



TOWN of BROOKLINE
Massachusetts

BOARD OF APPEALS

**TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 060037**

Petitioner, Boston Development Group, on behalf of Hammond-Heath LLC., applied for a one year time extension of BOA Case No. 050015 to construct a two building residential development of 59 units with underground parking at 540-560 Heath Street.

On June 15, 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 20, 2006, at 7:00 p.m., as the time and place of a hearing on the appeal in the Selectmen's Hearing Room on the sixth floor of the Town Hall. Notice of the scheduled hearing was mailed to the Petitioner, to his 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 scheduled hearing was published June 29, 2006 and July 7, 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**

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: HAMMOND HEATH TWO LLC
Location of Premises: **540 HEATH STREET BRKL**
Date of Hearing: **07/20/2006**
Time of Hearing: **7:00 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th. Floor**

A public hearing will be held for a modification of Board of Appeals Case No. BOA050015 dated August 3, 2005

of the Zoning By-Law to extend time period one year

at **540 HEATH ST BRKL.**

Said Premise located in an **M-1.0** 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 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**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chair, Harry Miller and board members Murray Shocket and Bailey Silbert.

Petitioner was represented at the hearing by Attorney Jeffrey P. Allen of Seegel, Lipshutz & Wilchins, P.C.

At the hearing, Tim Greenhill, Planner of the Planning Department distributed the Planning Board Report dated June 29, 2006. Mr. Allen then described the factual background for the petition as follows:

The property, located in the Chestnut Hill area, used to consist of a parking lot, several commercial garages and three multi-family dwellings. The area is primarily residential with a commercial area on Route 9, a block away. The Chestnut Hill "T" stop is close by.

The petitioner, John Meunier, Vice President of the Boston Development Group ("BDG") d/b/a First General Realty Corp., is requesting a one-year time extension of Board of Appeal Decision No. BOA050015 to construct a two building residential development of 59 units with underground parking. BDG acquired the property in January 2006 from Jack Sullivan, Hammond Heath Two LLC. BDG will shortly be proposing some minor façade changes, which will come back to the Planning Board for review and approval, and the neighborhood will receive public notice of the Planning Board meeting.

Mr. Allen explained that a one-year time extension may be granted for a special permit and/or variance pursuant to Section 9.07.

The Chairperson, Mr. Miller, asked if any of the members of the public wished to speak in support or in opposition of the petitioner's request for a time extension. Barbara Coffin of 677 Hammond Street asked to be heard. Mrs. Coffin stated that she represented all the abutters to the property; that the developer met with the neighbors and that the abutters support the request for an extension of time subject to the conditions recommended by the Planning Board.

Tim Greenhill, on behalf of the Planning Board, gave the following report:

The Planning Board has no objection to the requested one year time extension since the new owner needed time to finalize the plans and make the floor plans consistent with the window openings. Therefore, the Planning Board

recommends approval of the time extension at 550 Heath Street for one year, subject to conditions.

Frank Hitchcock, Senior Building Inspector, spoke on behalf of the Building Commissioner. He restated the various sections of the Zoning By-Law under which relief is needed. The Building Department has no objections to the petitioner's request for a time extension.

The Board having deliberated on this matter and considered the foregoing testimony concludes that it is desirable to grant the petitioner's request for a one year time extension of Board of Appeal Case No. BOA050015, subject to the following conditions:

1. Final design of facades, fenestration, colors, materials, and rooftop details shall be subject to the review and approval of the Planning Board before a building permit is issued.
2. Final site plan, including landscaping on the property, fencing, mechanical equipment location, exterior lighting, and parking layout (both in the garage and at grade) shall be subject to the review and approval of the Planning Board before a building permit is issued. In regard to the landscaping, the developer shall submit a maintenance plan for said landscaping to the Assistant Director of Regulatory Planning who shall approve said plan prior to the issuance of a Certificate of Occupancy.
3. Final design of the configuration of Hammond/Heath Street intersection, design and operation of the access driveways and curb cuts, signage and landscaping on the public way (adjacent to the property) shall be subject to the review and approval of the Transportation and Engineering Director before a building permit issued.
4. There shall be no left hand turns out of the driveway onto Hammond Street Monday through Friday between the hours of 7:00 a.m. and 9:00 a.m. the developer shall, in consultation with the Town of Brookline Traffic Department, develop appropriate signage to enforce the aforementioned restriction. The Director of Transportation shall have the right to require additional signage or any other mechanism to enforce this restriction if at any time it is deemed necessary. The terms of this condition shall be in the condominium documents and shall be binding on the condominium association.
5. Pursuant to the provisions of Section 4.08, Affordable Housing Requirements, the petitioner shall:
 - a. Provide eight two-bedroom and one three-bedroom affordable units (15% of the total project count of units with 15% of the total project count of

bedrooms), consistent with the Affordable Housing Plan dated July 11, 2006, attached to and made a part of this decision;

- b. Six affordable units shall qualify as low and moderate income housing under the Comprehensive Permit Law (Chapter 40B), including that they shall be sold to household with incomes less than or equal to 80 percent of area median income;
 - c. Three affordable units shall be sold to households with incomes less than or equal to 100 percent of area median income;
 - d. Sales prices shall be established such that a hypothetical household with 1.5 persons per bedroom and with an income set at 10 percentage points less than the applicable income limit would be paying 30 percent of gross income toward condominium fee, property taxes, and payments for a standard, fixed rate, thirty-year mortgage at 95 percent of sales price, assuming a current interest rate, but in no case less than 8 percent.
 - e. Each affordable unit shall be sold with the exclusive use of one parking space;
 - f. Affordable units shall have the same floor plan, finishes and appliances as market rate units except where the Director of Planning and Community Development specifically approves, in advance, a request for specific floor plans, finishes or appliances which differ;
 - g. No certificate of occupancy shall be issued for any market rate unit until (i) the Town has approved initial sales prices for the affordable units, condominium documents, and a marketing and selection plan for the affordable units which provides priority, as permitted by law and regulation, to Brookline residents, employees of the Town and the Brookline Housing Authority, and families with children in Brookline Public Schools, and (ii) all of the affordable units have obtained a certificated of occupancy; and
 - h. Affordable units shall be sold subject to a restrictive covenant to the Town of Brookline, permanently controlling the resale price and process for such units.
6. A construction management plan, including parking location for construction vehicles, employee vehicles, and portable toilets, and rodent control shall be submitted for review and approval by the Transportation and Engineering Director and Health Director, with an electronic copy of the approved plan submitted to the Planning Department for display on the Town's web site, before a building permit is issued.
7. A storm water management plan shall be submitted for review and approval by the Transportation and Engineering Director before a building permit issued.

8. Two temporary construction and/or development signs shall be allowed during the construction and initial sales period, with the design and colors of the sign subject to the review and approval of the Planning and Community Development Director. Each sign shall be no larger than 20 square feet.
9. Prior to the submission of construction drawings to the Building Commissioner for purposes of obtaining a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineering or land surveyor, including landscaping, fencing, grading, and location of utilities; 2) building elevations stamped and signed by a registered architect; and 3) evidence of submittal of the Board of Appeals decision to the Registry of Deeds.
10. The location of the foundations of Buildings One and Two shall be certified by a registered professional engineer or land surveyor to be in accordance with the approved site plan prior to issuance of a building permit for the balance of construction.
11. Complete as-built plans shall be prepared and certified by a registered professional engineer and/or registered architect to be in conformance with the approved plans and filed with the Building Commissioner, prior to the issuance of any occupancy permits.
12. All landscaping on the site and required street trees shall be planted subject to the review and approval of the Assistant Director of Regulatory Planning and the Tree Warden, prior to the issuance of any occupancy permits.

Unanimous Decision of
The Board of Appeals



Harry Miller

Filing Date: August 31, 2006
283780.1.3992.3500

A True Copy:

ATTEST:



Patrick J. Ward
Board of Appeals