



BOARD OF APPEALS  
Jesse Geller, Chairman  
Mark G. Zuroff  
Christopher Hussey

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# Town of Brookline Massachusetts

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2018-0061  
DURBAN TRUST  
1268 BOYLSTON STREET, BROOKLINE, MA

Petitioner, Durban Trust, applied to the Building Commissioner for permission to install sixty lift parking spaces on the existing parking lot at 1268 Boylston Street. 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 October 11, 2018 at 7:05 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 September 27, 2018 and October 4, 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:

**1268 BOYLSTON STREET, BROOKLINE, MA 02467 - Install 60 lift parking spaces on the existing parking lot at 1268 Boylston Street in a(n) G-2.0 GENERAL BUSINESS on 10/11/2018 at 7:05 PM in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Law Office of Robert Allen) 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:

**§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS**

**§5.72 - ACCESSORY BUILDINGS OR STRUCTURES IN REAR YARDS**

**§6.04.12 - DESIGN OF ALL OFF-STREET PARKING FACILITIES**

**§8.02 - ALTERATION OR EXTENSION**

**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 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](mailto:chaynes@brooklinema.gov).*

*Jesse Geller, Chair  
Christopher Hussey  
Mark G. Zuroff*

**Publish: 09/27/2018 & 10/04/2018**

At the time and place specified in the notice, this Board held a public hearing. Present at said hearing were Chris Hussey and Steve Chiumenti. Shayna Duff, Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, Brookline, Massachusetts, requested to continue the hearing to Thursday, October 18,

several businesses at 1234-1262 Boylston Street and will ultimately benefit the neighborhood by providing more off-street spaces; adequate and appropriate facilities will be provided for the proper operation of a parking lot with lift parking; and there will be no effect on the supply on housing available for low and moderate income people.

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 Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the findings of the Planning Board. Mrs. Selkoe noted the following:

**FINDINGS**

**Section 5.72 – Accessory Structures in Rear Yards**

This property is a corner lot and has three front yards. The remaining yard is considered a rear yard.

<b>Setback</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Finding</b>
<b>Rear Yard (Lifts)</b>	12 feet	2 feet	0-2 feet	Special Permit*

\* Under Section 5.43, the Board of Appeals may waive by special permit yard and/or setback requirements, if a counterbalancing amenity is provided.

\* Under Section 6.04.12, the Board of Appeals may waive by special permit dimensional requirement in order to provide parking for existing uses.

**Section 8.02 – Alteration or Extension**

The alteration of a non-conforming use or structure requires a special permit.

**Modification** of Prior Board of Appeals cases, where necessary.

**PLANNING BOARD COMMENTS**

The Planning Board was fully supportive of this proposal. The Board felt that the lifts are acceptable in this location which is largely shielded from view and that the lifts take up less space than a conventional

parking lot and much less intrusive on this type of site than in the many proposed multi-story developments utilizing lifts in their interior parking garages. The Board would ideally like to see a development on this site and understands that the lifts are intended to be temporary.

**Therefore, the Planning Board approves the site plan by Stantec, dated 8/14/18, subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan indicating the parking layout, 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 landscaping plan subject to the review and approval of the Assistant Director of Regulatory Planning.
3. There shall be a parking attendant on the premises Monday through Friday from 8:00 a.m. to 5:00 p.m., with exception to holidays.
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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairman Zuroff then called upon Polly Selkoe to deliver the comments of the Building Department.

Mrs. Selkoe stated that the Building Department provided no feedback indicating any issue with this proposal.

During deliberation, Board Member Chiumenti asked a clarifying question regarding a backup of additional cars pulling into the parking lot. Attorney Allen noted that there is still circulation at the site and stated that vehicles are dropped off to the attendant(s) who circulate and park the vehicles in an orderly fashion. Board Member Schneider inquired about condition three, stating that 5:00 pm seems to be exactly at the close of business, and she suggested that the condition require an attendant until 5:30 pm. Attorney Allen stated that the Petitioner would be willing to comply to this change. Chairman Zuroff asked about landscaping, and Mrs. Selkoe noted that the shrubs planted as a part of the original Board of Appeals Decision are now tall shrubs and they completely screen the parking from Boylston Street.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for relief from Section 5.72 under Section 6.04.12 for accessory structures in rear yard, from Section 8.02 for alteration or extension of a non-conforming use or structure, and any modifications to prior Board of Appeals Decisions as necessary, all pursuant to Section 9.05 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 because the lot will continue to be used as a parking lot.
- b. The use as developed will not adversely affect the neighborhood because the screening will remain in place.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians because the property's on-site circulation will increase to accommodate fourteen additional spaces and the new parking will ultimately benefit the neighborhood by providing more off-street parking spaces.
- d. Adequate and appropriate facilities will be provided for the proper operation of a parking lot with lift parking.
- 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:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan indicating the parking layout, 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 landscaping plan subject to the review and approval of the Assistant Director of Regulatory Planning.
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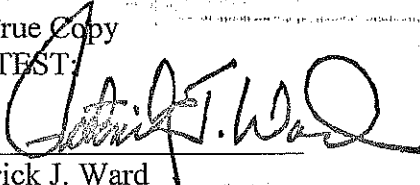
Unanimous Decision of  
The Board of Appeals



Mark G. Zuroff, Chairman

Filing Date: \_\_\_\_\_

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals