



**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Johanna Schneider  
Larke Palermo

# *Town of Brookline*

## *Massachusetts*

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**Benjamin Kaufman, Clerk**

TOWN OF BROOKLINE  
BOARD OF APPEALS  
370 WASHINGTON STREET  
CASE NO. 2023-000018

Petitioner, 370 Wash, LLC, applied to the Building Commissioner for permission to demolish an existing structure and construct a new commercial building at 370 Washington Street, Brookline, MA 02445. 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 Thursday, May 25, 2023 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 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 May 11, 2023 and May 18, 2023 in the Brookline Tab, a newspaper published 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 25, 2023**

**Location: Virtual Hearing**

**Virtual Registration Link:** <https://bit.ly/3nJi7PM>

**Petitioner:** 370 Wash, LLC

**Address:** 370 Washington Street

**Subject:** Alter existing dwelling to construct exterior additions at rear of home

**Nature of Action/Relief:**

§5.09.2.A – DESIGN REVIEW

*Plans and submissions may be viewed online at*

<https://www.brooklinema.gov/DocumentCenter/Index/4159>

*Interested persons may provide comments at the public hearing or by submitting written comments by email to [manthony@brooklinema.gov](mailto:manthony@brooklinema.gov).*

**Assistive Listening Devices are available upon request:**

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

**Publish: 5/11/2023 & 5/18/2023**

On May 25, 2023, at the time and place specified in the notice, this Board held a virtual public hearing, at which time, the Petitioner requested a continuance of the hearing to June 15, 2023. The Board granted this request and continued the hearing to June 15, 2023.

On June 15, 2023, at the time and place specified in the notice, this Board held a virtual public hearing, at which time, the Petitioner requested a further continuance of the hearing to July 20, 2023. The Board granted this request and continued the hearing to July 20, 2023.

Present at the continued hearing on July 20, 2023 were Chairman Jesse Geller, and Board Members Randolph Meiklejohn and Neil Wishinsky. Attorney Robert Allen, 300 Washington Street, Brookline, MA, presented the case on behalf of the Petitioner. Attorney Allen waived the reading of the public notice.

Architect Stephen Sousa, 81 Bolyston Street, Brookline, MA, presented the architectural plans. Mr. Sousa summarized the existing/proposed site plan including the proposed five-foot six-inch front yard setback, existing surface parking area at the rear of the site to remain, landscaping, and bicycle parking. Mr. Sousa also described the programming for the fast-casual

restaurant as take-out only with some outdoor seating and a to-go window for delivery service pick-up. Mr. Sousa provided a rendering of the proposed structure in relation to adjacent buildings, which showed a maximum building height of 24 feet 8 inches tall. He also described building elements such as white-colored clapboard siding, punch-through side windows, a 12-foot tall canopy at the front of the building, a transparent storefront, and a gable style roof.

Attorney Allen stated that the proposal meets the standards under Design Review Section 5.09 of the Zoning By-Law given the use is appropriate in the G-1 District, the site is readily accessible to mass transit, is located on a local town artery, and has been designed to comply with all dimensional zoning requirements.

Randolph Meiklejohn asked about the previously proposed three-story office building. Attorney Allen responded that since the Planning Board was opposed to the use, the Petitioner decided to propose a one-story bagel shop which is what they originally wanted for the site.

Chairman Jesse Geller asked if the kitchen was also being proposed as a commissary for the nearby schools owned by an affiliate of the Petitioner. Attorney Allen responded that the kitchen is proposed strictly to be used for the commercial bagel shop and is not associated with any schools.

The Chairman asked if anyone wished to speak in favor of or in opposition to the proposal.

Jim Carol spoke in favor and was enthusiastic about the design. John Bassett, 26 Searle Avenue, spoke in opposition stating the site was not a good site for a busy commercial business due to traffic circulation issues. Kathleen Clark spoke in opposition due to limited on-street parking in front of the site. Virginia Smith spoke in opposition of demolishing the existing building. Ruthann Sneider spoke in opposition due to potential traffic conflicts on Goodwin

Place. Cathryn Foley, representing Bell O-Dea Funeral Home at 376 Washington Street, stated she was not opposed to the design but would like to see a fence between the driveway and adjacent property. Attorney Allen responded to public comments, stating that traffic won't be an issue given that the majority of businesses in Brookline Village do not have off-street parking and off-street parking is not required.

The Chairman called upon Madison Anthony, Zoning Coordinator and Planner, to deliver the recommendations of the Planning Department and the findings of the Planning Board:

## **FINDINGS**

### **Section 5.09.2.a – Design Review**

Any structure or outdoor use on a lot that fronts on or is within 100 feet of Washington Street is subject to design review under Section 5.09.

## **PLANNING DEPARTMENT COMMENTS**

The revised one-story building has a FAR of .28, which is larger than the initially proposed .19. However, the structure is still significantly smaller than the surrounding properties and the current building which has a FAR of .70. Since the lot is located in Brookline Village, with its many historical buildings, the revised one-story fits better with the character of the surrounding area. Although the project meets all dimensional requirements of the Zoning By-law, Design Review is required since it is on Washington Street, one of Brookline's major thoroughfares. The applicant has submitted the required Impact Statement explaining how the project addresses the Community and Environmental Impact and Design Standards of the Zoning By-law. If this building were three stories, with office space or housing above the first-floor retail use, it would fit in much better with the neighborhood.

## **PLANNING BOARD COMMENTS**

The Planning Board is opposed to this proposal. While appreciating the potential addition of a bakery business in the area and the quality of the new design, the revised single-story structure is still undersized and does not properly engage with the community or pedestrians. Furthermore, the proposed massing and scale of the building represent a disinvestment and underutilization of the site and do not fit within the existing context or the goals of the Town. The Board believes that a building replicating the footprint of the existing house would better align with the neighborhood's character and goals considering the town's directions to densify specific corridors.

Therefore, The Planning Board recommends denial of the proposal based on concerns regarding size, scale, massing, and neighborhood context. If the Board of Appeals decides to approve the site plan by Hancock Associates , PLS, dated February 7, 2023 and revised architectural plans by Sousa Design Architects , dated June 15, 2023, the Planning Board recommends 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 construction management plan, to the Director of Traffic and Engineering for review and approval.
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.

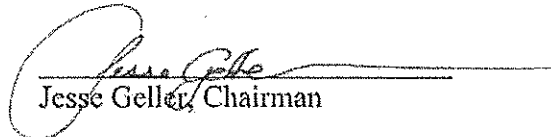
Board Member Randolph Micklejohn asked about Condition #2 related to requiring a construction management plan. Madison Anthony responded that it was included due to public comments expressing concern about construction, but deferred to the Building Department for further explanation.

The Chairman called upon Paul Campbell, Deputy Building Commissioner, to deliver the comments of the Building Department. Mr. Campbell stated that the Building Department had no objections to the requested relief 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. Mr. Campbell also stated that the applicant should be cognizant of the courthouse and abutters during construction but that he did not feel Condition #2 requiring a construction management plan was necessary.

The Board deliberated on the merits of special permit relief as requested. Randolph Meiklejohn stated the importance of considering how the streetscape will relate to adjacent building streetscapes and open spaces both adjacent to and also surrounding the subject property for example those at the Public Library, Brookline Municipal Court, and Brookline Town Hall,

on the north side of Washington Street. Neil Wishinsky stated that he expressed some curiosity about the Planning Board's opposition given that they rejected the previously proposed three-story office building. Chairman Geller expressed an appreciation for the varied architectural elements along Washington Street but stated that taken in the context of Section 5.09, the building is not consistent with the scale, massing, height, yard setbacks, and architecture of existing buildings and the overall streetscape of the surrounding area. He noted the building seemed designed more appropriate to an outlet shopping plaza. Chairman Geller also said that the design does not meet the requirements in Section 5.09.4.k related to minimizing removal and disruption of historic structures and architectural elements. Mr. Micklejohn, in agreeing with Mr. Geller, commented that the design is too light and has a "seaside" appearance not consistent with the surrounding area. Mr. Wishinsky agreed with Mr. Geller's and Mr. Micklejohn's comments and accordingly, the Board voted unanimously to deny the request for a special permit.

Unanimous Decision of  
The Board of Appeals



Jesse Geller, Chairman

Filing Date: AUG 21 2023

A True Copy  
ATTEST:



Benjamin Kaufman  
Clerk, Board of Appeal