



# Town of Brookline Massachusetts

Town Hall, 1<sup>st</sup>  
Floor  
333 Washington

BOARD OF APPEALS  
Jesse Geller, Chairman  
Mark Zuraff  
Christopher Hussey

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TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2018-0070  
TRUSTEES OF BOSTON UNIVERSITY  
10 LENOX STREET, BROOKLINE, MA

Petitioners, Trustees of Boston University, applied to the Building Commissioner for permission to construct an addition and modify the existing structures to establish Boston University Children's Center and Family Resource Center. 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 November 29, 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 November 15, 2018 and November 22, 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:

**10 LENOX STREET/146 CARLTON STREET, BROOKLINE, MA 02446 - Addition and modification of existing structures to establish Boston University Children's Center and Family Resource Center in a(n) S-7 SINGLE-FAMILY on November 29, 2018 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: BOSTON UNIVERSITY TRS) 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:

**§5.08 - EXCEPTIONS TO DIMENSIONAL REQUIREMENTS FOR USES 9 & 10**

**§5.50 - FRONT YARD REQUIREMENTS**

**§6.02.4.C – OFF-STREET PARKING SPACE REGULATIONS**

**§8.02.2 – ALTERATION AND 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 Zuroff*

**Published: 11/15/18 & 11/22/18**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing were Chairperson Johanna Schneider and Board Members Lark Palermo and Randolph Meiklejohn.

Also present at the hearing was the Assistant Director of Regulatory Planning, Polly Selkoe. On advice of Town Counsel, Randolph Meiklejohn disclosed for the record that his architectural firm, Goody Clancy, is handling another project for Boston University, but he feels he has no conflict and can be objective in these proceedings.

The case was presented by Jennifer Dopazo Gilbert, Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, First Floor, Brookline, Massachusetts 02445. Also in attendance were Walt Meisner, Elizabeth Leary and Cecilia Nardi from Boston University, and Michael Lindstrom and Kathleen Scanlon of studioMLA Architects.

Chairperson Schneider called the hearing to order at 7:10 p.m. Attorney Dopazo Gilbert waived the reading of the public notice.

Attorney Dopazo Gilbert then described the proposal stating that the Petitioner wishes to transform the property into the Boston University Children's and Family Center (BUCC), a day care and family resource center for faculty, staff and students. She explained the lengthy review process that the University had with the neighbors and town staff prior to submitting the formal plans. She explained that the proposal includes renovating the existing main building, constructing a two-story "connector" and addition in the same location as the existing garage, and modifying the stucco storage shed to convert it into a support building for the new outdoor play area. She noted that a new dormer and elevator overrun were proposed to be added to the main building. Attorney Dopazo Gilbert noted that the Petitioner has had four Preservation Commission meetings to date and that the Commission has approved the proposed plans and the Staff has approved the materials. She also noted that the Planning Board unanimously supported the proposal. She then turned introduced Walt Meisner, Vice President for Boston University who discussed the University's plans for the site. Mr. Meisner then introduced Michael Lindstrom, architect for the project, to walk through the plans.

Michael Lindstrom, studioMLA Architects, 320 Washington Street, Second Floor, Brookline, MA 02445, then presented the proposed plans and elevations. The traffic consultant, Mike Wulforst from AECOM, then presented the traffic and parking analysis. He noted that the team had met with the Town's Transportation Director who had agreed with the methodology used to calculate the traffic impact and parking needs. The parking on-site will be solely for pick-up and drop-off of the children attending the facility. The peak parking demand will be for 8 parking spaces and there are 9 existing. The level of service will not change at the intersection of Mountfort Street and Carleton Street. With more than 80% of parents working or studying at BU, most will walk. Attorney Gilbert added that at Peter Ditto's request B.U. will extend the sidewalk on Lenox Street. She also noted that there is no peak drop off or pick up times as the students and staff that use the facility all have different class schedules, and this is not the usual 9:00-5:00 daycare facility in that sense.

Johanna Schneider asked about overflow of cars waiting to get into parking lot. The traffic consultant pointed out the location of nearby B.U. parking lots all of which are available. It was pointed out again that the hours of attendance vary a lot.

Randolph Meiklejohn asked where there is on-street parking. Mr. Wulforst noted that on-street parking is available on Prescott Street.

Attorney Gilbert went over the zoning relief required for the project, which she noted can all be granted by special permit under Section 5.08 and 6.02.4.c for this educational use. She also noted that the Dover Amendment, G.L.c.40A, s.3 also could be applied. She noted that in addition to the relief indicated in the Planning Board report for Front Yard Setbacks and Off-Street Parking there was also relief for the FAR required which was cited in the denial letter and included under s.5.08 dimensional relief. Finally, Attorney Dopazo Gilbert went over the criteria as set forth in 9.05 for the grant of a special permit.

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

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

Chairperson Schneider then called upon Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the findings of the Planning Board. Mrs. Selkoe noted the following:

**FINDINGS**

<b>Requirements</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>	<b>Relief</b>
<b>Front Yard Setback (from Lenox Street)</b>	30 feet	24.9 feet	24.9 feet	Special Permit*
<b>Front Yard Setback (from private way)</b>	30 feet	0 feet	0 feet	Special Permit*
<b>Front Yard Setback (parking area)</b>	5 feet	53 feet	0 feet	Special Permit*
<b>Off-Street Parking</b>	97 spaces	6 spaces	9 spaces	Special Permit*

*\* Under Section 5.08, the Board of Appeals may waive dimensional requirements by special permit for non-profit educational uses (Use 10) and under Section 6.0.2.4.C may waive parking and loading requirements for educational uses (Use 10).*

**Section 8.02.1 Alteration and Extension**

A special permit is required to alter a nonconforming structure.

**PLANNING BOARD COMMENTS**

The Planning Board was supportive of this proposal, felt it had been well vetted with the Preservation Commission and offered good modifications to this historic building. The Board felt that it would be a useful addition to the BU community and had no concerns.

**Therefore, the Planning Board recommends approval of the site plan by Denis Seguin dated 8/30/2018 and the floor plans and elevations by Studio MLA Architects dated 8.10.2018, revised on 10.15.2018 subject to the following conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, including the parking lay-out 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 final floor plans and elevations subject to the review and approval of the Assistant Director of Regulatory Planning and the Preservation staff.
3. Prior to the issuance of a building permit, the applicant shall submit a final landscaping and fencing plan, subject to the review and approval of the Assistant Director of Regulatory Planning.
4. Prior to the issuance of a building permit, the applicant shall submit a final Transportation Demand Management Plan, subject to the review and approval of the Director of Transportation and Engineering, with a copy to the Planning and Building Departments.
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: 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; and c) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Chairperson Schneider then called upon Polly Selkoe to deliver the comments of the Building Department. Mrs. Selkoe stated that the Building Department has no objection to the proposal and should the Board grant the requested relief the Building Department will work with the applicant to ensure compliance with the decision.

During deliberation, Johanna Schneider asked if FAR relief was required as well. Attorney Gilbert replied yes and it was also covered under 5.08 in the denial letter and the notice of hearing.

Lark Palermo asked if parking on Prescott Street is illegal. Mr. Meisner noted it was not illegal, but said parents will be asked not to park on the street. Lark Palermo asked if the University explored putting additional parking on the site. The Architect noted they had looked at that, but it was not possible without impacting the design and the program. Randolph Meiklejohn asked where employees would

park and the applicant provided information on the several B.U. parking lots near the site that were available and within a short walking distance. Mr. Meiklejohn noted that there may be adequate frontage of 5' or more for the parking area set back.

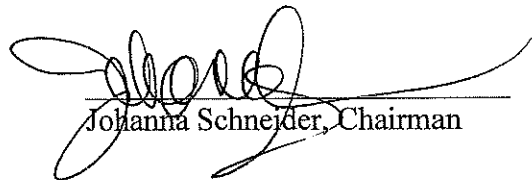
Johanna Schneider stated that given the non-profit educational use and program for the site, the relief requested was warranted. The other members agreed. Lark Palermo asked what the counterbalancing amenities were. Attorney Gilbert listed the counterbalancing amenities as: preserving the historic building, extending the public sidewalk, installing landscaping and fencing, and removing a diseased town tree at Tom Brady, the Town Arborist's request. Lark Palermo said it sounds like a great daycare facility and she is very pleased with the proposal. The other members agreed with Ms. Palermo.

In reliance on the above referenced plans, the Board then determined, by unanimous vote, to grant all necessary relief by way of special permit as requested. The Board found that the applicant Boston University was an educational institution entitled to the relief for Use 10 under both ss.5.08 and 6.02.4.C. The Board also found that the proposed use was in general harmony with other uses permitted and regulated in the vicinity as the property was surrounded by other University properties and across the Street was a Hebrew Academy. The Board found that under 5.08 the modifications to the FAR and dimensional requirements were reasonable and that the development was in harmony with other uses permitted and regulated in the vicinity. The Board also found that the special permit criteria under s.9.05 were satisfied and that the site was appropriate for the use; it would not adversely affect the neighborhood, the traffic report indicated there would be no nuisance or hazard to vehicles or pedestrians; adequate facilities were provided with respect to the use and parking area; and the development had no impact on the supply of housing as it was now being used for academic purposes and would continue to be used for the University's needs.

Accordingly, the Board voted unanimously to approve the site plan by Denis Seguin dated 8/30/2018 and the floor plans and elevations by Studio MLA Architects dated 10/15/2018 and granted 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, including the parking lay-out 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 final floor plans and elevations subject to the review and approval of the Assistant Director of Regulatory Planning and the Preservation staff.
3. Prior to the issuance of a building permit, the applicant shall submit a final landscaping and fencing plan, subject to the review and approval of the Assistant Director of Regulatory Planning.
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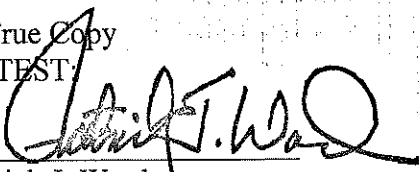
Unanimous Decision of  
The Board of Appeals



Johanna Schneider, Chairman

Filing Date: 01/22/19

A True Copy  
ATTEST



Patrick J. Ward  
Clerk, Board of Appeals



