



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

# *Town of Brookline*

## *Massachusetts*

Town Hall, 1<sup>st</sup> Floor  
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Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2014-0069  
COOLIDGE FITNESS LLC

Petitioner, Coolidge Fitness LLC d/b/a Healthworks ("Petitioner"), applied to the Building Commissioner for a permit to expand the existing health club use to include an additional 2,671 sq. ft. located on the ground floor of the building located at 325 Harvard Street. 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. The Board then fixed the date of December 11, 2014 at 7:30 p.m. in the Selectmen's Conference Room on the sixth floor of Town Hall as the time and place of the hearing. Notice of the hearing was mailed to petitioners and their attorney, (if any of record), to 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 hearing was published on November 20, 2014 and November 27, 2014 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice as follows:

**TOWN OF BROOKLINE  
BOARD OF APPEALS**

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:

**325 HARVARD ST – EXPAND EXISTING GYM by 2,671 SQ FT in a G-1.75 (CC), GENERAL BUSINESS district on December 11, 2014, at 7:30 PM in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner: McCarthy Dennis; Owner: WELD, ET AL TRS EDWARD W C/O HUNNEMAN MANAGEMENT CO) Precinct 8**

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

**1. Modification of BOA case #2010-0015, April 8, 2010**

*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](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 Town programs and services may make their needs known to **Robert Sneurson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneurson@brooklinema.gov](mailto:rsneurson@brooklinema.gov).***

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

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

Members present were Chairman Jonathan Book, Johanna Schneider and Christopher Hussey.

The Petitioner was represented by Gary P. Lilienthal of Bernkopf Goodman LLP, Two Seaport Lane, Boston, MA 02210. Mr. Lilienthal waived the reading of the public notice.

Mr. Lilienthal introduced the team which had been assembled for the project as follows:

Mark Harrington and Matthew Harrington, principals of the Petitioner, and Dennis McCarthy, the project architect with PDA Associates.

Mr. Lilienthal briefly outlined the application. The Petitioner seeks a modification of the special permits which the Board issued in 2010 which allowed for a Healthworks facility to open and operate as a health and fitness club on the second floor at this location. The modification to the special permits being requested will allow for the expansion of the existing Healthworks facility into approximately 2,600 sq. ft. on the first floor of the building in space which was previously occupied by the Relax the Back store, which is currently vacant. Mr. Lilienthal stated that the entrance to the additional space shall be through the current Healthworks street level entrance. Mr. Lilienthal stated that the current tenants on the first floor of the Building include Zaftigs Delicatessen, Mr. Sushi, Crew International, and Citizens Bank, and that these businesses and many other residents of the Town of Brookline and neighboring Cities and Towns have signed Petitions in support of the expansion. Copies of the Petitions were provided to the Board in advance of the hearing.

Mr. Lilienthal then provided a summary of the 2010 hearing before the Board concerning the initial approval of the special permits for the Healthworks use at this location. At that time, Healthworks proposed to take over a vacant and previously closed bookstore which had occupied 15,000 sq. ft. of the second floor of the building. The proposed activities included building infill, addition of windows, modification of rooftop facilities and a full rehabilitation and use of the second floor as a women's fitness club. In 2010, the Planning Board and the Board of Appeals conducted an in-depth review of Healthworks' plans to open its then third Brookline location. As a result of that hearing, a series of Special Permits were issued and Healthworks opened in January of 2011. Since then the health club has performed well and has helped attract additional people to the Coolidge Corner business district.

Mr. Lilienthal stated that approval of the current application before the Board will allow Healthworks to address an issue which has arisen concerning noise transmission within the building. Fitness and yoga classes are currently conducted over the Citizens Bank space, resulting in some noise transmission into the bank's space. Due to the present vacancy of the Relax the Back space located on the first floor, Healthworks has the opportunity to address this issue by leasing the former Relax the Back space and moving its fitness and yoga classes to the first floor. The project Architect, Dennis McCarthy of PDA Associates, discussed the physical aspects of the proposed expansion of the existing Healthworks use.

Mr. McCarthy summarized the current layout of Healthworks' facility at the property and the location of the proposed space for the expansion of the health club. The access to the expansion space will be internal to the premises and no new entrance will be added to the streetscape. A sound consultant, Cavanaugh Tocci Associates, was employed by the Applicant to develop a plan to mitigate noise issues within the building. Mr. McCarthy then stated that approval of the application will also result in a reduction in the amount of signage on the exterior building, thus improving the streetscape of the property. Board Member Hussey asked whether the current entrance to the property will be the only access or whether a new door will be added. Mr. McCarthy responded that the current entrance will remain the sole means of exterior access to the club and that all access to the proposed expansion space will be internal to the club. Board Chair Jonathan Book then asked whether the expansion of the strength training area into the area previously used for the fitness studio will present similar noise concerns. Mr. McCarthy responded that the Applicant did not anticipate similar noise issues and was taking steps to address any potential concerns, by adding additional padding to the floors and other preventative measures.

Mr. Lilienthal then addressed the manner in which the Application satisfies the Special Permit criteria under the Brookline Zoning By-Law. He stated that the specific site is an appropriate location for this use, structure and condition. The site is located in the General Business – Coolidge Corner zoning district, a commercial district, and compliments the surrounding uses and the residences in the abutting districts. Mr. Lilienthal noted that in 2010, Healthworks demonstrated to the Board that it would satisfy all design review standards under §5.09 of the Brookline Zoning By-Law. This proposal will not alter or affect any of the previously reviewed conditions. Mr. Lilienthal stated that Healthworks does not foresee any material change in the scope of its operation as a result of the approval of this request for expansion. In describing how the use as developed will not adversely affect or be a detriment to the neighborhood, Mr. Lilienthal noted that during its four years of operation, Healthworks has provided the local community with a first rate health club in a convenient location and has maintained a viable and productive use of this second floor space while attracting customers to the Coolidge Corner area. Additionally, Mr. Lilienthal stated that the expansion of the health club use to the first floor is designed to alleviate concerns of other tenants within the building. He noted that there will be no modifications to the exterior of the building except for the visibility of first floor space window treatments. Mr. Lilienthal then stated that there will be no nuisance or serious hazard to vehicles or pedestrians. Specifically, he stated that the expansion of use is merely to accommodate a relocation of certain activities to the first floor to avoid disturbing other tenants within the facility. This expansion is not expected to alter the current membership of the facility. Additionally, as part of its review of this application for modification, the Planning Board found that approval of this application will have minimal traffic impacts on the surrounding area, as most activity at this location occurs after 6:00 P.M.

Mr. Lilienthal stated that there has been no inconvenience or hazard posed to the operation of the Devotion School next door and approval of the expansion will not change this fact. Mr. Lilienthal also noted that the applicant has been and will continue to make available a T-Pass program for its employees. Mr. Lilienthal then stated that adequate and appropriate facilities will be provided for the proper operation of the proposed use. Specifically, the proposed expansion of the Healthworks facility will serve to allow the owner to provide appropriate facilities for its continued operation at this location. Finally, Mr. Lilienthal stated that the development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people. He noted that the project site is located within a commercial district and the building is used exclusively for a commercial use. In its review of the Application, the Planning Board had asked for a number of conditions if the Board grants the requested relief. Healthworks is comfortable with all of those conditions with one requested clarification. For reasons of the privacy of its members during yoga and fitness classes, Healthworks plans to screen from the street the activities on the first floor. Healthworks was going to use opaque frosting, but after its hearing with the Planning Board, Healthworks is willing to use semi-transparent treatments or panel art for this purpose. The Planning Board has requested that the review of the streetscape be reserved to it. Healthworks would request that this review be done by the Planning Department so as not to require scheduling an actual meeting with the Planning Board.

Ms. Schneider asked whether the Applicant anticipated the expansion of the health club use to increase the demands on parking in the neighborhood. Mr. Lilienthal responded that the Applicant did not anticipate the expansion to increase the membership at the facility. Mark Harrington, one of the principals of Healthworks, noted that the membership has been consistent,

with a slight decline, since the opening of the facility. He stated that the expansion is being undertaken to provide services for its existing membership and not to increase the number of members at the club. Ms. Schneider then asked whether the Applicant was aware of any community opposition to the proposed expansion. Mr. Lilienthal stated that they were not aware of any opposition to the expansion and noted the numerous signatures submitted to the Board in support of the proposal.

The Chair then asked for anyone in favor of the application who wished to be heard and no individuals spoke. The Chair then asked for comments in opposition from interested parties and no individuals spoke.

The Chair then requested that the recommendation of the Planning Board be read. The Planning Board recommended that the application be approved with certain conditions. The Planning Board did not think that the expansion of the health club would have a significant impact on the current traffic and parking conditions at the site and recommended approval subject to four conditions.

The Board then requested that the recommendation of the Building Department be presented. The Building Department recommended approval of the application.

The Board then commenced deliberations.

Mr. Hussey stated that while he was in favor of the proposed expansion, he was uncomfortable removing the Planning Board condition requiring a full hearing to review any proposed screening of the glass at the first floor level. Ms. Schneider concurred with Mr. Hussey and stated that she supported the application but did not wish to modify the Planning Board's proposed recommendations. The Chair concurred with the other members and stated that the Planning Board conditions should remain unmodified and the Applicant will need to appear

before the Planning Board for approval of its screening of the windows.

The Board then made its findings and decision.

## **FINDINGS**

The Board finds that there will be no detriment to the public nor derogation from the intent of the By-law in modifying BOA case #2010-0015 as requested to apply the special permits issued under said decision to the expansion space located on the first floor. The Board further finds that the expansion of the health club use is not inconsistent with the public interest and finds that the Petitioner should be granted the right to expand the health club use in the manner requested.

The Board made the following specific findings pursuant to **Section 9.05**:

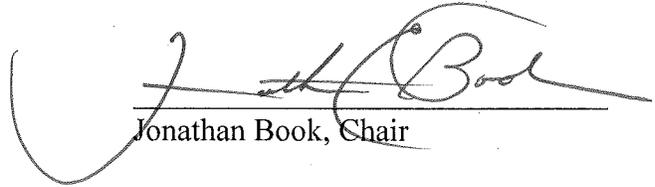
- a. The specific site is an appropriate location for such a use, structure or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

The Board, having heard all testimony, and after review of the plans submitted, and making the findings set forth above, voted unanimously, to modify the special permits issued under **BOA case #2010-0015**, to allow for the proposed expansion of the existing health club use with the following conditions as recommended by the Planning Board:

1. Prior to issuance of a building permit, final plans and elevations of the building shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to issuance of a Certificate of Occupancy, the health club shall implement a subsidized employee T-pass program, and evidence of the implementation of such a program shall be submitted to the Assistant Director for Regulatory Planning.

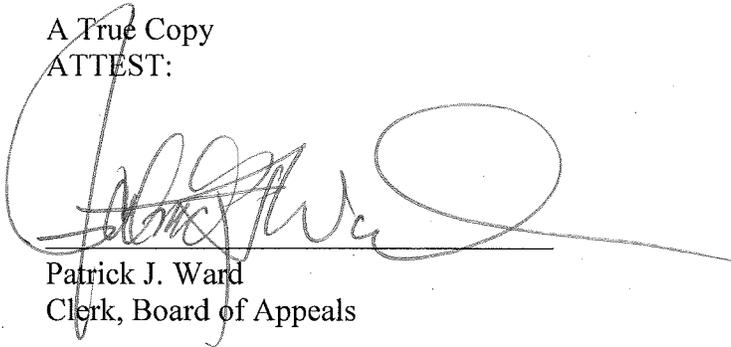
3. Prior to issuance of a Certificate of Occupancy, the health club shall return to the Planning Board for review and approval of any screening of the windows.
4. Prior to obtaining a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) final floor plans stamped and signed by a registered architect or land surveyor, and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

**Unanimous decision of the  
Board of Appeals**

  
Jonathan Book, Chair

Filing Date: 1/6/15

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals

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TOWN CLERK

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