



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2017-0023
**1026-1028 COMMONWEALTH
AVENUE**
ADA MANAGEMENT SERVICES
LLC

Petitioner, Alex Politman, applied to the Building Commissioner for permission to construct a three story vertical addition to add fifteen residential units to the existing retail use. 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 certified by the Board of Assessors of the Town of Brookline and fixed May 18, 2017 at 7:20 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 and May 4, 2017 and May 11, 2017 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:

1026-1028 Commonwealth Avenue to Construct a three story vertical addition and add fifteen residential units to the existing retail use in an G-2.0 (General) Business District, on May 18, 2017 at 7:20 PM in the 6th Floor Selectmen's Hearing Room (Petitioners: ADA Management February 21, 2017 c/o Alex Politman) *Precinct 8*

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.

- 1. Section 4.08: Affordable Housing Requirements**
- 2. Section 5.09.2.a and d: Design Review**
- 3. Section 6.02, Paragraph 1: Table of Off-Street Parking Space Requirements**
- 4. Any additional relief the Board may find necessary**

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

*Jesse Geller, Chair
Christopher Hussey
Jonathan Book*

Publish: May 4, 2017 & May 11, 2017

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jonathan and Board Members Christopher Hussey and Lark Palermo.

Chairman Book called the hearing to order at approximately 7:20 p.m. Attorney Jeffrey Allen waived the reading of the public notice.

Attorney Allen the stated that the Petitioner seeks relief from **Section 4.08 Affordable Housing** and **Section 5.09.2.a and d: Design Review** of the Zoning By-Law to construct a three story vertical addition to add fifteen residential units to the existing retail use. Mr. Allen stated that in order to meet the

requirements under Section 4.08 of the Zoning By-Law, a condition has been worked out with the Housing Advisory Board for an in-lieu fee.

Attorney Allen then apprised the Zoning Board of Appeals about the Design Review process the Petitioner underwent with the Planning Board. Mr. Allen stated that the original proposal that went before the Planning Board was for 15 residential units. Mr. Allen stated that the Planning Board expressed concerns regarding the functionality of the parking lot. Mr. Allen stated that trash removal and collection were also a concern of the Planning Board. Mr. Allen stated that in response to the concerns of the Planning Board, the Petitioner was amenable to reducing the number of residential units from 15 to 12 residential units; 11 of which would be studios and one unit a one-bedroom. Mr. Allen stated that the reduction in unit count thereby lowered the number of required parking spaces. Mr. Allen noted that this allowed more space to allow for private contractors to easily remove trash. Additionally, Mr. Allen stated that they meet the open space requirements. Mr. Allen concluded his presentation to the Board by stating that the proposal has received unanimous support from the Planning Board and that the members were very happy with the modifications made as part of the Design Review process.

Upon inquiry from Chairman Book, Attorney Allen stated that the addition is directly above the existing retail and will not change the footprint of the existing building.

Board Member Hussey stated that he is pleased the Applicant was amenable to making changes to the proposal to meet the concerns of the Planning Board.

Zoning Board of Appeals Chairman Book asked if anyone wished to speak in favor of the application.

Scott Ravelston, 1022 Commonwealth Avenue, stated that he is in support of the project as long as it is kept neat and clean.

Mr. Book asked if anyone wished to speak in opposition to the application. No one spoke in opposition to the proposal.

Ashley Clark, Zoning Coordinator for the Town of Brookline, delivered the findings of the Planning Board:

FINDINGS

Section 4.08: Affordable Housing Requirements

A special permit is required for all residential developments of six or more dwelling units. A cash payment is allowed if a project is under 16 units.

Section 5.09.2.a and d: Design Review

4. Community and Environmental Impact and Design Standards

Multiple dwellings with four or more units require a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. The relevant sections of the design review standards are described below:

a. Preservation of Trees and Landscape

There will be no change to the parking lot or building footprint as a result of this proposal, thus no trees or landscaping will be removed.

b. Relation of Buildings to Environment

The addition will be a combination of brick and stucco with stucco decorative details and aluminum windows similar to other neighborhood buildings. A roof deck will be located between two stucco head house entrances.

c. Relation of Buildings to the Form of the Streetscape and Neighborhood

The surrounding neighborhood includes a mix of one to three and a half story buildings for commercial and residential uses. This addition will fit in with the other buildings and the neighborhood as a whole.

Ms. Clark stated that the Planning Board is pleased that the applicant has responded to its concerns about the workability of the parking area and the lack of a storage area for recycling and trash barrels. Ms. Clark stated that the revised plan reduces the number of units and the parking spaces by three and the proposal meets all dimensional and parking requirements and needs special permits only for design review and affordable housing. Ms. Clark stated that the latter will be met through a cash payment to the Brookline Housing Trust. Further, Ms. Clark stated, the first floor of the building and its retail spaces will remain,

and the site will be enhanced by the addition of three stories above; the height and massing are appropriate for this dense commercial neighborhood, and nearby building are similar in height or taller. Finally, Ms. Clark noted that the Board particularly appreciates that no additional parking will be created for this project and that it is behind the building and that the building's design and materials are attractive and will provide an aesthetic improvement to this block.

Therefore, the Planning Board recommends approval of the site and parking plan by Peter Nolan, dated 4/26/17, and the floor plans (4/28/17) and elevations (10/25/16 and 4/28/17) by Richard Volkin, P.E. , subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final site plan, floor plans and elevations, with materials and colors detailed and showing non-operable windows on the east side of the building, 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 final landscape plan, including pathways and fencing, 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 final trash management plan, including a site plan demarcating the location of garbage and recycling bins and grease storage, if any, subject to the review and approval of the Director of Public Health or designee, with a copy to the Planning Department.
4. In accordance with Section 4.08 of the Zoning By-Law and guidelines regarding "Cash Payments in Lieu of Affordable Units," approved October 30, 2014, and with the choice of the applicant to make cash payment in lieu of providing affordable units, the owner of the property shall make the following payment to the Brookline Housing Trust and provide the following documentation before the Town's issuance of a certificate of occupancy for the project:

A sum equal to 9.75% of the Market Value for the property (as determined by the Assessor's Department of the Town per the Town's guidelines for "Cash Payment in Lieu of Affordable Units") minus \$1,875,000 provided to the Town of Brookline in the form of a bank check, certified check or a check drawn on an Attorney Client's Fund Account, payable to the Brookline Housing Trust.

The check shall be mailed by first class mail or hand delivery to:

Director of Planning & Community Development
333 Washington Street – 3rd Floor

Brookline, MA 02446

Should the property be subsequently converted and sold as condominiums, the developer, or any subsequent owner, shall make an additional trust payment as a condition of the transfer of each condominium, calculated per the Town's guidelines for "Cash Payment in Lieu of Affordable Units".

Prior to issuance of a building permit, the owner shall execute a mortgage, escrow agreement, letter of credit or other documentation approved by the Director of Planning and Community Development to secure the cash payments required by this condition.

4. Prior to the issuance of a building permit, the applicant shall submit a construction management plan including indicating where construction vehicle(s) will be parked subject to the review and approval of the Building Commissioner.
5. 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 floor plans and 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.

Upon inquiry from Chairman Book, Attorney Allen stated that the windows on the east side are non-operable due to a request from an abutter. Mr. Politman stated that the windows they will install on the remaining sides of the building will be operable but will not open very wide.

Deputy Building Commissioner, Michael Yanovitch, then delivered the comments of the Building Department. Mr. Yanovitch stated that there are specific building code requirements the building will need to comply with for the windows on the lot line. Further, Mr. Yanovitch stated that the Building Department will work with the Petitioner to ensure this compliance and an extensive review will take place in tandem with the Fire Department to ensure everything is compliant and meets all safety regulations.

The Board then determined by unanimous vote that the requirements for relief by special permit for **Section 4.08** of the Zoning By-Law as requested by the Petitioner were met. The Board also

determined the application meets the requirements for a special permit under design review pursuant to

Sections 5.09.2.a and d.

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.
- e. Development will have no 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 following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final site plan, floor plans and elevations, with materials and colors detailed and showing non-operable windows on the east side of the building, 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 final landscape plan, including pathways and fencing, subject to the review and approval of the Assistant Director of Regulatory Planning.
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A sum equal to 9.75% of the Market Value for the property (as determined by the Assessor's Department of the Town per the Town's guidelines for "Cash Payment in Lieu of Affordable Units") minus \$1,875,000 provided to the Town of Brookline in the form of a bank check, certified

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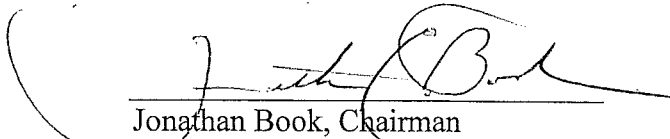
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Prior to issuance of a building permit, the owner shall execute a mortgage, escrow agreement, letter of credit or other documentation approved by the Director of Planning and Community Development to secure the cash payments required by this condition.

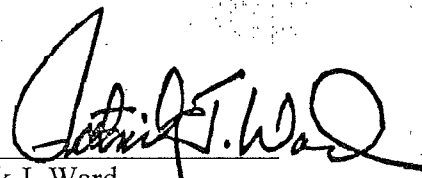
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Unanimous Decision of
The Board of Appeals

Filing Date: 6/16/17


Jonathan Book, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals