



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuffell
Christopher Hussey

Town Hall, 1st Floor
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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. 2017-0049
WASHINGTON PLACE ASSOCIATES LP
637-651 WASHINGTON ST, BROOKLINE, MA

Petitioner, Washington Place Associates LP, applied to the Building Commissioner for permission to convert the rest of 637 Washington Street from general office space to medical office space, for an additional 6,861 s.f. of medical office space, bringing the total medical office space on site to 22,367 s.f. 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 February 22, 2018 at 7:10 PM., 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 Petitioners, 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 February 8, 2018 and February 15, 2018 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:

637 WASHINGTON STREET, BROOKLINE, MA 02446 - Convert the rest of 637 Washington Street from general office to medical office, for an additional 6,861 s.f. of medical office space. This would bring the total medical office space on site to 22,367 s.f. There is a total of 25,779 s.f. of floor area on site, which includes both 637 and 651 Washington Street. in a(n) M-1.0 APARTMENT HOUSE on 02/22/2018 at 7:10pm in the 6th Floor Selectmen's Hearing Room (Petitioner/Owner: Robert L. Allen, Jr.) Precinct 10

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:

§5.09.2.I – DESIGN REVIEW

§6.02, Paragraph 1 - TABLE OF OFF-STREET PARKING SPACE REQUIREMENTS

§8.05 - SUBSTITUTION

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.

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
Mark Zuroff*

Publish: 02/08/2018 & 02/15/2018

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 Johanna Schneider and Randolph Meiklejohn. Also present at the hearing was Zoning Coordinator and Planner, Ashley Clark.

The case was presented by Robert L. Allen, Jr., Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was representative for the Petitioner, Hal Garnick.

Chairman Zuroff called the hearing to order at 7:10 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioner proposes to convert the rest of the 637 Washington building (the front building) into medical office space. Attorney Allen explained that this would require modification of Board of Appeals cases No. 2595, No. 2595A, and No. 2595B to remove the restriction limiting medical office space to seventy-five percent of the total floor area. He continued that proposal would increase the medical office space by 6,861 s.f., which would be eighty-seven percent of the total floor area, eight percent more than allowed under the prior decision. Attorney Allen explained that the proposal is for the maximum amount of space to be medical offices because the second floor of 651 Washington Street has no elevator and is not ADA accessible. He added that the proposal received unanimous approval from the Planning Board.

Attorney Allen then stated that the Petitioner seeks a special permit for relief from **Section 8.05** for a change in use and from **Section 5.09.2.i** for design review, pursuant to **Section 9.05**. Attorney Allen added that the Petitioner seeks a variance for relief from **Section 6.02, Paragraph 1** for off-street parking requirements. Lastly, Attorney Allen reiterated that the Petitioner requires modification of Cases No. 2595, No. 2595A and No. 2595B.

Attorney Allen described the standards under **Section 9.05** of the Zoning By-Law stating: the location is appropriate for the use since the site has been used for medical and general office space for decades and is already largely considered a medical-office building; the use developed will not adversely affect the neighborhood since the proposal does not involve any changes to the exterior and

will not have a noticeable impact on the operation of the property; there will be no nuisance or serious hazard to vehicles or pedestrians because there is no change in on-site circulation; adequate and appropriate facilities will be provided for the proper operation and proposed use; and there will be no effect on the supply on housing available for low and moderate income people. Attorney Allen added that there has been no history of any issues with either the Building Department or the Police Department relating to parking at this facility.

Mr. Allen then stated that a variance should be granted for **Section 6.02**, arguing that: the property has already been granted a variance under Board of Appeals Case No. 2595A and the same circumstances apply, including that the property has always been a non-conforming commercial use surrounded by dense residential development; the property is unique in the M-1.0 zoning district because it is more than twice the size as any lot in the district; it is essentially a commercial lot in a residential district and the previous Board granted a variance for commercial use. Attorney Allen continued that the building is in a location where medical office space is far more attractive than general office space; the existing medical tenants have expressed desire to expand their offices in the future. The ability to create new parking in the area is not viable, however, it is an area where both employees and clientele can take advantage of on street parking, where there is public transportation (via bus and train), and a bike rack is available. Attorney Allen added that there would be no substantial detriment to the public good; allowing more medical office space will benefit the public by providing more outlets for healthcare. He concluded his argument stating that the Boards in the previous Board of Appeals Decisions found that the building was in the best interests of the neighborhood, and there have been no issues on the site as it relates to parking, so waiving eight spots in a medical building that has a lot of turnover will not be detrimental.

Chairman Zuroff and the Board Members asked clarifying questions as to the uniqueness of the lot.

Attorney Allen argued that since the lot was double the size of any other lot in the district and allowed by previous Board of Appeals Decisions to be a commercial property in a residential zone it made the lot and the structure unique. Board Member Schneider agreed with Attorney Allen.

Chairman Zuroff then asked whether anyone was present to speak in favor of the proposal. No one spoke in favor of the proposal.

Chairman Zuroff then asked whether anyone was present to speak in opposition to the proposal. No one spoke in opposition to the proposal.

Chairman Zuroff then called upon Ashley Clark, Zoning Coordinator and Planner, to deliver the findings of the Planning Board. Ms. Clark noted the following:

FINDINGS

Section 5.09.2.i – Design Review

4. Community and Environmental Impact and Design Standards: Any structure which fronts on Washington Street requires a special permit subject to the design review standards listed under *Section 5.09.4(a-1)*. The relevant sections of the design review standards are described below:

- a. **Circulation:** The amount of parking on-site will remain the same. There are currently two parking lots that serve the office complex. The required parking for medical office uses is slightly higher than the requirement for general office use.

Section 6.02, Paragraph 1 – Table of Off- Street Parking Requirements

	Required (existing)	Required (proposed)	Existing
Parking	104	129	51

Section 8.05 – Substitution

By special permit, the Board of Appeals may permit a nonconforming use to be by another use, provided that the substituted use is permitted in the same districts in which the prior nonconforming use is permitted, and provided that the new use will be less objectionable in terms of noise, traffic or other characteristics.

Modification of BOA Case #2595, #2595A and #2595B

Modification required of Cases #2595A and #2595B to revise the condition limiting medical and dental uses to 75% of the total gross floor area of the site and to modify the number of allowed parking spaces to 51.

PLANNING BOARD COMMENTS

The Planning Board supports this proposal to convert general office space to medical and dental space. There will be no exterior changes to the building and the office complex already contains a large number of medical offices. The Board would like to ensure that the number of visitors to the site will not increase significantly and that the amount of existing parking will continue to be sufficient when more medical offices occupy the site and recommends offering T pass subsidies to employees.

Therefore, the Planning Board recommends approval of the floor plan labelled "Washington Place" by Douglas Sanford Associates, Inc. dated 11/6/17, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final floor plan subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Future tenants shall implement an employee T-pass program, where tenants subsidize at least 50 percent of the cost of monthly subway and bus T-passes for all employees.
3. 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 stamped and signed by a registered architect or engineer and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairman Zuroff then called upon Ashley Clark to deliver the comments of the Building Department. Ms. Clark stated that the Building Department has no opposition to this request and noted that there have been no issues or complaints about parking. Ms. Clark added that should relief be granted, the Building Department will work with the Petitioner to ensure compliance with the Building Code.

During deliberation, the Board Members discussed the variance requirements. Chairman Zuroff noted that the building was attractive and well maintained. Board Member Meiklejohn inquired as to whether additional parking could be added in the lot. Attorney Allen stated that the Petitioner had looked at that, but the landscape is valued and they wanted to avoid compact spots. He noted that they

had found two additional spaces in the recent years, increasing the total number of spots to fifty-one. Chairman Zuroff noted that there is adequate public transportation nearby and that circumstances support the waiver of parking requirements for this property based on conditions suggested by the Planning Board.

The Board then determined, by unanimous vote that the requirements for a special permit from Section 8.05 for a change in use and from Section 5.09.2.i for design review, pursuant to Section 9.05, and a variance for relief from Section 6.02, Paragraph 1 of the Zoning By-Law, respectively, were met, finding specifically under 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 special permit relief subject to the following conditions:

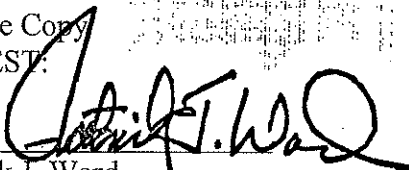
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Unanimous Decision of
The Board of Appeals

Filing Date: 3-2-18


Mark G. Zuroff, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals