuant to Section 9.05 of the of the Zoning By-Law:

- 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.

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

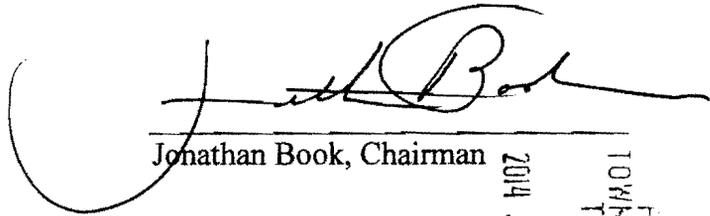
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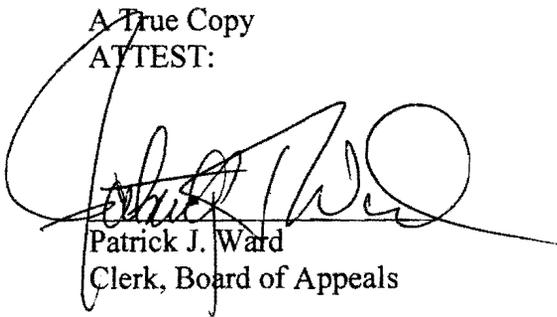
Unanimous Decision of  
The Board of Appeals

Filing Date: 7/14/14

  
Jonathan Book, Chairman

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TOWN CLERK  
2014 JUL 14 A 9:45

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals