



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

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2014-24  
1285 BEACON INVESTORS, LLC

Petitioner, 1285 Beacon Investors, LLC, applied to the Building Commissioner for permission to include overnight parking in the existing underground garage structure at 1285 Beacon Street, Brookline, Massachusetts.

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 June 12, 2014 at 7:45 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for 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 June 5, 2014 and June 12, 2014 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: **1285 BEACON STREET LLC, C/O ROBERT SCHLAGER, MANAGER**  
Owner: **1285 BEACON STREET LLC**  
Location of Premises: **1285 BEACON STREET**  
Date of Hearing: **JUNE 12, 2014**  
Time of Hearing: **7:45 PM**  
Place of Hearing: **SELECTMEN'S 6<sup>TH</sup> FLOOR CONFERENCE ROOM**

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

1. **Section 4.07: Table of Use Regulations, Use #22a**
2. **Section 6.02.1.c: Off Street Parking Space Regulations**
3. **Modifications to BOA Case #030035 – January 22, 2004; BOA Case #050012 – February 17, 2005; and BOA Case #070048 – November 13, 2007 as necessary.**

of the Zoning By-Law to **ADD OVERNIGHT PARKING TO EXISTING PARKING LOT FOR ABUTTING RESIDENCES at 1285 BEACON STREET.** Said Premises is located in a **G 1.75CC (General Business) Business 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 Office of the Town Clerk at 617-730-2007 or check the 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 programs and services of the Town of Brookline are invited to make their needs known to **Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).***

**Jesse Geller  
Jonathan Book  
Christopher Hussey**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Mark G. Zuroff, and Board Members Christopher Hussey and Johanna Schneider. The case was presented by the attorney for the Petitioner, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was Robert Schlager, a representative of the Petitioner 1285 Beacon Investors, LLC.

Chairman Mark G. Zuroff called the hearing to order at 7:45 p.m. Attorney Allen stated that the Petitioner proposes to add twenty-two (22) overnight residential parking spaces in the existing underground garage.

Attorney Allen presented to the Board a background of the Petitioner and the property, stating the following: 1285 Beacon Street is located at the corner of Beacon and Charles Street. Attorney Allen stated that the property recently changed ownership, but the two-story building still includes a health club and fitness center and a vacant retail space. Attorney Allen stated that since 2004, the Board of Appeals has granted relief on six occasions: in 2004, the Board of Appeals approved construction of a retail building with a single use over 10,000 square feet; in 2005, the Board of Appeals approved use of the second floor as a health club and later that year, granted an extension to construct a two-story retail building with underground parking; then in 2007, the Board of Appeals approved dual use of the underground parking for two years, with the option to renew; and finally in 2011, the Board of Appeals approved overnight residential parking. Attorney Allen stated there is a demand for overnight parking from neighboring residents, specifically due to harsh weather conditions.

Attorney Allen stated that there are currently forty-nine (49) parking spaces in the two-story underground parking lot. Attorney Allen stated that the original proposal included twenty-eight (28) overnight parking spaces, however, the Petitioner agreed to reduce the number to twenty-two (22) overnight parking spaces pursuant to comments made at the Planning Board hearing. Attorney Allen stated that the proposed hours for overnight parking will be from 7 p.m. to 8 a.m., seven days a week.

Finally, Attorney Allen discussed relief under Sections 4.07 and 6.02.1.c of the Zoning By-Law where a special permit is required under Section 9.05 of the Zoning By-Law. As for Section 9.05, (1) the specific site is an appropriate location because the proposed use is consistent with other commercial parking spaces in Coolidge Corner, the dual use will provide income for the property, and provide much

needed parking for residents in the area; (2) there will be no adverse effect on the neighborhood because the proposal will not affect the current use of the property, and the main tenant, Bodyscapes, is in support of overnight parking; (3) no nuisance or serious hazard to vehicles or pedestrians exists because the overnight parking will provide off-street parking during the evening hours; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) the development will have no effect on the supply on housing available for low and moderate income people.

Zoning Board of Appeals Chairman Zuroff asked the Petitioner to describe the egress of the garage. Mr. Schlager stated that there is access from Charles Street and when vehicles exit the garage, there will be a buzzer that alarms pedestrians when cars will exit the garage. Chairman Zuroff also asked whether the Petitioner will have a towing contract. Mr. Schlager stated that there will be a towing contract. Chairman Zuroff asked about the current use of the parking garage. Mr. Schlager stated that currently the garage is only used during the day for Bodyscapes' employees and customers.

Zoning Board of Appeals Member Schneider asked whether the existing parking for Bodyscapes' customers will conflict with overnight parking. Mr. Schleger stated that the plan is to phase the overnight parking by leasing 6-10 parking spaces initially and determining whether the lessees are complying with overnight parking hours.

Zoning Board of Appeals Chairman Zuroff asked if there was anyone present who wished to speak in favor of this application. Attorney Scott Gladstone, on behalf of the main tenant, Bodyscapes, at 1285 Beacon Street, withdrew a previously filed objection to the Petitioner's proposal and now expressed his support for the proposal with the conditions and modifications recommended by the Planning Board.

Zoning Board of Appeals Chairman Zuroff asked if there was anyone present who wished to speak in opposition to this application. No one spoke in opposition.

Timothy Richard, Planner for the Town of Brookline, delivered the findings of the Planning Board:

**FINDINGS:**

1. **Section 4.07: Table of Use Regulations, Use #22a – Not Applicable**
2. **Section 6.02.1.c – Off-Street Parking Space Regulations (Dual Use Parking)**  
A special permit is required for dual use parking. The number of spaces in a common parking facility for two or more uses may be reduced below the sum of the spaces required for each use individually if it can be demonstrated to the Board of Appeals that the hours or days of peak parking need for the uses are so different that a lower total will provide adequately for all uses served by the facility.
3. **Modification of BOA Case #2003-0035, January 22, 2004 and BOA Case #2005-0012, February 17, 2005, and Case #2013-0076 as necessary.**

Mr. Richard stated that the Board is not opposed to the proposal to allow for 28 overnight parking spaces at 1285 Beacon Street. Mr. Richard stated that the Board is typically supportive of proposals for overnight parking in garages to meet the needs of parking in the neighborhood because of the overnight on-street parking ban in Brookline. Mr. Richard stated that the applicant and tenants of the building have agreed to reduce the number of overnight parking spots to 22, which the Board finds to be a reasonable concession. Therefore, Mr. Richard stated should the Board of Appeals finds that the applicant meets the requirements for a special permit, the Planning Board recommends 22 spaces for overnight parking with the following conditions:

1. Prior to the initiation of shared parking, the applicant shall submit a final parking lot plan showing the specific spots designated for overnight parking, subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Overnight leased parking to residential neighbors shall be limited to 22 spaces in the garage and to the hours of 7 p.m. to 8 a.m., seven days a week. If it becomes apparent that there is not adequate parking for users of the building, this number shall be reduced accordingly.

The Chairman then called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Chief Building Inspector Michael Yanovitch, stated that the Building Department had no objections to the relief sought under this application. Mr. Yanovitch stated that **Section 4.07: Table of Use Regulations, Use #22a** of the Zoning By-Laws should be taken into consideration because there will be an additional use to the property, which will include overnight residential parking. Chairman Zuroff agreed that **Section 4.07: Table of Use Regulations, Use #22a** was applicable and will be considered for relief.

In deliberation, Zoning Board of Appeals Member Johanna Schneider stated that she was in support of the relief requested and agreed with Mr. Yanovitch that relief for **Section 4.07: Table of Use Regulations, Use #22a** was applicable. Zoning Board of Appeals Member Hussey stated support for the relief. Zoning Board of Appeals Chairman Zuroff stated that he was in support of the relief requested.

The Board then determined, by unanimous vote that the requirements for a special permit for **Section 4.07, Use #22** and **Section 6.02.1.c** were met and that Modification of BOA Case #2003-0035, January 22, 2004 and BOA Case #2005-0012, February 17, 2005, and Case #2013-0076 was necessary.

The Board made the following specific findings pursuant to said **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.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. **Prior to the initiation of shared parking, the applicant shall submit a final parking lot plan showing the specific spots designated for overnight parking, subject to the review and approval of the Assistant Director of Regulatory Planning.**

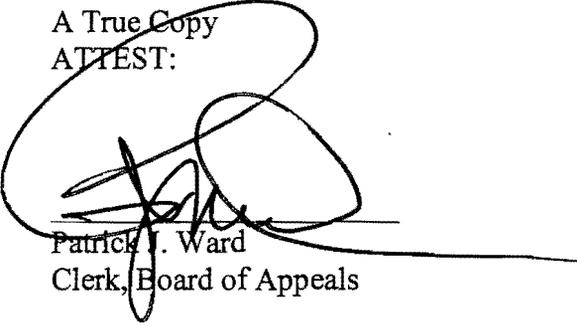
2. **Overnight leased parking to residential neighbors shall be limited to 22 spaces in the garage and to the hours of 7 p.m. to 8 a.m., seven days a week. If it becomes apparent that there is not adequate parking for users of the building, this number shall be reduced accordingly.**

Unanimous Decision of  
The Board of Appeals

Filing Date: 7/3/14

  
Mark G. Zuroff, Chairman

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals