



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

Town of Brookline

Massachusetts

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Benjamin Kaufman, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2023-0019
20 NEWTON STREET

Petitioner, the Dexter Southfield School, applied to the Building Commissioner for permission to construct a classroom expansion of 4,430 square feet above the existing dining hall. 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 11, 2023, 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 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 27, 2023, and May 5, 2023, in the Herald, a newspaper circulated in Brookline. 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, May 11, 2023

Location: Virtual Hearing

Virtual Registration Link: <https://bit.ly/3naMj5Q>

Petitioner: Dexter Southfield School

Address: 20 Newton Street

Subject: Modification of Decision # 2022-000031 in order to provide 4,430 GSF of infill space

Nature of Action/Relief:

Any relief the board finds necessary

Plans and submissions may be viewed online at

<https://www.brooklinema.gov/DocumentCenter/Index/4122>

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: 4/27/2023 & 5/4/2023

At the time and place specified in the notice, the Zoning Board of Appeals held a public hearing. Present at the hearing were Chair Lark Palermo and Board Members Paul Bell and Neil Wishinsky. The case was presented by the attorney for the Petitioner, Attorney Jennifer Dopazo Gilbert, RLAW P.C., 300 Washington Street, Brookline, Massachusetts. Also in attendance was Todd Vincent, Head of School, and Philip Laird and Leslie DelleFave, architects with Architectural Resources Cambridge, 501 Boylston Street, #4101, Boston, Massachusetts. Attorney Dopazo Gilbert waived a reading of the published notice.

Attorney Dopazo Gilbert presented the case for the Petitioner. Attorney Dopazo Gilbert stated that the Dexter Southfield School is in the S-40, Single-Family District, and abuts the Boston/Brookline border. She noted that the property is surrounded on three sides by institutional uses such as the Brandegee Estate, the Sisters of Saint Paul, and Allandale Farm.

Attorney Dopazo Gilbert described the Dexter Southfield School as a non-profit, pre-K through grade 12 school, and stated that the Petitioner is seeking a modification of ZBA decision 2022-00031, as applicable, to allow for an infill addition that is 4,430 square feet to create four classrooms above the existing dining hall. She noted that the expansion would not result in an increase of staff or students and could be done by right; however, the Petitioner had agreed to request a modification of the prior Board of Appeals decision numbered 2022-000031 She stated

that the addition would be within an existing courtyard area that is interior to the school. She added that the side abutter was the Brandegee Charitable Foundation, and the project was more than 675-feet away from the residential abutters to the rear.

Attorney Dopazo Gilbert opined that this modification can be accomplished by-right under the so-called Dover Amendment, and stated that M.G.L. Ch. 40A, Section 3 provides:

No zoning ordinance or by-law shall ... regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned ... by a religious sect or denomination; ... 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.

Attorney Dopazo Gilbert added that in the prior decisions, the Board of Appeals found that Dexter School qualified as a protected use under M.G.L. Ch. 40A, Section 3, and waived zoning relief. She added that the request is simply to modify the prior decisions to reflect the proposed changes. She noted that the Petitioner would agree to the following standard conditions which appeared in prior cases:

1. Prior to the issuance of a building permit, the applicant shall electronically submit 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 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.

Mr. Laird reviewed the architectural drawings showing the location and dimensions of the classroom infill with four classrooms and a meeting room. He noted that the location would be tucked into the courtyard of the original building and would likely not be visible to any

abutters. He stated that the proposed materials will match the existing materials used on campus and the mechanical equipment is adequately screened.

Zoning Board of Appeals Chair Palermo asked if there was anyone present who wished to speak in favor or in opposition to this application. No one spoke in favor or in opposition to the application.

Chair Palermo then called upon Madison Anthony, Planner and Zoning Coordinator, for a report. Ms. Anthony reported on behalf of the Building Department that it has no objections to the requested modification and it will work with the Petitioner to ensure compliance with the Board's decision and applicable codes.

In deliberation, the Board discussed granting the modification request. The Board of Appeals concluded that the use was protected under The Dover Act.

The Board then determined, by unanimous vote, that the proposed improvements to the Dexter Southfield School are protected under the provisions of the M.G.L. Ch. 40A, Section 3 and therefore do not require zoning relief; however, the Board voted to modify the prior decision 2022-0031, as applicable, and to impose the following reasonable conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit 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 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

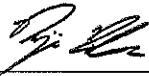
Lark Jurev Palermo

Lark Jurev Palermo, Chair

Filing Date: 5/23/2023

A True Copy

ATTEST:



Benjamin Kaufman
Clerk, Board of Appeals