



**BOARD OF APPEALS**  
Jesse Geller, Chair  
Johanna Schneider  
Lark Jurev Palermo

# *Town of Brookline*

## *Massachusetts*

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Benjamin Kaufman, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2022-000066  
50 THORNDIKE STREET

Petitioner and owner, Patrick Bonebrake, pursuant to G.L. c. 40A, §9 and Zoning By-Law §9.07, applied to the Board of Appeals for an extension of special permit No. 2021-0040 for construction of an addition and new garage. Pursuant to G.L. c. 40A, §9, the Board of Appeals considers such applications without the necessity of Planning Board review.

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 October 27, 2022 at 7:00 PM, for a virtual public hearing as the date, time and place of a hearing for 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 October 13, 2022 and October 20, 2022 in the Boston Globe, a newspaper with a wide circulation in the Town of Brookline. A copy of said notice is as follows:

### Notice of Hearing

**TOWN OF BROOKLINE - Zoning Board of Appeals**  
**NOTICE OF HEARING**

The Brookline Zoning Board of Appeals will hold a public hearing on

**Date/Time:** Thursday, October 27, 2022

**Location:** Virtual Hearing

**Virtual Registration Link:** <https://bit.ly/3ehBI4Y>

**Petitioner:** Patrick D. Bonebrake

**Address:** 50 Thorndike Street

**Subject:** Extension of special permit # 2021-0040 for construction of addition and new garage

**Nature of Action/Relief:**

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.60 - SIDE YARD REQUIREMENTS

§5.70 - REAR YARD REQUIREMENTS

§8.02 - ALTERATION OR EXTENSION

*Plans and submissions may be viewed online at*

*<https://brooklinema.gov/DocumentCenter/Index/2352>*

*Interested persons may provide comments at the public hearing or by submitting written comments by email to [manthony@brooklinema.gov](mailto:manthony@brooklinema.gov).*

**Assistive Listening Devices** are available upon request:

**<https://www.brooklinema.gov/560/Americans-With-Disabilities-Act-ADA>**

At the time and place specified in the notice, this Board held a public hearing.

Present at the hearing were Chair Johanna Schneider, and Board Members Paul Bell and Neal

Wishinsky. The case was presented by Attorney Scott C. Gladstone, 822 Boylston St., Suite 300, Chestnut Hill, Massachusetts 02467. Chair Schneider called the hearing to order at 7:00 p.m.

Attorney Gladstone waived the reading of public notice and explained the background of the case as follows: On September 23, 2021, after hearing, the Board of Appeals voted to grant special permit No. 2021-0040 for construction of an addition and new garage. The primary purpose of the addition was to install an endless performance pool (a pool with jets that allows

lap-style swimming in a small space) to facilitate physical therapy for Mr. Bonebrake's degenerative disorder. Per the special permit, the attached therapeutic pool room displaces an existing garage, which will be replaced with a similar two-car garage positioned in front of the therapeutic pool room (as you view the house from the street).

The Decision granting the Special Permit was filed with the Town Clerk on October 13, 2021.

Attorney Gladstone explained that Petitioner is requesting a one-year extension of the special permit because although the Petitioner has worked diligently over the last year to find a qualified contractor who can handle the home renovation and install the new garage as well as be able to install the endless performance pool, he has not found one in time to start prior to expiration of the special permit. Attorney Gladstone pointed to labor and supply chain issues related to Covid as the reason Petitioner is having trouble finding a qualified contractor.

Attorney Gladstone explained in his brief and in the hearing the standards of relief to be applied, saying: Consistent with G.L. c. 40A, §9, Zoning By-Law §9.07 states in pertinent part that "The Board of Appeals, upon written application and after due notice and a public hearing as provided by statute, may grant a time extension ... not to exceed one year for a special permit." The extension is counted from the day that the ZBA decision was filed with the Town Clerk, which in this case would be October 13, 2021. See generally *Grady v. Zoning Bd. Of Appeals of Peabody*, 465 Mass. 725 (2013).

Zoning Board of Appeals Chair Schneider invited the Board members to ask questions. There were no questions from the Board members or the Chair.

Zoning Board of Appeals Chair Schneider invited the public to make any comments in support or against the application. No one from the public spoke in favor or opposition.

Zoning Board of Appeals Chair Schneider called upon Madison Anthony, Zooning Coordinator/Planner for the Town of Brookline, to ask if there was a report from the Planning Department. Ms. Anthony stated that there was no report concerning the request for an extension, but noted that the Planning Board had issued a supportive report associated with the original special permit application.

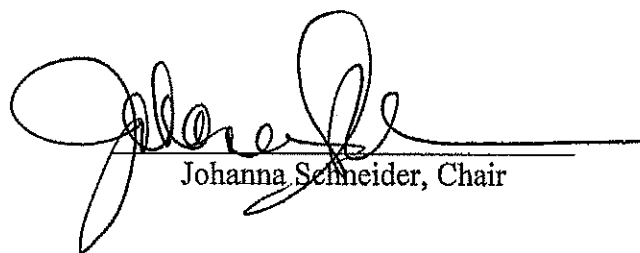
The Chair then called upon Paul Campbell to speak on behalf of the Building Department. Mr. Campbell reported that the Building Department has no comment and no objection to the requested extension.

In deliberations, Chair Schneider noted that under G.L. c. 40A, §9, the extension of one year could be granted for good cause shown and it is up to the Board to make that determination. Mr. Wishinsky stated that during this time of coming out of Covid, it is difficult to find contractors and that, therefore, the request for an extension was justified. Mr. Bell stated that he believed the request for an extension was justified and reasonable. Mr. Bell observed that a lot of work went into the initial approval and that he did not believe that there has been any change in condition that would justify denial of the request. Chair Schneider expressed full agreement with the comments of Mr. Bell and Mr. Wishinsky, finding that just cause had been established.

The Board of Appeals then determined by unanimous vote that the requirements for an extension of the Special Permits issued in Case No. No. 2021-0040 have been met and that the request for a one-year extension to October 13, 2023 is granted.

Unanimous Decision of  
The Board of Appeals

Filing Date: 11/1/2022



Johanna Schneider, Chair

A True Copy

ATTEST

Benjamin Kaufman  
Clerk, Board of Appeals

