



# Town of Brookline Massachusetts

BOARD OF APPEALS  
Jesse Geller, Chairman  
Jonathan Book  
Christopher Hussey

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Brookline, MA 02445-6899  
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Patrick J. Ward, Clerk

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TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2015-0066  
THE GROWTH COMPANIES, INC.  
1244 BOYLSTON STREET, BROOKLINE, MA

Petitioner, The Growth Companies, Inc., applied to the Building Commissioner for permission to construct a 414 square foot office addition. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the property affected was that shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed November 10, 2016 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 October 27, 2016 & November 3, 2016 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. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at: 1244 Boylston Street to construct a 414 Square foot office addition in A G2.0 (General) Business District, on November 10, 2016 at 7:00 PM in the 6<sup>th</sup> Floor Selectmen's Hearing Room (Petitioner/Owner: Durban Trust C/O The Growth Companies) *Precinct 15*.

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

1. Section 5.09.2.a: Design Review
2. Modification, as necessary, of BOA cases 2396 (July 1980); 2396A, 2396B (November 1983), 2396C, # 2830 (January 1987), #2896 (June 1988), #3399 (June 1997), #3399-a (October 1998)
3. Any additional relief the Board may find necessary

*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 programs and services of the Town of Brookline are invited to make their needs known to Lloyd Gellineau, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone (617) 730-2328; TDD (617) 730-2327; or e-mail at [llgellineau@brooklinema.gov](mailto:llgellineau@brooklinema.gov)*

**Jesse Geller, Chair**  
**Christopher Hussey**  
**Jonathan Book**

At the time and place specified in the notice, the Zoning Board of Appeals held a public hearing. Present at the hearing was Chairman Jonathan Book and Board Members Christopher Hussey and Steve Chiumenti. Zoning Coordinator, Ashley Clark was also present at the hearing. 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. Present on behalf of the Petitioner was Development Manager, Alex Bardin, The Growth Companies, 1234 Boylston Street, Chestnut Hill, MA 02467 and Senior Principal, Larry Grossman, Stantec, 311 Summer Street, Boston, MA 02210.

Chairman Book called the hearing to order at 7:00 pm. Attorney Allen waived the reading of the public hearing notice.

Attorney Allen stated that 1244 Boylston Street is located in the G-2.0 District. Attorney Allen stated that the property is about 52,500 square feet and includes 260 parking spaces. Attorney Allen stated that the Petitioner proposes to construct a 414 square foot addition as an extension to the front of the existing façade. Attorney Allen stated that the goal of the proposal is to define the front of the building. He stated that the proposed addition would serve as new commercial space.

Attorney Allen stated that the Petitioner seeks relief from a series of Board of Appeals decisions for this property, ranging from 1980 to 1998 that relate to office space and parking, none of which, he stated, prevent the construction of additional office space. Attorney Allen stated that the requested relief does not necessitate the need for additional parking. Attorney Allen stated that the Petitioner is also cited for Design Review under **Section 5.09.2.a** of the Zoning Bylaw. Attorney Allen stated that the existing area gets lost in the façade and that there were some concerns about the safety of the crosswalk, which the proposal aims to address.

Larry Grossman, architect for the Petitioner, reviewed the plans with the Board. Mr. Grossman stated that there is existing open space that the Petitioners would like to fill in order to increase safety and bring the front door to the street. Mr. Grossman stated that there is a large existing curb cut and that the proposal will incorporate a new flush curb reading across that will be more centric to pedestrian. Mr. Grossman stated that the addition will be set back three feet from the property line. Mr. Grossman stated that the 3 foot setback will bring the addition forward and will be in line with the remainder of the building to the east and west. He stated that the proposal maintains the scale of the existing building and that the addition will be in line with the building above and will be diminutive to the building to the right and to the left. Mr.

Grossman stated that the addition will maintain the vocabulary of the material used on the existing building.

Attorney Allen then reviewed the applicable standards under **Section 5.09.2.a** – Design Review stating: a. Preservation of Trees and Landscape: The proposal removes some existing landscape area which is a tradeoff to increase pedestrian safety. He stated that the Petitioner will add planters in the front of the building; b. Relation of Buildings to Environment: There are very few “natural” features on site currently which are carried over to the proposed addition; c. Relation of Buildings to the Form of the Streetscape and Neighborhood: The massing will remain consistent and the addition will be blended in to the existing building through new materials.

Attorney Allen then discussed special permit relief under **Section 9.05** of the Zoning By-Law arguing: (1) the specific site is an appropriate location for the proposed use because the addition is located on a commercial block and will fill in an existing blank space in front of the building; (2) the use will not adversely affect the neighborhood because it will not be located near any of the property’s residential abutters at the rear and no neighbors have expressed opposition; (3) there will be no nuisance or serious hazard to vehicles or pedestrians because the property has ample parking to support the new office space, and it will not interfere with existing ingress and egress conditions; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use; and (5) there will be no effect on the supply on housing available for low and moderate income people.

Attorney Allen stated that the Planning Board granted unanimous support. Mr. Allen stated that the Planning Board asked the Petitioners to implement a visual pedestrian warning light. The Planning Board also asked the Petitioner to explore the option of installing a dedicated loading

zone in front of existing mailboxes at 1244 Boylston Street. Currently delivery trucks double park in the middle of the cross-walk which creates a pedestrian and vehicular hazard; with the elimination of the existing crosswalk, the Planning Board indicated a desire to see the installation of a dedicated loading zone. Attorney Allen stated that the Petitioner will reach out to the Brookline Transportation Department, and if required, the Massachusetts Department of Transportation, regarding the loading zone, but did not know if a dedicated loading zone would be approved.

Chairman Book asked for details pertaining to the warning indicator. Attorney Allen stated that the warning indicator will signal without sounding and will be incorporated into the sign approval process. Board Member Chiumenti asked how the Petitioners will distinguish between the curb cut entry and exit. Attorney Allen stated that the Petitioners have considered that question and it will also be addressed in sign approval process.

Chairman Book asked whether anyone would like to speak in favor of, or in opposition to the proposal. There was no public comment.

Ms. Clark then delivered the findings for the Planning Board:

**FINDINGS:**

**Section 5.09.2.a – Design Review:** Any demolition of an existing building, or construction of a new building, on Boylston Street requires a special permit subject to the design review standards listed under *Section 5.09.4(a-m)*. All the conditions have been met, and the most relevant sections of the design review standards are described below:

- a. Preservation of Trees and Landscape – The addition will remove an existing planted bed in the front of the building but will leave one remaining near the building’s main entrance.
- b. Relation of Buildings to Environment – There are very few “natural” features on site currently. This proposal will be located on an existing planted bed.
- c. Relation of Buildings to the Form of the Streetscape and Neighborhood – The proposed addition fits into the site as a bump-out of the front façade located on an existing median space. The massing will remain consistent and the addition will be blended in to the existing building through new materials.

d. Open Space – Not applicable.

e. Circulation – The circulation on the site will not be impacted by this proposal. All existing access to the parking at the rear will remain the same. The addition is being constructed between the entrance and exit driveways.

h. Advertising Features – The Planning Board expects the applicant to submit detailed signage plans for review and approval prior to installation at a later date.

**Modification of BOA Cases 2396 (7/80), 2396A, 2396B (11/83), 2396C:** Modification of site plans to show proposed addition to front of office building.

Ms. Clark stated that The Planning Board supports the addition to the office building at 1244 Boylston Street. The Planning Board felt that the proposed addition will add an additional retail space and create a more engaging frontage along Route 9. Ms. Clark stated that the Planning Board did not feel that the addition would disrupt the flow of traffic and commented that ample parking exists in structured and open parking areas to the rear. The new commercial space will also be accessible to pedestrians. The addition will result in the loss of a planted median so the Board supports the installation of new landscaping where possible. Therefore, the Planning Board recommended approval of the site plan, building plans and elevations labelled “1244 Boylston Street Building Addition” by Stantec, dated 8/5/16, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all dimensions and materials subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a landscape plan.
3. Prior to the issuance of a building permit, the applicant shall submit a parking plan showing the location of a loading zone on Boylston in front of the mailboxes.
4. 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 building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Ms. Clark then delivered the opinion of the Building Department. She stated that the Building Department has no objection to the relief as requested. The Building Department therefore will work with the Petitioners to ensure compliance should relief be granted.

The Board then began deliberations. During deliberation, Board Members Chiumenti and Hussey both stated that they were supportive of the proposal. Chairman Book concurred but stated that the proposed Conditions # 2 and # 3 required revision. Attorney Allen moved to revise condition #3. Chairman Book moved to revise Conditions #2 and #3.

The Board then determined, by unanimous vote that the requirements for a special permit under Sections 5.09.2.a of the Zoning By-Law pursuant to Section 9.05 of the Zoning By-Law were met. The Board made the following specific findings pursuant to said Section 9.05:

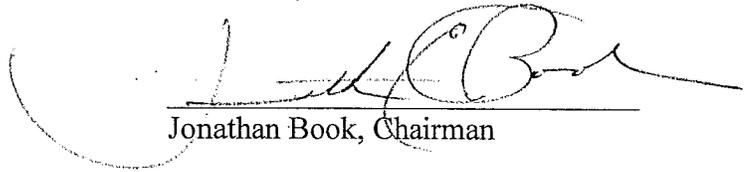
- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will no adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have any 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 revised conditions:

- 1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations indicating all dimensions and materials subject to the review and approval of the Assistant Director of Regulatory Planning.
- 2. Prior to the issuance of a building permit, the applicant shall submit a 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 a parking plan to the Director of Engineering and Transportation showing the location of a loading zone on Boylston Street in front of the existing mailboxes and should make reasonable efforts to seek approval from the controlling agency.
4. 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 building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

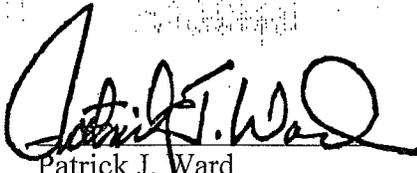
Unanimous Decision of  
The Board of Appeals



Jonathan Book, Chairman

Filing Date: 11/28/2016

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals