



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town Hall, 1st Floor
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Brookline, MA 02445-6899
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2015-0072
JONATHAN & PATRICIA KRAFT
27 WOODLAND ROAD, BROOKLINE, MA

Petitioners, Jonathan and Patricia Kraft, applied to the Building Commissioner for permission to construct a 28 ft. x 17 ft. pool house. 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 February 25, 2016 at 7:15 p.m. in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 February 11, 2016 and February 18, 2016 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:

CONSTRUCT A 28 x 27 FOOT POOL HOUSE in an S-25, Single Family, residential district, on February 25, 2016, at 7:15 PM in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: KRAFT JONATHAN A & PATRICIA L) Precinct 15

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:

2. Any Additional Zoning Relief the Board May Deem 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 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 Town programs and services may 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.***

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were the Chair Johanna Schneider and Board Members Christopher Hussey and Jonathan Book. The case was presented by the attorney for the Petitioner, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was the project manager, Dan Krantz, The Kraft Group, 1 Patriot Place, Foxborough, MA 02035.

Chairman Schneider called the hearing to order at 7:15 p.m. Attorney Allen waived the reading of the public hearing notice.

Mr. Allen stated that the Petitioners' property is located in the S-25 District. He indicated that the lot size is triple the size required in the district at 51,113 s.ft. Plaintiffs propose to construct a 28 ft. x 17 ft. pool house.

Project manager, Dan Krantz presented the proposal with the Board. Mr. Krantz reviewed the site plan dated 11/17/15 and described the proposed pool house and the interior features.

Attorney Allen stated that the Petitioners seek relief from **Section 4.07** of the Zoning By-Law for accessory structures in excess of the 150 s. ft. allowed by right. Here, the proposed accessory structure is 221 s.f. Mr. Allen explained that under **Section 2.07.1**, only the gross floor area inside the structure is taken into account because the built-in benches near the front entrance are not enclosed. Mr. Allen stated that under **Section 4.07** of the Zoning By-Law, the Board of Appeals may, by special permit grant relief under **Section 9.05** of the Zoning By-Law.

Attorney Allen discussed special permit relief under **Section 9.05** of the Zoning By-Law arguing: (1) the specific site is an appropriate location because the lot is more than six times the minimum lot size in the S-25 District, the pool house will be located to the rear of the home and will be shielded from the streetscape and adjacent properties, similar structures have been approved in the S-25 District including 400 Heath Street (Case No. 2013-0006) and 1014 Boylston Street (Case No. 2014-007); (2) there will be no adverse effect on the neighborhood where the immediate abutters at 18 Pine Road are supportive of the proposal; (3) there will be no nuisance or serious hazard to vehicles or pedestrians; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) the project will have no effect on the supply on housing available for low and moderate income people.

Chairman Schneider called for public comment in favor of, or in opposition to the Petitioners' proposal. No one spoke in favor or in opposition.

Mr. Rosa delivered the findings for the Planning Board:

FINDINGS:

1. **Section 4.07 – Table of Regulations, Use #61 – Accessory Structure**

	Permitted	Proposed	Relief
Pool House	150 s.f.	221 s.f.*	Special Permit
Covered Seating Area		251 s.f.	

*Under **Section 2.07.1**, only the gross floor area inside the structure is counted because the built-in benches near the front entrance are not enclosed.

Mr. Rosa stated that the Planning Board had no objection to the construction of a pool cabana. He stated that the Planning Board supported special permit relief because of the large size of the lot and the minimal impact on the adjacent lot, which is also owned by the applicant. Therefore, the Planning Board recommended approval of the certified site plan by Guerriere and Halnon, Inc., dated 11/7/15 and architectural plans by Andrew Sidford Architects, dated 9/22/15, subject to the following conditions:

- 1) Prior to the issuance of a building permit, the applicant shall submit a final site plan and final elevations and floor, plans 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 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 and floor plans stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

Chairman Schneider requested that the Petitioners revise the conditions to include the record grade level on the elevations. Ms. Schneider also requested corrected sheet titles.

During deliberation, Board Member Book stated that he found the Petitioners' relief to be "practically de minimus" because the substantial lot size could easily accommodate the modest pool house. Board Member Hussey concurred.

Chairman Schneider stated that the lot can clearly support the pool house with limited impact on neighboring properties. She further stated that the standard for special permit relief are satisfied in accordance with Zoning By-Law **Section 9.05**.

The Board then determined, by unanimous vote, that the requirements for special permit relief for **Section 4.07** pursuant to **Section 9.05** were met. The Board made the following specific findings pursuant to said **Section 9.05**:

- 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.

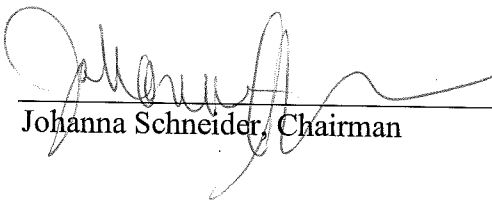
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have any effect on the supply of housing available for low and moderate income people.

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

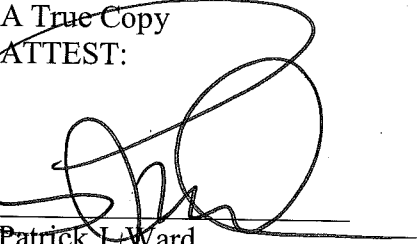
- 1) Prior to the issuance of a building permit, the applicant shall submit a final site plan, final elevations including the record grade level, and final floor plans that include accurate sheet titles, subject to the review and approval of the Assistant Director of Regulatory Planning.
- 2) Prior to issuance of a building permit, the applicant shall submit 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 and floor plans stamped and signed by a registered architect; and 3) evidence the decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals

Filing Date: 4/7/16



Johanna Schneider, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

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