



# *Town of Brookline Massachusetts*

**BOARD OF APPEALS**  
**Jesse Geller, Chairman**  
**Mark Zuroff**  
**Johanna Schneider**

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
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**Benjamin Kaufman, Clerk**

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TOWN CLERK

2021 OCT 14 A 9 22

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2021-00011  
15 EUSTON STREET

Petitioner, 15 Euston Street, LLC., applied to the Building Commissioner for permission to convert the existing three-family dwelling into a four-unit building by converting the basement into a new unit. 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 September 9, 2021, at 7:00 pm, virtually as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 August 26, 2021, & September 2, 2021, 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 on the following petition:**

Address: **15 Euston Street**  
Petitioner: **15 Euston Street LLC**

Zoning District: M-2.0 (Apartment House)  
Precinct: 1  
Description: Add new unit to existing three-family, no exterior changes

**Date, time, and location of the public hearing are as follows:**

Date: 06/24/2021  
Time: 7:00 pm  
Location: This meeting is being scheduled as an in-person only meeting in the meeting room of the Public Safety Building located at 350 Washington Street because the COVID protocols for remote meeting attendance will end on June 15, 2021, unless extended by state action. Please note that, if the COVID protocols for remote meeting attendance are extended, the meeting will be conducted via ZOOM to allow remote attendance/participation only. The meeting may be accessed by clicking this link <https://bit.ly/3uQn077>. Accordingly, prior to the meeting, please check the Town's website at [www.brooklinema.gov](http://www.brooklinema.gov) and/or the Planning Department's webpage at <https://www.brooklinema.gov/203/Planning-and-Community-Development-Depar> for updated information on the meeting format and how you may attend. Also please feel free to contact Karen Chavez at [kchavez@brooklinema.gov](mailto:kchavez@brooklinema.gov).

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:

§4.07 – TABLE OF USE REGULATIONS, USE #06

§5.05 - CONVERSIONS

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.91 - MINIMUM USABLE OPEN SPACE

§6.02.2.F – OFF-STREET PARKING SPACE REGULATIONS

§6.02.2.I – OFF-STREET PARKING SPACE REGULATIONS

§8.02 - ALTERATION OR EXTENSION

4.08.3.a which has been reduced from six or more units to 4 units and in which one new unit will be created. Refer to Warrant Article 7 passed at town meeting November 18, 2020.

***QUESTIONS, PUBLIC COMMENT FILES, PDFs OR PRESENTATIONS:***

*Advanced submissions of files and presentations are strongly encouraged. In an effort to ensure the Board has adequate time to review materials we ask that any additional documents such as written comment letters, photos, files, or presentations or questions be sent before the hearing to Karen Chavez ([kchavez@brooklinema.gov](mailto:kchavez@brooklinema.gov)).*

*All plans and submissions may be found at: <https://aca-prod.accela.com/Brookline/Default.aspx>. An account is **NOT REQUIRED** to access materials. Public testimony will be taken during the hearing as normal.*

*Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters by mail or in the papers. Questions about hearing schedules may be directed to the Planning and Community Development Department at [vpanak@brooklinema.gov](mailto:vpanak@brooklinema.gov), 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 Assistive Listening Devices, please contact Caitlin Haynes at 617-730-2345 or at [chaynes@brooklinema.gov](mailto:chaynes@brooklinema.gov).*

***Jesse Geller, Chair  
Mark Zuroff  
Johanna Schneider***

**Publish: 06/10/2021 & 06/17/2021**

At the time and place specified in the notice, the Zoning Board of Appeals held a virtual public hearing. Present at the hearing was Chair Jesse Geller and Board Members Mark Zuroff and Randolph Meiklejohn. The case was presented by the attorney for the Petitioner, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. P.C., 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was the representative of 15 Euston Street, LLC, Wesley Leung, the project architect Peter Vanko, Vanko Studio Architects, 407 Dudley St, Suite 8, Boston, Massachusetts and Landscape Architect Katya Podsiadlo, Verdant Landscape Architecture 318 Harvard Street, Suite 25, Brookline, Massachusetts.

Zoning Board of Appeals Chair Geller called the hearing to order at 7:00 pm. Chair Geller reviewed the standard hearing procedures for virtual hearings and confirmed that all Board Members and Staff could visually and auditorally engage in the hearing. Attorney Allen waived a reading of the published notice.

Attorney Allen presented the proposal to the Board. He stated that the application went before the Planning Board twice. He noted for the record that during the first meeting, the Planning Board had concerns about the usable and landscape space and requested updates to the

architectural drawings. Attorney Allen stated that the Petitioner then brought on Ms. Podsiadlo to prepare a landscaping plan. He continued that the Planning Board was supportive of this revised proposal and provided their positive recommendation after the second meeting.

Attorney Allen stated that 15 Euston Street is currently a three-unit row-style building constructed in about 1920 and is in an M-2.0 zoning district near the Boston/Brookline town border off Beacon Street. He stated that the surrounding buildings are primarily apartments, while the larger neighborhood includes a mix of single and two-family homes.

Attorney Allen continued that the Petitioner delivered over 70 letters to the abutters and neighbors, provided requested information and answered questions. Additionally, he noted that an abutter provided a letter of support from 25 Euston Street.

Attorney Allen stated that the Proposal is to convert the existing basement into an independent dwelling unit for a total of four units in the building. He noted that a detached garage was demolished at the rear and created more usable open space. Attorney Allen added that the existing condition of the rear alley acts as an informal parking area, and the landscape plan will formalize the landscaped areas, open space for residents and a walkway for pedestrians and parking spaces cars.

Architect Vanko then presented the plans to the Board. Mr. Vanko stated that the project involves mainly interior work except for a window well on the alley side of the property. Mr. Vanko noted that the first level and basement would be divided to create a new garden level unit. He said that the changes involve the reworking of interior walls and one exterior modification to the ally. Mr. Vanko then stated that the front elevation would not change as the existing windows meet the code. He noted that on the alley side, two windows would receive a protected steel guard rail.

Ms. Podsiadlo then presented the landscaping plan. She stated that there are a couple of existing trees on the property that will remain. Otherwise, she noted, the site has no vegetation except for some leftover weeds at the front of the property. She stated that the rear garage was demolished, leaving behind paved areas or compacted gravel. Ms. Podsiadlo noted that the proposal would add three new shade trees at the rear of the site. Additionally, she noted that the design delineates the parking spaces along with a proposed pedestrian pathway. Ms. Podsiadlo stated that the proposal includes pervious pavers and opined that this change in materials would help improve the stormwater run-off. She added that there would also be a new patio area for all units to use. Ms. Podsiadlo also provided that another improvement is to the trash and recycling areas that will now be organized within the alleyway in a crushed stone area that will also work to improve the stormwater run-off.

Board Member Meiklejohn confirmed that since the grade of the property is lower on the Euston Street side, the window elevations meet height and light requirements for the building code. He also confirmed that this grade change is the impetus for the modifications at the alleyway side to comply with the code.

Attorney Allen then reviewed the zoning relief requested. He stated that relief for this project may be granted under **Section 5.05** of the Zoning By-Law (Conversions) to waive all dimensional requirements. In addition, he noted that while a counter-balancing amenity is not required under **Section 5.05**, a landscaping plan is proposed to improve the property.

Attorney Allen stated that the existing front yard setback is 6.5-feet and noted that 19.4-feet are required. He added that as this is a row-style building and the side yard setback requirement is 0-feet. Attorney Allen noted that the rear yard setback is compliant at 45.2-feet. Attorney Allen stated that the setbacks will not be altered with this proposal. Attorney Allen

pointed out that a special permit is sought under Section 6.01.2 of the Zoning By-Law to waive four parking spaces. He stated that the Zoning By-Law requires eight spaces with the new unit, however under that Section, the Board may reduce the number of parking spaces to one-half of the required number. Attorney Allen noted that this location is well suited for such a waiver since it is near two T-stops. Finally, Mr. Allen stated, a special permit is required under Section 4.08 for affordable housing.

Mr. Allen argued that the application meets the requirements of Section 9.05 of the Zoning By-Law for the following reasons: 1) Specific site is an appropriate location for such use: The property is a row house located in M-2.0 Multi-Family District and is surrounded on both sides of the street with outer multifamily row houses most of which are 4-8 units. 2) Use will not adversely affect the neighborhood: The proposal will create a fourth unit all within the existing footprint of the building and therefore the proposal will not adversely affect the neighborhood by any exterior additions to the Building, and there will be an improvement to the landscaping and stormwater. 3) No nuisance or serious hazard to vehicles or pedestrians: Currently, the rear portion of this land is a free-for-all parking area. The proposal will clean up the parking area, create four delineated parking spaces and add a landscaped area where only cement and dirt currently exist. 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use. 5) Development will not have any effect on the supply on housing available for low and moderate-income people. Not only will this project not have a negative effect on the supply of housing for low-and moderate-income people, but it will also create a new garden level unit within an area close to a T-Station consistent with the Town's identified housing goals and make a payment to the Affordable Housing Trust fund that will go toward the creation of more affordable units in the Town.

Chair Geller then called for public comments. No public comments were submitted. Chair Geller noted for the record the letters in support and one in opposition submitted to the Board.

Chair Geller then called upon Planner and Zoning Coordinator Karen Chavez to deliver the Planning Report:

**FINDINGS**

<b>ZONING: M-2.0</b>	<b>Requirements</b>		<b>Existing Conditions</b>	<b>Proposed Conditions</b>	<b>Relief Required</b>
	<b>Existing</b>	<b>New</b>			
<b>Use</b>	Other dwelling structure	Other dwelling structure	Three-family dwelling	Four-family dwelling	
<b>Lot Size</b>	None	None	4,456sf	4,456sf	
<b>Floor Area Ratio</b>	2.0 (100%) 8,912sf	2.0 (100%) 8,912sf	1.88 (94%) 8,365sf	1.88 (94%) 8,365sf	
<b>Height</b>	50'	50'	44'	44'	
<b>Front Setback</b>	<i>[15+H/10]</i> 19.4'	<i>[15+H/10]</i> 19.4'	6.5'	6.5'	<b><u>Special Permit</u></b> <sup>1,2</sup>
<b>Side Yard Setback (Left / Right)</b>	0' / 0'	0' / 0'	0'/0'	0'/0'	
<b>Rear Yard Setback</b>	30'	30'	45.2'	45.2'	
<b>Open Space (Landscaped / Usable)</b>	<i>10%/10%</i> 837sf/837sf	<i>10%/10%</i> 837sf/837sf	1,160sf/ unknown	1,160sf/ unknown	<b><u>Special Permit</u></b> <sup>1</sup>
<b>Parking Spaces</b>	6	8	4	4	<b><u>Special Permit</u></b> <sup>3</sup>

<sup>1</sup> **Section 5.05, Conversions:** This section requires that all conversions that create additional dwelling units must conform to the dimensional requirements of Table 5.01. However, the Zoning Board of Appeals may waive any of those requirements (except minimum lot size) by special permit provided that no such nonconformities are increased.

<sup>2</sup> **Section 5.43, Exceptions to Yard and Setback Regulations:** Relief from setback requirements can be granted through Section 5.43 which states that relief may be granted if the applicant can provide an adequate

counterbalancing amenity that mitigates negative impacts arising from the requested deviation from the requirements of the Zoning Bylaw.

<sup>3</sup> **Section 6.01.2, General Regulations Applying to Required Off-Street Parking Facilities:** This section allows the Zoning Board of Appeals to waive up to 50% of the minimum parking requirements in cases where a building in an M district is being converted for one or more additional dwelling units.

### **Other Zoning Relief Needed**

**Section 4.08, Affordable Housing Requirements:** The proposed conversion results in a building that, upon completion, will have four or more units. Three of the units are pre-existing units located wholly within the habitable area of the pre-existing building and therefore are not counted for the purpose of calculating the cash payment option.

**Section 8.02, Alteration or Extension** – A special permit is required for the alteration of a non-conforming structure.

### **PLANNING DEPARTMENT COMMENTS**

Ms. Chavez stated that the Planning Department is supportive of this proposal. She stated that the proposal adds a dwelling unit to a building located in a residential district that allows apartment buildings (M-2.0). She noted that some aspects of the building are nonconforming and relief from those nonconformities can be granted through **Section 5.05** of the Zoning By-Law. Ms. Chavez stated that the Planning Department recommends granting the necessary setback relief through **Section 5.05** rather than through **Section 5.43** of the Zoning By-Law, which would require a counterbalancing amenity. She noted that the proposal otherwise does not make any alterations to the building and will not have adverse impacts on neighbors or the surrounding public ways.

### **PLANNING BOARD RECOMMENDATION**

Ms. Chavez stated that the Planning Board feels that the proposed conversion is appropriate and beneficial to the Town by providing both an additional dwelling unit and providing a payment to the Housing Trust Fund.



Therefore, Ms, Chavez stated, the Planning Board recommends approval of the site plan by Spruhan Engineering, dated 4/1/21, and revised architectural plans by Vanko Studio, dated 9/8/2021, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscaping plan, stamped and signed by a landscape architect, to the Assistant Director for Regulatory Planning for review and approval.
3. In accordance with Section 4.08 of the Zoning By-law and guidelines regarding "Cash Payments in Lieu of Affordable Units", approved by the Planning Board on January 7, 2021, and with the choice of the applicant to make a cash payment in lieu of providing affordable units, the owner of the property shall make the following payment to the Brookline Housing Trust and provide the following documentation before the Town's issuance of a Certificate of Occupancy for the project:

*A sum equal to 0.5% (1/4 X 2%) times the total of the adjusted sales prices for all four units (actual sales price, including the cost of all parking) shall be due from the net proceeds of sale of the first unit at 15 Euston Street, and provided to the Town of Brookline in the form of a bank check, certified check or a check drawn on an Attorney Client's Fund Account, payable to the Brookline Housing Trust.*

*A check shall be mailed, accompanied by a copy of the HUD settlement statement, signed by the seller and buyer, and a copy of the unit deed, by first class mail or hand delivery to:*

*Director of Planning & Community Development  
333 Washington Street – 2<sup>nd</sup> floor  
Brookline, MA 02445*

*If any condominium unit(s) is/are to be rented by the owner instead of sold, the cash payments relative to the units being rented shall be immediately due and payable, unless, upon request by the owner due to a significant change in market conditions, the Director of Planning and Community Development approves a different schedule of payments.*

*Prior to the issuance of a building permit, the owner shall execute a mortgage, escrow agreement, letter of credit or other documentation approved by the Director of Planning and Community Development to secure the cash payments required by this condition.*

4. Prior to the issuance of a building permit, the applicant shall electronically submit to the Building Commissioner for review and approval a) the site plan, floor plans, and elevations displaying the approval stamp of the Assistant Director for Regulatory Planning; and b) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.

Chair Geller then called upon Paul R. Campbell, Deputy Building Commissioner, to deliver the findings of the Building Department. Mr. Campbell stated that the Building Department agrees with the Planning Department's recommended conditions and noted that the Building Department will ensure that the Proposal complies with all local and state codes.

The Board then deliberated on the merits of the application. Board Member Zuroff stated that he had no objections to the relief requested and further stated that the proposal meets the requirements for the grant of special permit relief. Board Member Meiklejohn stated that he concurred with the Planning Board recommendation that relief should be issued under **Section 5.05**. He noted that this proposal was particularly appropriate for the grant of parking relief due to its location near rapid transit. He added that the landscape plan is very well done and voted in favor of granting the requested relief. Chair Geller agreed and voted in support of granting the requested relief.

The Board then determined, by unanimous vote, that the requested relief met the requirements for a special permit as required under **Sections 5.05, 6.01.2, 4.08** and **8.02** of the Zoning By-Law.

In addition, the Board made the following specific findings in accordance with said **Section 9.05**:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will no adversely affect the neighborhood.

- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have any effect on the supply of housing available for low- and moderate-income people.

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

1. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, stamped and signed by a registered architect, and a final site plan, stamped and signed by a registered engineer or land surveyor, to the Assistant Director for Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscaping plan, stamped and signed by a landscape architect, to the Assistant Director for Regulatory Planning for review and approval.
3. In accordance with Section 4.08 of the Zoning By-law and guidelines regarding "Cash Payments in Lieu of Affordable Units", approved by the Planning Board on January 7, 2021, and with the choice of the applicant to make a cash payment in lieu of providing affordable units, the owner of the property shall make the following payment to the Brookline Housing Trust and provide the following documentation before the Town's issuance of a Certificate of Occupancy for the project:

*A sum equal to .5% (1/4 X 2%) times the total of the adjusted sales prices for all four units (actual sales price, including the cost of all parking) shall be due from the net proceeds of sale of the first unit at 15 Euston Street, and provided to the Town of Brookline in the form of a bank check, certified check or a check drawn on an Attorney Client's Fund Account, payable to the Brookline Housing Trust.*

*A check shall be mailed, accompanied by a copy of the HUD settlement statement, signed by the seller and buyer, and a copy of the unit deed, by first class mail or hand delivery to:*

*Director of Planning & Community Development  
333 Washington Street – 2<sup>nd</sup> floor  
Brookline, MA 02445*

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*unless, upon request by the owner due to a significant change in market conditions, the Director of Planning and Community Development approves a different schedule of payments.*

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Unanimous Decision of  
The Board of Appeals

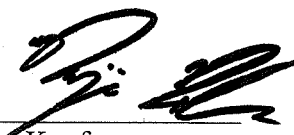


Jesse Geller, Chair

Jesse Geller, Chair

Filing Date: 10/14/21

A True Copy  
ATTEST:



Benjamin Kaufman  
Clerk, Board of Appeals