



BOARD OF APPEALS  
Jesse Geller, Chairman  
Mark G. Zuroff

# Town of Brookline Massachusetts

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

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TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2019-0032  
DEXTER SOUTHFIELD INC.  
20 NEWTON STREET, BROOKLINE, MA

Petitioner, Dexter Southfield Inc., applied to the Building Commissioner for permission to construct a new lower school building and attach it to the existing school building. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the property affected was that shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed May 16, 2019, at 7:00 p.m. 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 Petitioner, 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 May 2, 2019 and May 9, 2019 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:

**20 NEWTON STREET, BROOKLINE, MA 02445 - Construct a new lower school building (28,766 s.f.) and attach it to the existing school building in a(n) S-40 SINGLE-FAMILY on**

May 16, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Robert L. Allen, Jr.) 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:

**§5.08.2 – EXCEPTION TO DIMENSIONAL REQUIREMENTS FOR USES 9 & 10**

**§5.09.2.I – DESIGN REVIEW**

**§5.31.2 - EXCEPTIONS TO MAXIMUM HEIGHT REGULATIONS**

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

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

**§8.02.1 – 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  
Mark G. Zuroff*

**Publish: 5/2 & 5/9**

At the time and place specified in the notice, the Zoning Board of Appeals held a public hearing. Present at the hearing were Chairman Mark G. Zuroff and Board Members Johanna Schneider and Lark Palermo. Also present was Maria Morelli, Senior Planner and Joe Braga, Deputy Building Commissioner.

The case was presented on behalf of the Dexter Southfield School (the "School") by the attorney for the Petitioner, Jennifer Dopazo Gilbert, Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Brookline, Massachusetts 02445. Also in attendance were Todd Vincent and Ian Moorhouse from the Dexter Southfield School, Charles Hibbard, Architect with ARC and Robert Weidknecht, Engineer from Beals and Thomas. Chairman Zuroff called the hearing to order at 7:05 pm. Attorney Dopazo Gilbert waived the reading of the public hearing notice.

Attorney Dopazo Gilbert described the School, its program and the location of the proposed new building. She noted the location at 20 Newton Street. She indicated that the proposal is for a new school building with 12 classrooms for the 3-5 grades. The School is a co-educational institution located atop one of the highest hills in Brookline, Mount Walley. She noted that the school needs the new building in order to free-up some space for the upper grades. Attorney Dopazo Gilbert stated that the property is bounded by Boston to the east and the Brandegee Estate and Allendale Farm to the south and west, and is across the street from Larz Anderson Park. She indicated that this proposal was for a new classroom building to house Grades 3-5 and would be located on a now empty field abutting St. Paul Street, a private way on the Boston line. She noted that the mature existing Pine trees that straddle the lot will be preserved. She also noted that the site is over 35 acres and has ample parking with 325 proposed spaces.

Mr. Hibbard from ARC then reviewed the proposed plans. He showed the plans to the Board and oriented them with the various buildings and facilities on the campus. The School proposes to construct a three and a half story lower school building (30,087 s.f.), which will be attached to the Hewitt building via an enclosed breezeway on the first floor. The main entrance is on the second floor due to the grade changes. The building will be located on a portion of an existing field between the newly constructed Kraft Field House and the Hewitt Building, facing St. Paul's Avenue. He noted the 3 stories of classrooms and the location of the innovation lab and multi-purpose rooms. He described the programs on each floor and the grade levels. He noted the 5<sup>th</sup> grade will occupy the top floor. He noted the roof-top equipment is screened. Mr. Hibbard discussed the materials will include neutral colors, CMU block, red terracotta tile, brown faced block for the pitched roof and rain screen walls, spandrel glass and the circulation area will have metal panels, and there will be a roof made of asphalt shingles. He then presented various elevations from different views and noted that the innovation lab and multi-purpose rooms are 2 stories. He then introduced the project engineer.

Mr. Weidknecht reviewed the site planning aspects of the proposal. He described the 36-acre site and its location and surroundings. He noted the field where the new building is proposed. He also went over the parking areas and how it is distributed. He noted there are 332 existing parking spaces and under the required Zoning only 305 are required. He discussed the grade change in the location where the building is proposed and noted that there was a grade change with the main entry coming in at the second floor. He noted that some of the parking spaces were lost due to accommodate a new bus drop off and handicap spots. He also went over the approved design for the storm water and drainage plans which provide ample mitigation as required by the Town. He also noted that he went over the plans with the Fire Department to

ensure ample water and access. He then discussed the relief required for building height. He noted that the height requested is for an additional 17' of height or 52' where the allowable height is 35'.

Attorney Dopazo Gilbert stated that Dexter Southfield is categorized under the Zoning By-Law, Table 4.07, Use #10, as an educational use. As such, the proposal is governed by M.G.L. c. 40A, Section 3, the so-called "Dover Amendment", but also qualifies for relief under the Town's Special Permit provision for religious and educational uses under Sections 5.08.2 and 9.05 of the By-Law. Attorney Dopazo Gilbert went over the law with respect to the Dover Amendment and noted that M.G.L. c. 40A, Section 3 provides:

"No zoning ordinance or by-law shall...regulate or restrict the use of land or structures for educational purposes on land owned...by a nonprofit education or educational corporation;...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."

She noted that the School qualified for relief under Dover and also was an educational use under the By-Law. She went over the special permit criteria in the By-Law under Section 5.08.2 and 9.05 and noted that the use as a school is in general harmony with other uses in the neighborhood. The location is appropriate as it is within the school campus and surrounded by other school buildings. She noted that due to the location on a private way bordering Boston there will be no adverse impact on the neighborhood. The traffic impact was shown to be minimal and in fact vehicle and pedestrian movement will be improved by the additional bus drop off area, new entrance and handicap parking. Also, none of the mature trees will be removed. She noted the large 35+ acre site allows for a new access lane and the parking will be

in excess of what is required. She noted that the majority of students come by bus and are not dropped off by individual family vehicles. There will be adequate facilities provided for the use of the building including a new entrance, enclosed breezeway, additional drop-off area and ample educational space. Finally, she noted the project does not impact the supply of housing in town.

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. However, an abutter from the Brandegees Estate, Mr. David Boyt had several questions relative to the height of the building and the drainage plan. His questions were addressed and answered by Mr. Weidknecht and Mr. Hibbard. There were no other public speakers.

Chairman Zuroff then called upon Maria Morelli, Senior Planner, to deliver the findings of the Planning Board. Ms. Morelli noted the following:

**FINDINGS**

**Section 5.09.2i – Design Review** - non-residential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces require a special permit subject to the design review standards listed under *Section 5.09.4(a-1)*. All the conditions have been met, and the most relevant issues are discussed below.

Because the site is currently an open field, no significant landscaping will be removed. The Building will not be seen from Newton Street because it is interior to the site. It will, however, be seen from St. Paul's Way, a dead-end street that separates Brookline from Jamaica Plain. On the opposite side of St. Paul's Way are several buildings which make up the campus of The Daughters of St. Paul's Convent, which in addition to housing nuns also runs a publishing facility. A little further away and closer to Newton Street are single family homes in Boston.

[Please see the attached Design Report from the applicant.]

**Section 5.30 – Maximum Height of Buildings**

	Maximum	Existing	Proposed	Finding
Height of Proposed Building	35 feet	NA	53' (3 1/2 stories)	Special Permit*

\* Under Section 5.08.2, the Board of Appeals may grant a special permit to modify the dimensional requirements in Article 5 of the Zoning By-law for uses #9 (religious) and #10 (educational) to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.

Section 6.02.4C – Off-Street Parking Space Regulations  
Section 6.04 – Design of All Off-Street Parking Facilities

Parking	Required	Existing	Proposed	Finding
Spaces	305	332	325	Complies

\* Under Section 6.02.4.c, the Board of Appeals may permit modification in the requirements specified in this Article as applied to Use #10 (educational) and Use #15 to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.

Section 8.02.1 Alteration and Extension

A special permit is required to alter a nonconforming structure.

Modification of BOA Cases #3326, #3326A and 3620, 2016-0088

No modification of these BOA cases is needed.

PLANNING STAFF COMMENTS

Although the school enrollment and staff will increase slightly with the new school building and the added capacity, there should be minimal traffic and parking impacts as the children, for the most part, arrive in buses. The large campus, over 35 acres, provides plenty of room for parking for teachers, visitors and school buses, and the traffic circulation pattern will remain the same. Because the new building will be located on an open field, trees will not have to be removed. The building is interior to the site and there are no single-family homes directly opposite it.

PLANNING BOARD COMMENTS

The Planning Board was supportive of this new lower school building. They found the design to be sensitive to and well-integrated within the context of the overall campus and the impact on any surroundings to be minimal due to its location on the interior of the site. The Board also felt

that the zoning relief requested is minimal and that while the proposed building is over the allowable height, it is still lower than other buildings on the campus and relief is available under Section 5.08.2. The Board did express interest in seeing sustainability initiatives incorporated and more playfulness in the design, as it is will be serving young children in grades 3 through 5.

**Therefore, the Planning Staff recommends approval of the architectural plans prepared by ARC and dated 3/21/19 and the site plans (C-1 to C-5) prepared by Beals + Thomas and dated 1/30/19, subject to the following conditions:**

- 1. Prior to issuance of a building permit, final elevations with material specifications shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 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. 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 building elevations, stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

The Chairman asked for the Building Department's position. Mr. Joe Braga, Deputy Building Commissioner stated that the Building Department had no objections to the project. The Board then deliberated. Board Member Palermo was in favor of the project. She believes that while it qualifies for Dover relief since it also meets the criteria for a special permit that the relief should be granted by way of a special permit. Members Zuroff and Schneider agreed that the applicant qualified for Dover relief, but that it was appropriate to grant the relief by way of a special permit. The Board also agreed that the use was educational and had been operated as a school for many years. The Board then determined and found that based on the information presented that the proposal for Dexter Southfield School is protected by M.G.L. c. 40A, Section 3. However, they believe that the project also meets the criteria to grant a special permit under the Zoning By-Law Sections 5.08.2 and 9.05. The Board agreed with Attorney Dopazo Gilbert and made the following findings: 1) the criteria for a special permit under Section 5.08.2 and




9.05 are satisfied: 2) the applicant is a non-profit a school and the use of the proposed building will be for educational purposes: 3) the use is in general harmony with other uses permitted and regulated in the vicinity as the building is within a larger school campus and is near a religious institution; 4) the location of the proposed school building is appropriate as it is within the larger 35+ acre campus and surrounded by other school buildings and is also on a private way bordering Boston and no mature trees will be removed, so there will be no adverse impact on the neighborhood; 4) there was little or no traffic impact as most students arrive by bus, there is adequate parking and vehicle and pedestrian movement will be improved by the additional bus drop off area, new entrance and handicap parking, so there is no hazard to vehicles or pedestrians; 5) adequate facilities will be provided for the use of the building including a new entrance, enclosed breezeway, additional student drop-off area, handicap parking, ample educational program space as well as mitigation for storm water and drainage; and 6) the project does not impact the supply of housing in town.

For the reasons stated the Board voted unanimously to grant the requested relief by Special Permit pursuant to Sections 5.08.2 and 9.05 with the following conditions:

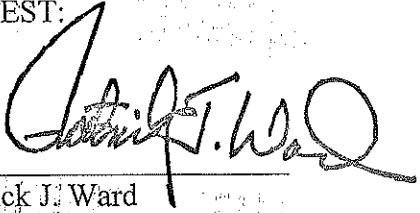
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Unanimous Decision of  
The Board of Appeals

Filing Date: 06/05/2019

  
Mark G. Zuroff, Chairman

A True Copy  
ATTEST:

  
Patrick J. Ward  
Clerk, Board of Appeals