

BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zuroff
Johanna Schneider

Town of Brookline

Massachusetts

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

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-0010
1580 BEACON STREET
BROOKLINE, MA

ASSOCIATED DECISION:
1578 BEACON STREET
NO. 2022-0009

Petitioner, 1578-1580 Beacon Street Realty Trust, applied to the Building Commissioner for permission to reconstruct an existing stair and headhouse, construct a roof deck, construct new headhouse, and other exterior modifications to the building façades at 1578 and 1580 Beacon 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 in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals, and fixed March 3, 2022, at 7:00 p.m. virtually as the time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 February 17, 2022, and February 24, 2022, 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: **1580 Beacon Street**
Petitioner: **1578-1580 BEACON STREET REALTY TRUST**
Zoning District: **M-1.5 Apartment House District**
Precinct: **11**
Description: **Construct new stair and headhouse, exterior modifications to the façade**

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

Date: **3/3/22**
Time: **7:00 pm**
Location: **Virtual Meeting (see below)**

Register for this virtual hearing:

<https://bit.ly/3oJySaS>

After registering you will receive a confirmation email containing information about joining the hearing.

Our Virtual Meeting Guide for Applicants and the Public can be found here:

<https://bit.ly/30wRoY3>

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:

§5.09 - DESIGN REVIEW
§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS
§5.60 - SIDE YARD REQUIREMENTS
§8.02 - ALTERATION OR EXTENSION

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 **Monique Baldwin** (mbaldwin@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, 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 Assistive Listening Devices, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

*Jesse Geller, Chair
Mark Zuroff
Johanna Schneider*

Publish: 2/17/2022 & 2/24/2022

On March 3, 2022, at 7:00 pm, the Brookline Zoning Board of Appeals held a public hearing. Present at the hearing were Zoning Board Chair Jesse Geller and Board Members Lark Palermo and Randolph Meiklejohn.

The Petitioner's attorney, Jennifer Dopazo Gilbert, RLAW, P.C., 300 Washington Street, Brookline, Massachusetts, waived a reading of the public hearing notice for the record. Also in attendance was the project architect, Ryan Noone, EMBARC Studio 580 Harrison Ave Suite 2W, Boston, Massachusetts.

Attorney Dopazo Gilbert requested that the Board hear the two related cases concurrently and the Board agreed to this request. Ms. Dopazo Gilbert then presented the case for each of 1578 and 1580 Beacon Street. She stated that the project includes two existing attached buildings located in the M-1.5 zoning district. She further stated that the buildings are south of Corey Hill and are east of the Washington Square 'T' stop, with frontage along the westbound side of Beacon Street. She stated that the existing buildings were constructed circa 1920 and added they were likely built in conjunction with the attached masonry structures to which they are bound to the right and left.

Attorney Dopazo Gilbert stated that 1578 Beacon has eight units, and 1580 Beacon has four units. She noted that the proposal does not impact the existing unit count.

Attorney Dopazo Gilbert stated that the proposal received the unanimous support of the Planning Board. She added that the Planning Board found that the proposed changes would make a nice improvement to this building that requires some maintenance. Attorney Dopazo Gilbert stated that the only item that the Planning Board was concerned about was the placement of the trash enclosure and stated that the Petitioner has no objection to return to the Planning Board, as requested, for final design review of the new trash enclosure. Attorney Dopazo Gilbert reviewed the other elements of the proposal and highlighted that the proposed window replacements are more in keeping with the original windows of the building, since the originals were replaced over the years with a mismatched style and these replacements are now in poor condition.

Mr. Noone reviewed the plans for the project and presented the site plan and architectural drawings and identified for the Board where the side yard setback relief is required at 1580 Beacon Street. He noted that a side yard setback of 2-feet is proposed to construct a new headhouse at 1580 Beacon Street, where 14.9-feet is required. Mr. Noone reviewed context photos of the buildings and described the existing condition of the rooftop stair at 1578 Beacon Street, stating that it would be replaced in-kind. Mr. Noone then reviewed the new proposed headhouse on 1580 Beacon Street noting that the height will be 10-feet above the existing roofline for access to mechanical equipment on the roof. He continued that the existing windows will be replaced as noted before to make them consistent with the buildings' architecture. He added that similarly the aluminum entry doors would be replaced with mahogany doors. Mr. Noone described the current and proposed trash management and locations. Finally, Mr. Noone reviewed the modern windows proposed at the rear of the building and the proposed window wells to the lower-level units.

Upon inquiry from Board Member Meiklejohn, Mr. Noone clarified that the new stair is proposed at 1580 Beacon Street, and the stair at 1578 Beacon Street exists and is to be replaced in kind. Board Member Meiklejohn concurred that the placement of the new stair in relation to the existing internal circulation of the building was logical. Chair Geller noted that the property has become run down over the years and added that a front wall and cap have fallen into disrepair. He added that the front yard landscaping should be improved from its barren state.

Attorney Dopazo Gilbert then reviewed the zoning relief requested for 1578 Beacon Street stating that 1578 Beacon Street requires a Special Permit pursuant to **Section 5.09.2.a** for design review, and no other relief is required. Attorney Dopazo Gilbert further stated that an impact statement was submitted outlining how the proposal satisfied the guidelines established under the Community and Environmental Impact and Design Standards.

Attorney Dopazo Gilbert then reviewed the zoning relief requested for 1580 Beacon Street stating that 1580 Beacon Street requires a Special Permit pursuant to **Section 5.09.2.a** and an impact statement was also submitted. She added that a special permit is sought pursuant to **Section 5.43** from application of the provisions of **Section 5.60** to substitute a side yard setback of 2-feet where 14.9-feet is required. Attorney Dopazo Gilbert stated that relief may be granted by a special permit if adequate counterbalancing amenities are provided representing that to serve as the counterbalancing amenity, the Petitioner proposes a landscape plan that will include the front yard and the relocation of the existing garbage bins to the rear.

Attorney Dopazo Gilbert stated that the proposal meets the special permit requirements under **Section 9.05** and noted the following: 1) Specific site is an appropriate location for such use: There will be no change to the existing use as a multifamily building which is an allowed use in the M1.5 district. 2) Use will not adversely affect the neighborhood: The renovation of the existing building will result in a building in a better condition and will not negatively affect the

neighborhood. It is evident in the roof plan and in aerial views, that the proposal does not adversely impact the neighborhood, rather, the proposal is to take care of some needed upgrades to maintain the building. 3) There will be no nuisance or serious hazard to vehicles or pedestrians: Vehicular and pedestrian site access will remain the same. 4) Adequate and appropriate facilities will be provided for the proper operation of an apartment building: The proposal will result in some needed upgrades and in particular will greatly improve the trash and recycling on site. 5) There will be NO effect on the supply on housing available for low- and moderate-income people.

Chair Geller then called for public comments in favor of the proposal. No comments were submitted in support of the proposal.

Chair Geller then called for public comments in opposition to the proposal. William Gardner, 2 Mason Terrace, stated that he was not opposed to the project, however, inquired about the trash management at the abutting building. Attorney Dopazo Gilbert clarified that the Petitioner has no ownership or control over that building. Mr. Gardner stated that he appreciated the proposed changes to 1578 and 1580 Beacon and the new refuse management proposal.

Chair Geller then called upon Monique Baldwin, Planner and Zoning Coordinator, to deliver the reports of the Planning Department and Board:

FINDINGS – 1578 Beacon Street

§5.09 – DESIGN REVIEW: As the subject property is located on Beacon Street, design review is required.

§8.02 - ALTERATION OR EXTENSION

ZONING: M-1.5	Requirements	Existing Conditions	Proposed Conditions	Relief Required
Lot Size	None	6,525 sf	6,525 sf	No change
Use	Multi-family	Multi-family	Multi-family	No change

Lot Width	None	150'	150'	No change
Height	45' – 50'	42.31'	42.31'	No change
FAR	1.5	1.61	1.61	No change
Setbacks Principal (Left / Right)	H+L/6 = 14.3'	0' / 0'	0' / 0'	No change
Setbacks Roof Deck (Left / Right)	H+L/6 = 14.3'	-	14.5' / 15'	Complies
Setbacks Principal (Front / Rear)	19.23' / 30'	25.3' / 25.4'	25.3' / 25.4'	No change
Setbacks Roof Deck (Front / Rear)	19.23' / 30'	-	±30' / 38.25'	Complies
Open Space Landscape	10%	7% / 500 sf	11% / 750 sf	Complies
Open Space Usable	15%	0%	0%	No change

PLANNING DEPARTMENT COMMENTS

Ms. Baldwin stated that the Planning Department is supportive of the proposal as the proposed exterior changes are minor. She noted that though the buildings are not located in a Local Historic District, they are located within the Beacon Street National Register of Historic Places. Therefore, Ms. Baldwin stated, the repointing and beautifying of the façade will be an improvement to the historic site.

PLANNING BOARD COMMENTS

Ms. Baldwin stated that the Planning Board recommends approval of the proposed exterior modifications but with revised trash-storage location plans submitted to the Planning Board for review and approval.

Ms. Baldwin stated that Board members were critical of the proposal trash storage location against the façade in front of a bedroom window. She added that in lieu of a trash storage room within the building footprint or at the rear, the Board suggested that trash be stored on an extension of a landing at the midpoint of the front-yard stairs that would be fenced-in and landscaped with evergreen plantings. Ms. Baldwin stated that the Board acknowledged that the Preservation Commission might have concerns with this suggested location; however, it would recommend that the Applicant return to the Planning Board for review of the revised trash storage and screening plan.

The Planning Board recommends approval of the site plan by Spruhan Engineering, PC., dated 12/10/21, and architectural plans by EMBARC, RA dated 12/10/21, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit revised trash storage and screening plans to the Planning Board for review and approval and 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 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.

Ms. Baldwin then presented the Planning Board report for 1580 Beacon Street:

FINDINGS – 1580 Beacon Street

§5.09.2.A – DESIGN REVIEW: As the subject property is located on Beacon Street, design review is required.

§5.43 - EXCEPTIONS TO YARD AND SETBACK REGULATIONS

§5.60 - SIDE YARD REQUIREMENTS

§8.02 - ALTERATION OR EXTENSION

ZONING: M-1.5	Requirements	Existing Conditions	Proposed Conditions	Relief Required
Lot Size	None	3,337 sf	3,337 sf	No change
Use	Multi-family	Multi-family	Multi-family	No change
Lot Width	None	30.06'	30.06	No change
Height Principal Structure	45' – 50'	45.76'	45.76'	No change
Height Headhouse	45'-50'	n/a	54.76'	Complies
Setbacks Headhouse (Left / Right)	H+L/6 = 14.9'	-	±2' / 20'	<u>Special Permit</u> ¹
FAR	1.5	1.58	1.58	No change
Setbacks Principal (Left / Right)	H+L/6 = 14.3'	0' / 0'	0' / 0'	No change
Setbacks Principal (Front / Rear)	19.5' / 30'	30.4' / 30.66'	30.4' / 30.66'	No change
Open Space Landscape	10%	25% / 853 sf	22% / 757 sf	Complies
Open Space Usable	15%	0%	0%	No change

¹ Section 5.43, **Exceptions to Yard and Setback Regulations:** Relief from setback requirements can be granted through Section 5.43 which states that the Board of Appeals may grant relief if the applicant can provide an adequate counterbalancing amenity.

PLANNING DEPARTMENT COMMENTS

Ms. Baldwin stated that the Planning Department is supportive of the proposal as it is minimal and added that the proposed repointing and modifications to the façade serve as appropriate counterbalancing amenities, especially as the buildings are located within the Beacon Street National Register of Historic Places.

PLANNING BOARD RECOMMENDATION

Ms. Baldwin stated that the Planning Board recommends approval of the proposed exterior modifications but with revised trash-storage location plans submitted to the Planning Board for review and approval. She noted that Board members were critical of the proposal trash storage location against the façade in front of a bedroom window. In lieu of a trash storage room within the building footprint or at the rear, the Board suggested that trash be stored on an extension of a landing at the midpoint of the front-yard stairs that would be fenced-in and landscaped with evergreen plantings. Ms. Baldwin stated that the Board acknowledged that the Preservation Commissions might have concerns with this suggested location; however, it would recommend that the Applicant return to the Planning Board for review of the revised trash storage and screening plan.

Ms. Baldwin stated that the Planning Board recommends approval of the site plan by Spruhan Engineering, PC., dated 12/10/21, and architectural plans by EMBARC, RA dated 12/10/21, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit revised trash storage and screening plans to the Planning Board for review and approval and 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 plan than shows proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning. The counterbalancing amenities must be executed in accordance with the approved plan.
3. 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.

The Board concurred that it was appropriate for 1578 and 1580 Beacon Street to return to the Planning Board for final design review to discuss the trash and recycling screening.

Additionally, the Board discussed modifying the second condition of the Planning Board recommendation for 1580 Beacon Street to include landscaping in the front and to the rear of the buildings at both 1578 and 1580 Beacon Street to serve as the counterbalancing amenity.

Chair Geller then called upon Deputy Building Commissioner, Paul Campbell, to deliver the opinion of the Building Department. Mr. Campbell stated that the Building Department has no objection to the relief requested and will work with the Petitioner to ensure compliance with the Zoning Board's decision and the state building codes.

The Board then deliberated. Board Member Palermo stated that the proposal was well done and noted that the improvements will add to the existing streetscape and neighborhood. She added that as presented, the standards required under **Section 9.05** have been satisfied. Board Member Meiklejohn concurred and voted in favor of granting the requested relief. Board Member Meiklejohn added that the requested setback relief is small relative to the increased safety for emergency access to the roof. Chair Geller stated that the proposed changes would be a positive addition to Beacon Street to a building that has become run down. He noted that the application was thoughtful and felt that the counterbalancing amenity requirement under **Section 5.43** was met from the landscaping offered to the front and the rear of both properties, historically appropriate windows to the front of the buildings, and other upgrades provided to bring the buildings up to modern requirements.

The Board then determined, by unanimous vote that the requirements for a special permit from the provisions of **Section 5.60** under **Section 5.43** for side yard setback and under **Section 5.09.2.a** for design review were met.

In addition, the Board made the following specific findings, based on the evidence submitted at the hearing and the Board's deliberation that the criteria under **Section 9.05** Special Permit standards have been met:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not 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. The development as proposed will not have a significant adverse effect on the supply of housing available for low- and moderate-income people.

Accordingly, the Board voted unanimously to grant special permit relief, subject to the following conditions for 1580 Beacon Street:

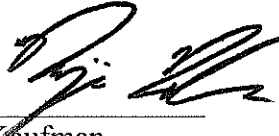
1. Prior to the issuance of a building permit, the applicant shall electronically submit revised trash storage and screening plans to the Planning Board for review and approval.
2. Prior to the issuance of a building permit, the applicant shall electronically submit final floor plans and elevations, 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.
3. Prior to the issuance of a building permit, the applicant shall electronically submit a landscape plan to include landscaping for the front and rear of 1578 and 1580 Beacon Street that shows the proposed counterbalancing amenities subject to approval by the Assistant Director for Regulatory Planning. The counterbalancing amenities must be executed in accordance with the approved plan.
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.

Unanimous decision of the
Board of Appeals


Jesse Geller, Chair

Filing Date: 3/30/2022

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals