



Town of Brookline Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
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. 2018-0063
TRUSTEES OF BOSTON UNIVERSITY
43 HAWES STREET, BROOKLINE, MA

Petitioners, Trustees of Boston University, applied to the Building Commissioner for permission to remove existing free-standing signs originally installed by Wheelock College and install four new free-standing signs identifying the Boston University building as the George H. Wightman House and related parking areas. 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 August 30, 2018 at 7:00 PM., in the Selectmen's Hearing Room as the date, time and place for the public hearing. Notice of the hearing was mailed to the Petitioners, to their attorney, Jennifer Dopazo Gilbert, 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 August 16, 2018 and August 23, 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:

43 HAWES STREET, BROOKLINE, MA 02446 - Replace existing and install new free-standing signage for Boston University, formerly Wheelock College in a(n) S-10 SINGLE-FAMILY on 08/30/2018 at 7:00PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Jennifer Dopazo Gilbert) Precinct 1

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:

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.50 - FRONT YARD REQUIREMENTS

§7.01.j - SIGNS IN ALL DISTRICTS

§7.01.p - SIGNS IN ALL DISTRICTS

§7.02.1.a - SIGNS IN S, SC, T AND F DISTRICTS

§7.02.1.b - SIGNS IN S, SC, T AND F DISTRICTS

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 in its programs or activities on the basis of disability or handicap or any other characteristic protected under applicable federal, state or local law. Individuals who are in need of auxiliary aids for effective communication in Town programs or activities may make their needs known by contacting the Town's ADA Compliance Officer. Assistive Listening Devices are available at the Public Safety Building for public use at Town of Brookline meetings and events. Those who need effective communication services should dial 711 and ask the operator to dial the Town's ADA Compliance Officer.

If you have any questions regarding this Notice or the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

*Jesse Geller, Chair
Christopher Hussey
Mark Zuroff*

Publish: 08/16/2018 & 08/23/2018

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairman Jesse Geller and Board Members Mark Zuroff and Randolph Meiklejohn. Also present at the hearing were Zoning Coordinator and Planner, Ashley Clark and Deputy Building Commissioner, Michael Yanovitch.

The case was presented by Attorney Jennifer Dopazo Gilbert, Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, Brookline, Massachusetts 02445. Also in attendance were Elizabeth Leary and Patricia Reed of Boston University.

Chairman Geller called the hearing to order at 7:00 p.m. Attorney Dopazo Gilbert waived the reading of the public notice.

Attorney Dopazo Gilbert then described the proposal noting that some façade work was already approved by the Planning Board. She stated that the property has been an educational facility since the 1930's and noted that Boston University acquired the property from Wheelock College about a year ago. Boston University's intention is to use the building for classrooms, event space, and occasional community group meetings. Attorney Dopazo Gilbert continued that the property is in a S-10 Zoning District and the lot is 69,523 s.f. with two curb cuts on the corner of Hawes and Monmouth Streets. The site has a lot of off-street parking available. She noted that the structure is historically significant and that the applicant worked with the Preservation Commission Staff on the details for the proposed signage. She added that in May the Planning Board unanimously approved these signs, and she also made note that the applicant has moved the signs back further from the street per the Planning Board's request.

Attorney Dopazo Gilbert described the signs and the zoning relief noting that the signs could be as large as 30 s.f. each, but that the freestanding signs were less than 8 s.f. total and the parking signs were 8 s.f. total. Furthermore, she pointed out, two of the signs are simply replacements for Wheelock's prior parking signs. Attorney Dopazo Gilbert continued stating that the signs are simple, neat, and need minimal wording, thus adhering to the design criteria of the By-Law. She also opined that the two signs indicating the name of the building were made of permanent material, and thus were, in her opinion, actually building markers and not signs under the By-Law definition.

Patricia Reed, Director of Creative Services for Boston University, described the details of the proposed signage. She noted that the building would consist of classrooms, event space, and office space. She noted that the approach of the applicant was to keep the branding consistent with Boston University's Charles River campus, but also to adapt the signage to fit into the neighborhood. Ms. Reed articulated that to adapt the signage to the neighborhood, the signs were made shorter and set further back from the road. She showed pictures of the existing and proposed signs.

Attorney Dopazo Gilbert opined that two of the signs indicating the name of the building should be exempt from the sign by-law since they fell within the definition of a building marker under **Section 7.00.1.a.iii**. The other two parking signs may be allowed under **Section 7.02.1.b** which allows two announcement signs not exceeding 10 s.f. or by special permit under **7.01.p** of the By-Law which allows two signs on this corner lot which fronts on two streets. However, she continued that if the Board determines that a variance is required from **Sections 7.01** and **7.02**, the criteria under **M.G.L. c. 40A, Section 10** is met because of the uniqueness of this large corner lot in a residential district. Attorney Dopazo Gilbert argued that the site is unique because it is improved by two buildings with a connector, on a corner lot, and it is the only institutional use in this S-10 single-family zoning district. She added that the site also has two curb cuts. She continued that the hardship would be that the users would not

otherwise easily be able to find the parking lot without the signs, which would be a disruption to the neighborhood, and noted that the signs would not function effectively if they were setback any further. Finally, Attorney Dopazo Gilbert also noted that this property and the requested relief also qualify for relief under M.G.L. c. 40A Section 3, the so-called Dover Amendment, because the signage is for Boston University and in furtherance of its overall academic mission. She emphasized the benefit to the neighborhood of having the two free-standing parking signs, because it directed cars off of the residential streets and into the off-street parking areas.

Board Member Zuroff asked whether the public is allowed to park at the lot in question. Elizabeth Leary of Boston University stated that the parking is part of the campus's overall parking system. Users would primarily be parking with permits, but non-permitted parking may be allowed for certain events. She also noted that Boston University has and will continue to accommodate local use of the lot for special occasions.

Board Member Meiklejohn asked Attorney Dopazo Gilbert to explain her logic regarding relief. Attorney Dopazo Gilbert repeated that she did not believe relief was necessary for the building marker signs, and for the two parking signs the relief was available through a special permit under Section 7.01.p of the Zoning By-Law. Mr. Yanovitch, on inquiry from the Board Members, agreed that the building markers should be exempt under Section 7.00.1.a.iii.

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

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

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

FINDINGS

Section 7.01: Signs in all districts

Section 7.02: Signs in S, SC, T, and F Districts

Type of Sign	Dimensions	Maximum Allowed	Proposed	Finding
Façade Sign	120" x 6"	330 s.f.	5 s.f.	Complies
Window Sign	6" x 8"	330 s.f.	.7 s.f.	Complies
Freestanding School ID (x2)	6" x 8"			
Freestanding	69" x 16"	30 s.f.	7.65 s.f.	Does not comply
Freestanding Parking ID (x2)	36" x 32"	30 s.f.	8 s.f.	Does not comply

Design Criteria – Signs	Design Criteria	Complies
a.	The sign should serve to define or enhance architectural elements of the building, not obscure or obliterate them.	Yes
b.	The sign should identify the name of the business, not advertise brand names or services.	Yes
c.	Signs should be consolidated.	Yes
d.	The sign should be designed without superfluous back-facing.	Yes
e.	Sign graphics should reflect simplicity, neatness, and minimum wording – not only to improve appearance but to improve legibility.	Yes
f.	All nonconforming signs, facade elements, awnings, and other extraneous materials which conceal architectural details should be removed.	NA
g.	Sign colors should be selected to enhance legibility and should be compatible with the facade.	Yes
h.	Sign illumination shall be of low-to-moderate intensity.	NA

PLANNING BOARD COMMENTS

The Planning Board supports the application. The proposed façade and window signage is well-designed and appropriate for the intended purpose of identifying the building for visitors. Furthermore, these signs are primarily in-kind replacements for existing signage. The Board also supports the proposed freestanding signs. The wayfinding signs are set back from public ways and are appropriately sized for their location and function. The parking identification signs are necessary to promote safe entry and exit from the parking lot and are placed and sized appropriately for their function.

Therefore, the Planning Board approves of the plans for façade and window signage by Anna Farrington dated May 2018, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall send staff a PDF of the final plans including the revisions listed above, subject to the review and approval of the Assistant Director for Regulatory Planning or designee.

2. Any future window and door signage is subject to the review and approval of the Assistant Director for Regulatory Planning or designee.

Therefore, if the Board of Appeals finds that the statutory requirements for a variance and/or special permit are met, the Planning Board recommends approval of the signage plans for freestanding signs by Anna Farrington dated May 2018, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit revised final, dated sign plans and locations subject to the review and approval of the Assistant Director of Regulatory Planning.

2. Any future window and door signage is subject to the review and approval of the Assistant Director for Regulatory Planning or designee.

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) final sign plans and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairman Geller called upon Michael Yanovitch to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the proposal and should the Board find the criteria for relief are met, the Building Department will work with the applicant to ensure compliance with the code.

During deliberation, Board Member Zuroff stated that he believed the application falls under the Dover Amendment, because it was clearly an educational use and to apply the zoning regulations would unduly burden the educational mission without advancing any appreciable municipal concern. Board Member Meiklejohn agreed and added that the size and design of the signs is reasonable. Chairman Geller agreed that the proposal qualified for relief under the Dover Amendment. He added that additionally, the requirements for a special permit were met. The members agreed that the two building marker signs were exempt under the Zoning By-Law, and that the two free standing parking signs could

either be permitted by way of a special permit under Section 7.01.p. of the Zoning By-Law or through applying the Dover Amendment analysis.

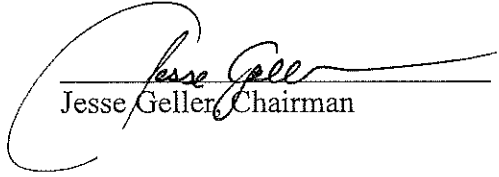
In reliance on the above referenced plans, the Board then acknowledged that the proposed signage for 43 Hawes Street qualify for relief under the Dover Amendment and also by the requested special permit relief. The Board made the following findings: that the applicant and the use of the space was educational, for Boston University offices and classrooms; that a literal enforcement of the By-Law would unreasonably restrict Boston University's educational mission without advancing a legitimate municipal concern. The Board unanimously determined that a special permit was most appropriate for the two free-standing parking signs under Section 7.01.p. of the Zoning By-Law. Notwithstanding that relief under the Dover Amendment could be granted, the Board granted relief under said Section 7.01.p. of the Zoning By-Law and under Section 9.05 of the Zoning By-Law subject to the conditions previously recommended and the applicant and the Board agreed to implement the conditions that were recommended by the Planning Board.

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

1. Prior to the issuance of a building permit, the applicant shall submit revised final, dated sign plans and locations subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Any future window and door signage is subject to the review and approval of the Assistant Director for Regulatory Planning or designee.
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) final sign plans and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

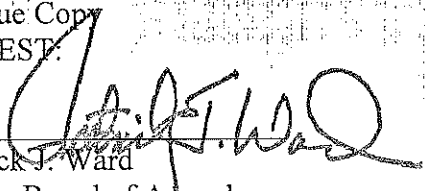
Unanimous Decision of
The Board of Appeals

Filing Date: 9/28/18



Jesse Geller, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals