



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chair
Mark Zuroff
Johanna Schneider

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TOWN CLERK'S OFFICE
JUL 21 2022 10:11:10

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-0026
666 BROOKLINE AVENUE

Petitioner Claremont Brookline Land, LLC applied to the Building Commissioner for permission to demolish an existing building and secure the site. 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 April 28, 2022, at 7:00 p.m., 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 April 14, 2022, & April 21, 2022, in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

NOTICE OF HEARING

The Brookline Zoning Board of Appeals will hold a virtual public hearing via ZOOM on Thursday, April 28, 2022 at 7:00pm

Registration Link: <https://bit.ly/3NCWAQQ>

The ZBA will consider the following pursuant to M.G.L. 40A & the Brookline Zoning-Bylaw:

Petitioner: Claremont Brookline Land LLC **Address:** 666 Brookline Avenue

Zoning: I-1.0 / I-(EISD) **Precinct:** 4

Description: Demolish existing building and secure site

The Board will consider variances and/or special permits from the following sections of the By-law (and any additional zoning relief the Board deems necessary):

§5.09.2.A – DESIGN REVIEW

ANY OTHER RELIEF THE BOARD MAY FIND NECESSARY

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 **Polly Selkoe** (pselkoe@brooklinema.gov). All plans and submissions may be found at:*

<https://brooklinema.gov/DocumentCenter/Index/2352>.

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.

Assistive Listening Devices are available upon request:

<https://www.brooklinema.gov/560/Americans-With-Disabilities-Act-ADA>

Jesse Geller, Chair

Mark Zuroff

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Publish: 4/14/2022 & 4/21/2022

On April 28, 2022, the Zoning Board of Appeals held a virtual public hearing. Present at the hearing were Chair Johanna Schneider and Board Members Mark Zuroff and Neil Wishinsky. The Zoning Board of Appeals voted unanimously to continue the matter of 666 Brookline Avenue, Case #2022-0026, to July 7, 2022, without discussion.

On July 7, 2022, the Zoning Board of Appeals the Zoning Board of Appeals held a public hearing. Present at the virtual hearing were Chair Jesse Geller and Board Members Randolph Meiklejohn and Paul Bell. The case was presented by the attorney for the Petitioner, Robert L.

Allen, Jr., RLAW P.C., 300 Washington Street, Second Floor, Brookline, Massachusetts. Also in attendance was Mike Connors, representing the Petitioner.

Zoning Board of Appeals Chair Geller called the virtual hearing to order at 7:00 pm. Chair Geller reviewed the standard hearing procedure for virtual hearings and confirmed that all Board Members and staff could visually and auditorily engage in the hearing. Attorney Allen waived a reading of the published notice and, on inquiry of the Chair, requested that this Case and a companion Case, Case No. 2022-27, proceed simultaneously.

Attorney Allen presented the cases for the Petitioner, stating that the parcels at 654 and 666 Brookline Avenue are located in an I-1.0 Industrial Services zoning district and are in the Emerald Island Overlay District and the proposal is to demolish the existing mechanic shops at both locations. He continued that the two automotive mechanic shops currently are empty and were found to not be historically significant by the Preservation Staff. Attorney Allen noted that any change of a structure within 100 feet of Brookline Avenue requires a special permit for design review under **Section 5.09.2.A** of the Zoning By-Law. He further stated that all abutters within 300 feet had been contacted about both the proposed demolition and informed about the requirement that any future proposal would be subject to the review and approval of the Board of Appeals. He noted that none of the abutters had voiced opposition to the requested relief or the demolition and that, for the time being, the Petitioner plans to use the site for a staging area for buses that transport visitors to the nearby hotel developed and owned by the Petitioner.

Chair Geller inquired whether the Petitioner had selected a specific method of screening per the Planning Board report's suggestions (screened with shrubs or imitation ivy). Attorney Allen responded that the Petitioner is focused on first receiving the approval of the Zoning Board

of Appeals, after which it would consult with Assistant Director for Regulatory Planning to reach an agreeable fencing and landscaping plan.

Board Member Bell inquired into whether the structures have any historical significance. Attorney Allen responded that the structures were found to be not historically significant. Board Member Bell stated that he would support a condition, stipulating that a landscaping and fencing plan be submitted to the Assistant Director for Regulatory Planning prior to the issuance of a building permit to ensure the appropriateness of the subsequent appearance.

Board Member Meiklejohn inquired about the possible layout of fencing around the site. Attorney Allen stated that the proposal is to place a fence around the front and rear of the properties. Board Member Meiklejohn added that he was concerned that an existing interior fence would be unsightly after the addition of an outer fence, but he noted that he was comfortable with the Assistant Director for Regulatory Planning having authority to grant final approval for the proposal.

Attorney Allen reviewed the requested zoning relief, stating that under **Section 5.09.2.A**, a special permit is required to demolish any structure located within 100 feet of Brookline Avenue, as is the case with both 654 and 666 Brookline Avenue. He then reviewed the special permit review standards enumerated in Zoning By-Law **Section 9.05**, stating the followings: 1) Specific site is an appropriate location for such use: The properties are located in an I-1.0 Industrial Services zoning district and the Emerald Island Overlay District, and the area consists of a variety of structures, including apartments and industrial and commercial developments. 2) Use will not adversely affect the neighborhood: The proposal has met no public opposition, the Preservation Commission found that the structures were not historically significant, and the Petitioner, who owns other property nearby, already has an interest in improving the neighborhood. 3) No nuisance

or serious hazard to vehicles or pedestrians: There will be no danger to vehicles or pedestrians since the existing structures' current uses will be eliminated, resulting in fewer vehicles and pedestrians in the area. 4. Adequate and appropriate facilities will be provided for the proper operation and proposed use: While the ultimate use and operation of the property is as-yet undetermined, Petitioner has made plans to mitigate the effects of any temporary vacancy, including the installation of a fence around the lots. 5) Development will not have any effect on the supply on housing available for low and moderate income people.

Chair Geller called for public comments in favor of or in opposition to the Petitioner's proposal. No public comments were received.

Chair Geller called upon Planner and Zoning Coordinator Madison Anthony to present the Planning Board report and Planning Department recommendations.

FINDINGS

Section 5.09.2.A, Design Review: Section 5.09 states that Design Review is required for any alteration to a structure which is located on or within 100 feet of Brookline Avenue (§5.09.2.A). This project falls under this category, and therefore requires Design Review. The applicant has submitted an Impact Statement as required by §5.09.3.C, which describes how the project satisfies the Community and Environmental Impact and Design Standards of §5.09.4.

PLANNING DEPARTMENT COMMENTS

Ms. Anthony stated that the Planning Department is supportive of this proposal, especially since the Preservation Commission determined that the existing buildings on the site are not historically valuable. She added that the applicant has outlined reasonable steps to secure the site and ensure that it is not visually detrimental to the surrounding neighborhood. However, Ms. Anthony noted that no parking should be allowed on the site, and that the details of the permanent fence to surround the lots should be submitted for review and approval. She concluded that the shrubbery in front of 654 Brookline Avenue should also be maintained, with the possibility of adding the same shrubbery in front of 666 Brookline Avenue to make the empty lots more attractive while they remain vacant.

PLANNING BOARD RECOMMENDATION

Ms. Anthony stated that the Planning Board is supportive of this proposal and it feels that the Applicant should not be required to maintain the existing shrubbery. However, she noted that a screening fence should be used to enclose the properties – for example, a fake-ivy fence. She continued that the Board discussed the vacant sites' potential use for temporary parking and agreed that some very temporary parking should be allowed in a limited fashion on the property but not open to the general public. Ms. Anthony noted that the Board voted to include a condition prohibiting overnight parking until the lot is redeveloped, and that the Board requests that the applicant show all existing easements on the proposed site plan.

Therefore, Ms. Anthony stated that the Planning Board recommends approval of the site plan by Farland Corporation, dated 3/4/22, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit 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. The final site plan should show all existing easements on the subject property.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscaping and fencing plan, to the Assistant Director for Regulatory Planning for review and approval.
3. No overnight parking shall be allowed on the sites while they are undeveloped, unless a new application is submitted to the Board of Appeals.
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, 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 Ms. Anthony to deliver the findings on behalf of the Building Department. Ms. Anthony stated that, for both the present case and Case #2022-0027, the Building Department concurred with the Planning Board analysis and added that, should the Board grant

the requested relief, the Building Department would work with the Petitioner to ensure conformance with the Board's decision and all applicable building codes.

In deliberation, Board Member Meiklejohn stated that, for both cases, the Petitioner had submitted the documents required under **Section 5.09.2.A** for the Board to make a decision as to the requested special permit relief. He added that he had some concerns relating to that Section's requirement that no adverse use may result from the issuance of the permit, but he noted that the condition requiring the submission of a landscape and fence plan was sufficient to address his concerns. Board Member Meiklejohn concluded that he would vote to grant the requested special permit under **Section 5.09.2.A**, as the requirements of **Section 9.05** have been satisfied.

Chair Geller noted that Polly Selkoe, the Assistant Director for Regulatory Planning, would be charged with granting final approval for the site's landscaping.

Board Member Bell stated that he would feel more comfortable granting the requested relief with the inclusion of a condition that would provide the Planning Department with discretion to approve or reject Petitioner's plans for landscaping. Senior Planner Maria Morelli added that the condition, as written, provided the Planning Department with sufficient latitude to appropriately oversee the site's future landscaping. Board Member Bell then stated that he would vote in favor of granting the special permit, as the Petitioner satisfied the requirements enumerated in **Section 9.05**.

Chair Geller agreed with the other Board Members, adding that he believed the Petitioner met the requirements for design review under **Section 5.09.A.2** and the requirements for a special permit under **Section 9.05**. He added that he, too, would vote in favor of granting the requested relief.


The Board then determined, by unanimous vote, that the proposal met the requirements for special permits under the design review provisions of Section 5.09.2.A and to approve the special permits requested in both the present case, #2022-0026, for the property at 666 Brookline Avenue, and its related case, #2022-0027, for the property at 654 Brookline Avenue. In addition, the Board made the following specific findings under Section 9.05 based on the evidence submitted at the hearing and the Board's deliberations:

- 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. 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 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. The final site plan should show all existing easements on the subject property.
2. Prior to the issuance of a building permit, the applicant shall electronically submit a landscaping and fencing plan, to the Assistant Director for Regulatory Planning for review and approval.
3. No overnight parking shall be allowed on the sites while they are undeveloped, unless a new application is submitted to the Board of Appeals.
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, 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
Zoning Board of Appeals

Filing Date: 7/21/22

A True Copy
ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals