



Town of Brookline Massachusetts

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

Patrick J. Ward, Clerk

BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Mark Zuroff

RECEIVED
TOWN OF BROOKLINE
TOWN CLERK
2018 NOV - 8 PM

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2018-0058 (111)
111 CYPRESS STREET, BROOKLINE, MA

Petitioner, Town of Brookline, applied to the Building Commissioner for permission to construct a 118,200 square foot Brookline Public Schools academic building. 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 7:05 PM., in the Select Board'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 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 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:

111 CYPRESS STREET, BROOKLINE, MA 02445 - Construct 118,200 sf Brookline Public Schools Academic Building in a(n) L-0.5 LOCAL BUSINESS on 08/30/2018 at 7:05 PM in the 6th

Floor Select Board's Hearing Room (Petitioner/Owner: TOWN OF BROOKLINE, & HIGH SCHOOL) Precinct 6

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:

§5.20 - FLOOR AREA RATIO

§5.30 - MAXIMUM HEIGHT OF BUILDINGS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.50 - FRONT YARD REQUIREMENTS

§5.60 - SIDE YARD REQUIREMENTS

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

§6.06 - OFF-STREET LOADING REGULATIONS

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 were Zoning Coordinator and Planner, Ashley Clark and Deputy Building Commissioner, Mike Yanovitch.

The case was presented by Erik Tellander, William Rawn Associates, Architects, Inc. 10 Post Office Square, Suite 1010, Boston, Massachusetts 02109.

Chairman Geller called the hearing to order at 7:05 p.m. and reviewed standard hearing procedure. The Petitioner requested that this Hearing and Case No. 2018-0059 involving relief required for construction of a new STEM Wing connected to the main building of Brookline High School be heard at the same time. The Board consented to this request.

Erik Tellander presented the proposal for 111 Cypress Street using the plans for the proposal, which are incorporated into this decision by reference. Mr. Tellander stated that Brookline High School needs to expand in order to accommodate for the growth in the student population and to update the science classroom to meet modern standards. He noted that there were over 100 community meetings to discuss the design. Mr. Tellander stated that there were also several meetings with user groups to understand how to best design the spaces to fit the needs of the school.

Mr. Tellander described the three components of the High School renovation, which include the 115 Greenough Street new "STEM Wing," an addition at 111 Cypress Street, as well as renovation of the third-floor space above the existing gym. He noted that the new additions require setback relief and other relief under the Town's Zoning By-Law. Using the plans, Mr. Tellander demonstrated all the existing and proposed elevations and floor plans. A model of the proposal and surrounding neighborhood was also referenced as part of the presentation. He noted that the Planning Board discussed including a pedestrian lane that would provide more direct access to the MBTA station, however, approval of this would be at the discretion of the MBTA.

Upon inquiry from Chairman Geller, Mr. Tellander provided the Board with a review of the design process to demonstrate that the size and massing of the building was driven by programmatic need. He noted that there is a special program for freshman students that require smaller class sizes. Mr. Tellander informed the Board that the School Department projects that the future student population will grow to approximately 2,600 to 2,700 students from approximately 2,200 students. He noted that the need to increase capacity has demanded a solution that requires additional space as well as an analysis of how spaces are used and how the flexibility of such space can be increased in order to provide for varied needs. For example, Mr. Tellander stated that there was an identified need to create more small study areas since the library is over capacity and requires staff to limit the number of students in the library at any one time. As a result, the new STEM building includes small alcoves that are adjacent to classrooms that can be used for “break out” sessions during class as well as used as study spaces for students outside of formal classroom hours.

Mr. Tellander discussed with the Board the efforts put forth by the development team to design a building that meets and exceeds several energy standards. He noted they are exploring LEED certification options for the building and they are still exploring what screening on the roof will be necessary to properly mitigate noise impacts. Board Member Meiklejohn noted that his preference was for the mechanicals on the roof to be located on the Cypress Street side because of the steep sightlines. Mr. Meiklejohn also stated that the Petitioner should seek to mitigate the shadow impacts to abutters as much as possible.

Associate Town Counsel Jonathan Simpson opined that the proposal to construct additions to the high school is an educational use, and therefore, the Town seeks approval under the **Section 4.07 Use 10** of the Zoning By-Law as an educational use exempt from use regulations under M.G.L. Chapter 40A, §3 (the “Dover Amendment”). Petitioner also asserts that relief for this educational facility is available via

special permit pursuant to Zoning By-Law Sections 5.08.2 (exceptions to dimensional requirements for uses 9 and 10) and 6.02.4.c (parking and loading dock requirements). Petitioner requested that the Board find that the Dover Amendment applies to its application.

The relevant Dover Amendment language is as follows:

No zoning ordinance or by-law shall regulate or restrict ... the use of land or structures for ... educational purposes on land owned or leased by ... a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

Mr. Simpson described the Board's ability to impose reasonable regulations on the proposal. He noted that the project was modified in a number of ways to bring it in to general harmony with the neighborhood to the extent possible, given the real constraints of the site, topography, and MBTA track. Mr. Simpson felt that while the walking path along the side of the building provides some benefit to the neighborhood and although the Town is committed to smart development and is in support of improving access to public transportation, he did not feel the proposed condition requiring a walking path was appropriate given the need for approval from the MBTA and topographical concerns related to the grade making its feasibility questionable.

Chairman Geller then asked to hear from those in favor of the proposal who wished to testify. Select Board Member Nancy Heller and School Committee Member Helen Charlupski spoke in support. George Cole, Co-Chair of the Building Commission also spoke in support. John Murphy, a direct abutter, stated that while he is concerned about the impact, he appreciated the efforts that were made to lower the building.

Chairman Geller asked to hear from those opposed to the proposal who wished to testify. Eli Epstein, 21 Brington Road, stated that he was opposed to the height and massing of the building and asked that the Building be reduced by one story. He expressed concern about any related loss of light,

safety and security concerns if pedestrian access is provided to the MBTA station from Brington Road and any limitation of access to the abutting parking spaces. Valerie Morheim also spoke in opposition.

Chairman Geller then called upon Ashley Clark, Zoning Coordinator and Planner, to deliver the findings of the Planning Board. Ms. Clark presented the Planning Board's recommendation as follows:

FINDINGS

Section 5.20 – Floor Area Ratio

Section 5.30 – Maximum Height of Buildings

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 5.50 – Front Yard Requirements

Section 5.60 – Side Yard Requirements

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

Section 6.06 – Off-Street Loading Regulations

	Allowed/ Required	Existing	Proposed	Finding
Floor Area Ratio (% of allowed)	0.5 (100%)	.72 (144%)	2.9 (580%)	Special Permit
Floor Area (s.f.)	~20,000	29,346	111,700	
Maximum Height	35 to 40 feet	24 feet	70 feet (plus 18 ft mechanicals)	Special Permit
Front Setback (Cypress T-6)	25 feet	n/a	19.1 feet	Special Permit*
Front Setback (Cypress L-0.5)	10 feet	7.5 feet	3.4 feet	Special Permit*
Front Setback (Tappan)	25 feet	n/a	24.5 feet	Special Permit*
Rear Setback (L-0.5)	10 + L/10 = 23.4 feet	0 feet	4.5 feet	Special Permit*

Rear Setback (T-6)	40 feet	n/a	11 feet	Special Permit*
Loading Bays	3	0	2	Special Permit*
Parking Spaces	83	46	0	Special Permit*

** Under Section 5.08.2, the Board of Appeals may waive dimensional requirements by special permit for educational uses (Use 10) and under Section 6.0.2.4.C may waive parking and loading requirements for educational uses (Use 10).*

STAFF ANALYSIS

The Planning staff is supportive of this proposal for the new Cypress Street academic building at Brookline High School. The design has undergone an intensive review process and William Rawn Associates has successfully incorporated the comments of many stakeholders. The Planning Board offered comments at a preliminary presentation this past spring and also formed a DAT to further weigh in on the progress of the design. As a result of the Board’s comments, the architect made alterations to the landscaping and front façade.

The Planning Department is also involved in the energy efficiency component of the project to ensure that the new wing will meet the Town’s established targets.

The staff would like to note that the architect’s plans show that the proposed building covers a portion of the existing driveway easement for Brington Road abutters. The staff has pointed out that this blocks the easement. The architect intends to move the location of the easement and re-draw the plans to indicate its new location.

Relief for all zoning is available under the Dover Amendment because the proposal is a not-for-profit educational facility. The Board of Appeals may impose reasonable conditions. The Planning Board believes the requested zoning relief is reasonable and that the project maintains the character of the existing high school campus and its surroundings.

PLANNING BOARD COMMENTS

Ms. Clark stated that the Planning Board fully supported this proposal and acknowledged the thorough public input process this new building has undergone. She noted that while the Board acknowledged that the building could be smaller, they understood the programmatic needs of the space.

and took into consideration comments from the abutters at 21 Brington Road and proposed conditions that would ensure that the architect and the Town work with the homeowners to agree on a landscaping plan that will offer them privacy and security. Ms. Clark further stated that the Planning Board also asked the Building Commission to work with the owners at 21 Brington regarding construction management protocols which will be managed by Skanska and the Board also wanted to see a proposed pedestrian path from Brington Road to the MBTA station shown on the proposed plans and encouraged the applicant to continue to work with the MBTA on securing this connection.

Therefore, Ms. Clark stated that the Planning Board recommends approval of the plans entitled "Special Permit Application Brookline High School Expansion: Cypress Building (Project A)" prepared by William Rawn Associates, dated July 24, 2018, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final stamped site plan, floor plans, and elevations, indicating façade details, colors, materials, windows and rooftop equipment; subject to review and approval by the Planning Board.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan, signed and stamped by a registered landscape architect, subject to review and approval by the Planning Board.
3. The landscaping plan shall show the proposed walkway connecting the MBTA to Brington Road, subject to the approval and agreement of the MBTA.
4. The landscaping plan shall be subject to the agreement of the immediate abutters at 21 Brington Road.
5. Prior to the issuance of a building permit, a final construction management plan, including parking locations for construction vehicles, hours of construction and materials delivery, noise mitigation, staging areas, security fencing, location of portable toilets, rodent control, erosion and sediment control and emergency contact information, shall be submitted for review and approval by the Building Commissioner. A copy of the approved plan shall be submitted in an electronic form to the Planning and Community Development Department.
6. 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: a) a final site plan stamped and signed by a registered engineer or land surveyor; b) final floor plans

and elevations stamped and signed by a registered architect; c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

7. Prior to the issuance of the Certificate of Occupancy, complete as-built plans certified by a registered architect as in compliance with the approved plans shall be prepared and filed with the Building Commissioner.

Ms. Clark suggested that the Board consider modifying the Planning Board's recommended conditions requiring a walking path because subsequent to their meeting, abutters communicated concerns regarding the safety and security of the walking path near their homes. Additionally, Ms. Clark suggested that the landscape plan be subject to the approval of the Assistant Director of Regulatory Planning.

Chairman Geller called upon Mike Yanovitch, Deputy Building Commissioner, to deliver the recommendation of the Building Department. Mr. Yanovitch stated that the project is very well designed, especially given the site constraints. He noted that should the Board find the proposal meets the requirements for the grant of zoning relief, the Building Department will be diligent in administering the Town's construction management plan, like every other large project. Mr. Yanovitch further stated that the Building Department has no objection to this request, and felt it was very well vetted with the school community and the neighborhood. Therefore, Mr. Yanovitch stated, should the Board grant relief, the Building Department will work with the Petitioner to ensure compliance with all state building code requirements.

Upon inquiry from Board Member Meiklejohn, Mr. Yanovitch described the components of a construction management plan for a project of this size and lighting standards. He enumerated a few elements for the Board stating that storage and staging areas are identified, preconstruction measures, trucking routes coordinated, dust control and work hours. He noted that it is also common for building

inspectors to make site visits to ensure proper management of the site is taking place.

The Board began its deliberations. Chairman Geller confirmed with Mr. Simpson that the Town preferred the landscaping plan be approved by a Town entity and was comfortable with the Planning Board approving the plan since it would be presented in a public forum and ensure that the abutters would have an opportunity to review the landscaping plans and provide their comments.

The Board Members then determined, by unanimous vote, that the proposal of construction of a 118,200 square foot Brookline Public Schools academic building, qualifies for relief under the Dover Amendment. Board Member Zuroff noted that based on the testimony provided it is clear the size is driven by the programmatic needs and is confident the respective Town Departments will manage the project well. The Board determined that the requirements have been met for the issuance of a special permit for an educational use from the provisions of Sections 5.20, 5.30, 5.50, 5.60, 6.02, Paragraph 1, and 6.06 pursuant to Sections 5.08.2, 6.02.4.c, 5.09.2 and 9.05 of the Zoning By-Law, because the relief is necessary to allow reasonable development of the proposed educational use in general harmony with other uses permitted and as regulated in the vicinity, and therefore granted the relief requested. The Board made the following specific findings pursuant to Sections 9.05, 5.08.2 and 6.02.4.c of the Zoning By-Law:

- a. The specific site is an appropriate location for the use since it is located adjacent to the existing High School campus, and is accessible by MBTA trains and buses. Additionally, testimony indicates that many of the students served are within walking distance to this location and they are not allowed to park in the neighborhood;
- b. The use by the High School as developed will not adversely affect the neighborhood, because adequate design elements create stepped-back upper floors allowing for minimal or no shadow impacts on abutters; and program space within the building to accommodate the proposed use;
- c. There will be no nuisance or serious hazard to vehicles or pedestrians; traffic circulation and the pickup and drop off plan is adequate for the High School. In addition, the site is centrally located in Brookline, and walkable and accessible via public transportation.

- d. Adequate and appropriate facilities will be provided for the proper operation of the High School; the Petitioner has demonstrated that the building will have adequate office and classroom space for the High School;
- e. The development will have no effect on the supply of housing available for low and moderate income people, because the prior building was used for commercial purposes; and
- f. Relief from the dimensional and parking requirements is necessary to allow reasonable development of the High School addition for the use is in general harmony with other uses permitted and as regulated in the vicinity.

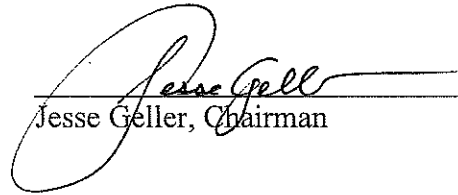
Accordingly based on the plans submitted at the hearing, the testimony and other materials provided and the findings provided above, the Board voted unanimously to grant the requested relief by special permit for the proposed High School expansion project and educational use (Use 10) for the Town as presented in the plans entitled "Special Permit Application Brookline High School Expansion: Cypress Building (Project A)" prepared by William Rawn Associates, dated July 24, 2018, subject to the following amended conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final stamped site plan, floor plans, and elevations, indicating façade details, colors, materials, windows and rooftop equipment; subject to review and approval by the Planning Board.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan, signed and stamped by a registered landscape architect, subject to review and approval by the Planning Board.
3. Prior to the issuance of a building permit, a final construction management plan, including parking locations for construction vehicles, hours of construction and materials delivery, noise mitigation, staging areas, security fencing, location of portable toilets, rodent control, erosion and sediment control and emergency contact information, shall be submitted for review and approval by the Building Commissioner. A copy of the approved plan shall be submitted in an electronic form to the Planning and Community Development Department.
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: a) a final site plan stamped and signed by a registered engineer or land surveyor; b) final floor plans and elevations stamped and signed by a registered architect; c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

5. Prior to the issuance of the Certificate of Occupancy, complete as-built plans certified by a registered architect as in compliance with the approved plans shall be prepared and filed with the Building Commissioner.

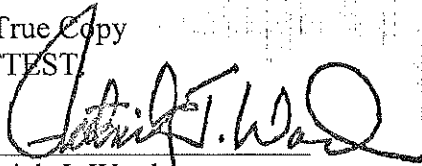
Unanimous Decision of
The Board of Appeals

Filing Date: 11/9/18



Jesse Geller, Chairman

A True Copy
ATTEST



Patrick J. Ward
Clerk, Board of Appeals