



TOWN OF BROOKLINE

Massachusetts

BOARD OF APPEALS

DIANE R. GORDON, Co-Chair
HARRY MILLER, Co-Chair
BAILEY S. SILBERT

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Brookline, MA 02445
617-730-2010
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PATRICK J. WARD, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
NO. BOA060034

Petitioner, Beaver Country Day School, Inc. applied to the Building Commissioner for permission to construct an Athletic Center addition, including a new gymnasium and other associated facilities at 791 Hammond Street as per plans. The application was denied and an appeal was taken to this Board.

On May 25, 2006, 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 July 13, 2006 at 7:15 P.M. in the Selectmen's Hearing Room on the sixth floor of Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the petitioner, to his attorney, to the owners of 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 hearings were published on June 22 and June 29, 2006 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Petitioner: BEAVER COUNTRY DAY SCHOOL, INC.
Location of Premises: 791 HAMMOND ST BRKL

Date of Hearing: 7/13/06
Time of Hearing: 07:15 p.m.
Place of Hearing: Selectmen's Hearing Room, 6th floor

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

5.08/2; Exceptions to Dimensional Requirements for Uses 9 and 10;
Special Permit Required.

- 2) 5.30; Maximum Height of Buildings; Variance Required.
- 3) 6.02.1; Table of Off-Street Parking Space Requirements; Variance Required.
- 4) 6.02.4.c; Off-Street Parking Space Requirements; Special Permit Required.

Of the Zoning By-law to construct an addition for the Beaver Country Day School per plans
at 791 HAMMOND ST BRKL

Said premises located in an S-15 District

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 the 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.

Diane R. Gordon
Harry Miller
Bailey Silbert
Board of Appeals

On July 13, 2006, at the time and place specified in the notice a public hearing was held by this Board. Present were Enid Starr, Chair, Bailey Silbert and Sarah Sheldon.

The petition was presented by Attorney Kenneth B. Hoffman of the firm of Holland & Knight LLP, 10 St. James Avenue, Boston, MA 02116, on behalf of Beaver Country Day School. Mr. Hoffman presented the Board with documents from the Massachusetts Secretary of State consisting of the Articles of Incorporation dated November 24, 1920, evidencing that the School is a non-profit educational institution within the meaning of Massachusetts General Laws, Chapter 40A, §3, which modifies the

standard of review for the Board of Appeals when determining the zoning relief for the School's proposal to construct a new athletic center adjacent to the existing gymnasium. The standard required by statute is one of reasonableness rather than the strict application of the requirements set forth in the Zoning Bylaw. Beaver Country Day School is a co-ed school from 6th to 12th grade. A camp is held at the school in the summer. The site is approximately 15 acres, sloped, and bounded on the east by Hammond Street, on the south by Woodland Road and some single family houses, on the west by single family houses, and on the north by Holyhood Cemetery. The Chestnut Hill Shopping area is nearby on Boylston Street.

In this case, Mr. Hoffman informed the Board that the School is proposing to construct a new athletic center and that the proposal was anticipated by the School when it obtained zoning relief for the new Arts Wing completed with Town approval in 2003. At the time the Arts Wing was approved by the Board of Appeals, the Planning Board, in its report to the Board of Appeals dated March 13, 2003, noted that

“A future phase of work is being planned for the New Field House (26,000 s.f.) and a redesign of the parking, driving and drop-off areas for Beaver. The existing playfields will be upgraded and made wheelchair accessible. The new field house will be to the South of the existing New Gym and to the west of the main school building and will provide basketball, locker, shower, weight training and fitness facilities. On-site parking will be increased by approximately 30 cars.”

Mr. Hoffman stated that the School has complied with the requirements of Section of 9.11 of the Zoning Bylaw entitled “Administrative Site Plan Review.” By memorandum dated April 26, 2006 to the Building Commissioner, the Director of Planning and Community Development and the then Chief Planner stated that all the procedural requirements of Section 9.11, Administrative Site Plan Review for Educational Uses in Residential Districts have been met. The Administrative Site Plan process then permitted

the School to apply for a Building Permit and commence this appeal for relief related to height and setbacks.

Mr. Hoffman advised the Board that the School had sought and obtained from the Commonwealth of Massachusetts Historical Commission a determination of "no adverse effect" pursuant to 950 CMR, 71.007 (2)(B)(2). That finding was contained in a letter of March 22, 2006 to Attorney Hoffman from the Massachusetts Historical Commission. The letter was submitted to the Board of Appeals as part of the record.

Mr. Hoffman described the proposal on the following terms:

The new gymnasium will comprise an additional 24,125 s.f. and will connect through to the existing gymnasium. In addition to a large indoor activity area, the proposed gymnasium will contain locker rooms, a fitness room and offices for school staff. The gymnasium is proposed at 32.95' in height but will measure 38.9' from the mean grade of the abutting lot (Holyhood Cemetery). This is slightly less than the existing gymnasium. The new Athletic Center site plan includes a rearrangement and improvement of our current parking areas located to the south of the existing gymnasium and adds at least thirty (30) parking spaces overall. With its clearly defined parking areas and traffic aisles, the plan significantly improves vehicular circulation and traffic flow and creates a safer pedestrian environment.

Mr. Hoffman indicated that the relief for height and rear yard setback can be granted by Special Permit under Section 5.08.2 of the Zoning Bylaw, which would permit the Board of Appeals to waive dimensional requirements by Special Permit with respect to non-profit educational uses. The petitioner then presented through its architects the site plan and rendering of the proposed addition to the School by HMFH Architects, Inc., 130 Bishop Allen Drive, Cambridge, MA. The architect presenting the application was Arthur S. Duffy. Mr. Duffy, through visual aids, described the site plan and existing and

proposed conditions, including presentation of the profile and façade details and elevations of the proposed Athletic Center in relation to the other school buildings and the athletic fields adjacent. He described the height calculation using the calculations based on paragraph 5.30.1.c and figure 5.05(3) of the Zoning Bylaw. While the height of the gymnasium portion of the Athletic Center is 32.95' above the adjacent existing grade to the east, south and immediate west, due to the existing grade quickly sloping down toward the western edge of the property abutting the Holyhood Cemetery, the height of the new gym is 38.9 feet measured according to Illustration (3) in Figure 5.05 of the Zoning Bylaw. The height of the portion of the building closest to the cemetery is half as much, approximately 12.5' from the immediately adjacent grade and 18.12' above the grade at the property line. All portions of the proposed building are less than the roof ridge of the existing gym.

He illustrated the request for relief of the rear yard setback which is located at the property line with the intersection of the Holyhood Cemetery and the athletic fields. The setback distance as proposed is 16 ft. The existing setback is 19.1 feet and the required is 50 ft. for the rear yard. However, since the rear yard in this case is adjacent to the Holyhood Cemetery lot line and the Beaver athletic fields, the reduction in the rear lot line has no practical impact on the quality of rear yard distances to adjacent buildings.

The Planning Board comments were presented by Polly Selkoe, Assistant Director for Regulatory Planning, as contained in its report to the Board of Appeals dated June 29, 2006.

The Planning Board supports this proposal to construct a new gymnasium at Beaver Country Day School. The proposal is lower in height than the existing gymnasium and is compatible with that structure and the remainder of the school. The setback relief requested is adjacent to Holyhood Cemetery and therefore will have minimal impact. The re-organization of the parking lot will provide additional parking for events, competitions in the gymnasium and for the school as a whole. This will be a marked improvement over the existing parking conditions on site.

Therefore, the Planning Board recommends approval of the requested special permits for the plans entitled "Beaver Country Day School, New Athletic Center" prepared by HMFH Architects in and dated June 29, 2006, subject to the following conditions:

1. A final site plan, including landscaping and parking layout, shall be submitted for review and approval of the Assistant Director for Regulatory Planning before a building permit is issued.
2. A construction management plan, including parking locations for construction vehicles, shall be submitted for review and approval of the Transportation Director, with a copy to the Planning Department, before a building permit is issued.
3. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: a) a final set of elevations stamped and signed by a registered architect, and b) evidence that the Board of Appeals decision has been submitted to the Registry of Deeds.

The Building Commissioner through its representative, Frank Hitchcock, advised the Board that the Building Department had no objection to the application and relief sought nor any objection with the proposed conditions suggested by the Planning Board. Mr. Hitchcock noted that many of the buildings on the site were much higher than the proposed building for the Athletic Center and that if you viewed other similar non-profit secondary schools in Brookline, you will find that because of the topography of the lots the calculation under paragraph 5.30.1.c of the Zoning Bylaw is not an appropriate limitation on height.

Accordingly, the Board having heard the presentation and the evidence presented, being cognizant of the standard review under Chapter 40A, §3, of the Massachusetts General Laws with respect to a non-profit educational institution, and having heard no objections to the proposal, unanimously recommends the grant of the Special Permit for the rear yard setback and building height under Section 5.08.2 of the Zoning Bylaw by waiving the required dimensional requirements in favor of those proposed by the applicant. The Special Permit is subject to the following conditions based upon plans entitled "Beaver

Country Day School New Athletic Center prepared by HMFH Architects in and dated June 29, 2006” :

1. A final site plan, including landscaping and parking layout, shall be submitted for review and approval of the Assistant Director for Regulatory Planning before a building permit is issued.
2. A construction management plan, including parking locations for construction vehicles, shall be submitted for review and approval of the Transportation Director, with a copy to the Planning Department, before a building permit is issued.
3. Prior to obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: a) a final set of elevations stamped and signed by a registered architect, and b) evidence that the Board of Appeals decision has been submitted to the Registry of Deeds.

Unanimous Decision of the Board of Appeals



Enid M. Starr, Chairperson

RECEIVED
TOWN OF BROOKFIELD
TOWN CLERK
2006 AUG 11 10:23

Filing Date: August 11, 2006

A True Copy:
ATTEST:



Patrick J. Ward
Board of Appeals