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TOWN OF BROOKLINE

Town of Brookline Massachusetts

BOARD OF APPEALS
Enid Starr, Co-Chair
Co-Chair Jesse Geller
Christopher Hussey

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

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0006

Petitioner, Pine Manor College, applied to the Building Commissioner for permission to construct a one story accessory structure (1,342 s.f.) on a single family home lot. The application was denied and an appeal was taken to this Board.

On January 10, 2013 the Board met and 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 February 21, 2013 at 7:30 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 (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 7, 2013 and February 14, 2013 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: **Pine Manor College**
Owner: **Pine Manor College**
Location of Premises: **400 Heath Street**
Date of Hearing: **February 21, 2013**
Time of Hearing: **7:30 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th Floor**

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

1. 4.07 Table of Use Regulations; Use #61

of the Zoning By-Law to construct a one story accessory structure (1,342 s.f.) on a single family home lot – contingent on the approval of land subdivision of BOA case #2012-0066.

Said premise located in an **S-40 Residential 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 Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

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 the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Enid Starr
Jesse Geller
Christopher Hussey**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Enid Starr, and Board Members Mark Zuroff and Christopher Hussey. The case was presented by Attorney Robert L. Allen, Jr., 300 Washington Street, Massachusetts. Also in attendance was Ellen Hurwitz, the acting president of Pine Manor College, and Pine Manor's counsel Louis Miller.

Chairman Starr called the hearing to order at 7:30 p.m. Attorney Allen stated that the petitioner wished to construct a single family home, domestic employee residence and a one story accessory structure on a single family home lot, contingent upon the approval of an ANR subdivision plan dividing 5.2 acres from the Pine Manor College campus. Mr. Allen explained that the matter before the Board is a companion to Case No. 2012-0066, which had been approved by the Board earlier in the evening. The petitioner's intent is to subdivide 5.2 acres of land from Pine Manor College and build a single family home with a domestic employee residence and a 1,342 square foot noncommercial accessory structure. The structure is anticipated to be a barn typology with wood clad walls, a stone base, zinc metal roof, windows and shutters.

Attorney Allen stated that the petitioner comes before the Board for relief under Section 4.07 of the Zoning Code, Table of Use Regulations #61, which requires that a special permit for any accessory structure greater than 150 square feet. Mr. Allen discussed the legal requirements for special permit under Section 9.05 of the Zoning By-Law. The specific site is an appropriate location for such use, structure, or condition. The lot is five times the minimum lot size for an S-40 zoning district. The use as developed will not adversely affect the neighborhood. The accessory structure is not visible from any public way and that a landscape plan would be submitted to the Assistant Director of Regulatory Planning to minimize any visibility form abutting homes. Further, the proposed use will not adversely impact the neighborhood and there will be adequate and appropriate facilities provided for the proper operation of the proposed use. Finally, the development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Attorney Allen stated that the Planning Board gave this application unanimous support and that there was no neighborhood opposition to this request. Attorney Allen stated that the applicant will be

providing to the Planning Department an extensive landscaping plan that will minimize any visibility of the structure or any abutting properties.

Board Member Hussey inquired as to the purpose of the accessory structure. Attorney Allen stated that the structure will be used as a personal wellness/fitness area.

Board Member Zuroff inquired how there can be an accessory structure when there are no plans for a house for it to be accessory to. Attorney Allen stated that the applicant presented a plan to the Building Department with a single-family home, a domestic employee's house, along with this accessory structure. The Building Department cited only the accessory structure. Attorney Allen also informed the Board that the reason for moving forward at this time was to streamline the process to ensure that the neighborhood, who were actively involved in the earlier Case No. 2012-0066, were aware of what relief would be required for the new lot, if approved. Chairman Starr stated that the Board has heard something similar before when the Runkle School requested parking relief w before detailed plans were filed. Chairman Starr stated that she generally had no problem with the request and its timing unless there was considerable opposition to it.

The Chairman asked whether anyone in attendance wished to speak in favor of or against the proposal. No one spoke in favor or in opposition to the proposal. Glenda Manzi, 150 Yarmouth Road, inquired as to the proposed setbacks of the accessory structure. Attorney Allen indicated that the requirement was six (6) feet and this would be greater than twenty (20) feet.

Polly Selkoe, Planner for the Town of Brookline, delivered the findings of the Planning Board.

FINDINGS

Section 4.07 – Table of Use Regulations; Use #61

Dimensional Requirements	Allowed	Proposed	Relief
Accessory Structure	150 s.f.	1,342 s.f.	Special Permit*

The Planning Board is supportive of the construction of this accessory structure. The proposed structure will be located on a property five times the minimum lot size for this zoning district and in an area that is not visible from Woodland Road. The Planning Board recommends that the applicant install landscaping to minimize any visibility of the structure from the abutting property directly to the west.

Therefore, if the Board of Appeals has approved the subdivision of land from Pine Manor College, the Planning Board recommends approval of the accessory structure on a 5.2 acre single family house lot, per the elevations by Landry Design Group, 1/7/13, and the site plan by Whitman & Bingham Associates, LLC, 11/20/2012, subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit final floor, elevation and site plans, subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan, 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 building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision and the Approval Not Required Subdivision Plan have been recorded at the Registry of Deeds.

The Chairman then called upon Michael Yanovich, Head of the Building Department, to deliver the comments of the Building Department. Mr. Yanovich stated that he had no objections to the proposal and that he feels the proposal is reasonable considering the size of the lot and the proposed setbacks. The Building Department supported granting relief.

The Board, having heard all the testimony, deliberated on the merits of the application. Chairman Starr stated that all the elements for a special permit under Section 9.05 have been met. Chairman Starr began by stating that she felt all the conditions of the Special Permit had been met and

that the proposed landscaping was adequate to ensure that the structure would not adversely affect the neighbors. Board Members Zuroff and Hussey concurred with Chairman Starr and reiterated that the elements for special permit were met and relief was appropriate.

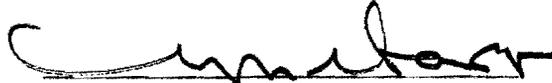
The Board then determined, by unanimous vote that relief by special permit under Section 9.05 of the Zoning By is appropriate. The Board made the following specific findings pursuant to said Section 9.05 of the Zoning By-Law:

- 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.
- e. The development as proposed will not have a significant adverse 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:

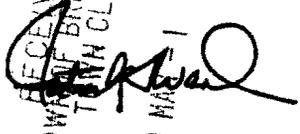
- 1. Prior to issuance of a building permit, the applicant shall submit final floor, elevation and site plans, subject to the review and approval of the Assistant Director for Regulatory Planning.**
- 2. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan, subject 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 building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision and the Approval Not Required Subdivision Plan have been recorded at the Registry of Deeds.**

Unanimous Decision of
The Board of Appeals


Enid Starr, Chairman

Filing Date: March 01, 2013

A True Copy
ATTEST



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MAR 1 10:00 AM '13

Patrick J. Ward
Clerk, Board of Appeals