

Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chair
Johanna Schneider
Lark Jurev Palermo

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Benjamin Kaufman, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2022-0037
1154 BOYLSTON STREET

TOWN CLERK'S OFFICE
AUG 13 '22 @ 9:24

Petitioner We Close the Deal, LLC applied to the Building Commissioner for permission to construct additions and make exterior modifications to existing 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 August 4, 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 July 21, 2022, & July 28, 2022, in the Boston Globe, a newspaper in general circulation in the Town. A copy of said notice is as follows:

TOWN OF BROOKLINE – Zoning Board of Appeals
NOTICE OF HEARING

The Brookline Zoning Board of Appeals will hold a public hearing on

Date/Time: Thursday, August 4, 2022

Location: Virtual Hearing OR Hybrid Hearing (TBA)

Virtual Registration Link: <https://bit.ly/3z1Pgc0>

Physical Location (if Hybrid): Room 103 (1st floor) of Brookline Town Hall

Petitioner: We Close the Deal, LLC

Address: 1154 Boylston Street

Subject: Construct additions and make exterior modifications to existing building

Nature of Action/Relief:

§5.09.2.a – Design review

§8.02.2 – Alteration and extension

Plans and submissions may be viewed online at

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

Interested persons may provide comments at the public hearing or by submitting written comments by email to manthony@brooklinema.gov.

Assistive Listening Devices are available upon request:

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

Publish: 7/21/2022 & 7/28/2022

On August 4, 2022, the Zoning Board of Appeals held a public hearing. Present at the virtual hearing were Chair Lark Palermo and Board Members Jesse Geller and Paul Bell. The case was presented by the attorney for the Petitioner, Attorney Jennifer Dopazo Gilbert, RLAW P.C., 300 Washington Street, First Floor, Brookline, Massachusetts. Also in attendance was the project architect, Stephen Sousa, Sousa Architects, 81 Boylston Street, Brookline, Massachusetts.

Zoning Board of Appeals Chair Palermo called the virtual hearing to order at 7:00 pm. Chair Palermo 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 Dopazo Gilbert waived a reading of the published notice.

Attorney Dopazo Gilbert presented the case for the Petitioner. Attorney Dopazo Gilbert stated that 1154 Boylston Street is a one-story commercial building located at Route 9 and Hammond Street. She stated that the property is located in a G-1.0 Zoning District, and that it was formerly used as a Peet's Coffee. She stated that there are two buildings on site and that the existing driveway enters through the middle of the property. Attorney Dopazo Gilbert continued that the proposal is to construct a small vestibule area, which would add less than 50 square feet to the

building, as well as a shed dormer. She stated that the proposal also calls for improving the exterior siding of the building to freshen up the overall appearance. Attorney Dopazo Gilbert further noted that the Planning Board was unanimously supportive and enthusiastic about the new design.

The project architect, Stephen Sousa, then reviewed the architectural plans. In reliance on a digital presentation, Mr. Sousa reviewed the proposed floor plans and elevations.

Attorney Dopazo Gilbert then reviewed the requested zoning relief, stating a special permit was sought under **Section 5.09.2.a** for design review because the building is located within 100 feet of Boylston Street. She noted that an impact statement summarizing how the proposal meets the Community and Environmental Impact and Design Standards in **Section 5.09.4**, was provided to the Board for its review and the Planning Department had found that it met the criteria.

Attorney Dopazo Gilbert then reviewed the special permit requirements enumerated in **Section 9.05**, stating the followings: 1) Specific site is an appropriate location for such use: The building has been used for commercial space, most recently a Peet's Coffee. This new sushi restaurant will return this property to an allowed use in this General Business District. 2) Use will not adversely affect the neighborhood: The proposed restaurant is an allowed use in this district and is surrounded by single- and two- family neighborhoods to the north, east, and south, and a commercial corridor to the west. The modifications to the building are not expected to have any negative impact on the surrounding properties. 3) No nuisance or serious hazard to vehicles or pedestrians: The property's on-site circulation will not change and has functioned well in the past to serve a similar use as a coffee shop and there is no change to the curb cut on Route 9. 4) Adequate and appropriate facilities will be provided for the proper operation and proposed use: Adequate and appropriate facilities will be provided for the proper operation of a restaurant on the site.

5) Development will not have any effect on the supply on housing available for low- and moderate-income people.

Attorney Dopazo Gilbert confirmed that the proposed signage shown on the plans was a placeholder and that the Petitioner would return to the Planning Board for signage approval.

Chair Palermo then called for public comments in support of or in opposition to the Petitioner. No public comments were submitted.

Chair Palermo then called upon Senior Planner Maria Morelli to present the Planning Board report.

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 Boylston Street. 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.

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

PLANNING DEPARTMENT COMMENTS

Ms. Morelli stated that the Planning Staff is supportive of the proposal. She added that the proposed changes to the building are relatively minor and will not significantly affect the scale of the building or its impact on surrounding abutters and public ways. She noted that the changes to the building are actually likely to make the building more visually appealing and liven up the streetscape and that other changes to the site will not impact landscaping or site circulation.

PLANNING BOARD RECOMMENDATION

Ms. Morelli stated that the Planning Board is supportive of the proposal. She stated that the Board confirmed with the applicant that the signage shown on the plans is a placeholder and that final signage will be approved under the Sign and Façade Design Review process. Otherwise, she noted, the Board felt that the changes are a very positive, well-designed transformation for

the site.

Ms. Morelli therefore stated that the Planning Board recommends approval of the site plan by Greater Boston Surveying and Engineering, dated 3/1/22, and architectural plans by Sousa Design Architects, dated 4/28/22, 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 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 Palermo then called upon Deputy Building Commissioner Paul Campbell to deliver the findings of the Building Department. Mr. Campbell stated that 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 Petitioners to ensure conformance with the Board's decision and all applicable building codes.

In deliberation, Board Member Geller stated that he felt that the proposal met the requirements for design review under **Section 5.09.2.A**, and that he would vote to approve the relief as requested. Board Member Bell concurred and noted that the design would be an overall improvement to the property. Chair Palermo concurred with Board Members Geller and Bell.

The Board then determined, by unanimous vote, that the proposal met the requirements for a special permit under **Section 5.09.2.a**, for design review, and under **Section 8.02**.


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 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.

Unanimous Decision of
The Board of Appeals


Lark Jurev Palermo, Chair
Zoning Board of Appeals

Filing Date: AUG 19 2022

A True Copy
ATTEST:


Benjamin Kaufman
Clerk, Board of Appeals