



Town of Brookline

Massachusetts

BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town Hall, 1st Floor
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Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

**TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2010-0038**

Petitioners, Glen Kaplus applied to the Building Commissioner for permission to convert the existing structure at 218 Washington Street into a Health/Fitness club. The application was denied and an appeal was taken to this Board.

On 24, June 2010, the Board met and 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 2, September 2010, at 7:15 p.m. in the Selectmen's Hearing Room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to his 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 29, July and 5, August 2010, 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. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **Glen Kaplos**
Owner: **Asimakopoulos, Et Al Trs John & Helen**
Location of Premises: **218 Washington Street**
Date of Hearing: **September 02, 2010**
Time of Hearing: **7:15 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th. floor**

A public hearing will be held for a variance and/or special permit from:

4.07; Table of Use Regulations, Use #18a, special permit required

of the Zoning By-Law to Convert to health/fitness club at **218 WASHINGTON ST BRKL.**

Said Premise located in a **G-2.0** (general business) district.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Jesse Geller and Board Members Jonathan Book and Mark Zuroff. Attorney Robert Allen, 300 Washington St., Brookline, MA presented the case on behalf of the petitioner.

Attorney Allen described 218 Washington Street as located on the west side of Washington Street between White Place and Davis Court. This storefront is part of a block of three one-story commercial storefronts that are distinguished by large pilasters, recessed entries,

and a “false front” parapet wall. This building was built around 1900 and is within the Brookline Village National Register District. Neighboring properties include Edward Jones Investments and Oriental Pearl.

Attorney Allen said that his client, Glenn Kaplus, is proposing to open a “Get In Shape for Women” franchise at 218 Washington Street which is approximately 780 sf. “Get In Shape for Women” offers small group personal training for a maximum of approximately four women per session, nutritional counseling, and health related retail products. Some sessions can overlap, where one session of four women are beginning to train while another session of four women are ending their training resulting in approximately eight clients on site at one time. Attorney Allen explained the appropriateness of the facility to the neighborhood, the improvements that would be made by the Petitioner to an otherwise empty store front, and how the new use would have little effect on traffic due its nature and that a majority of clientele would be from the immediate area.

Chairman Geller asked whether anyone in attendance wished to speak in favor of or against the proposal. The Petitioner’s wife, Kristin Ward Kaplus, spoke about the nature of the business. No one else rose to speak.

Courtney Synoweic, Planner, delivered the findings of the Planning Board.

Section 4.07 -Table of Use Regulations, Use #18a: Private health and fitness clubs, operated for profit and for members only, solely for the purpose of providing physical fitness, exercise, therapy, rehabilitation and healing require a **special permit** in G districts.

Ms. Synoweic reported that the Planning Board was supportive of the proposal to grant a special permit for a health club at 218 Washington Street. As this type of health club is limited to personal training for a maximum of four individuals per session, it is unlikely the siting of a Get In Shape for Women franchise at this location will have a substantial impact on traffic and parking in Brookline Village. The Planning Board believed the location at 218 Washington Street is an appropriate location for a health club of this variety. Therefore, the Planning Board

recommended approval of the special permit under Section 4.07 of the Zoning By-law for Use #18a, subject to the following conditions:

1. The applicant shall submit evidence the decision has been recorded at the Registry of Deeds to the Building Commissioner within 45 days of the filing date of the decision.

The Chairman then called upon Michael Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard said that the relief requested was entirely within the scope of Use #18a. He reported that this particular use item as defined in the Zoning By-Law is not limited in size. Mr. Shepard said that he believed this use, at this scale, will serve the needs of the neighborhood without any negative impact. He said that the Building Department was supportive of the proposal as well as the conditions proposed by the Planning Board. He stated that his Department will enforce the provisions of the State Building Code.

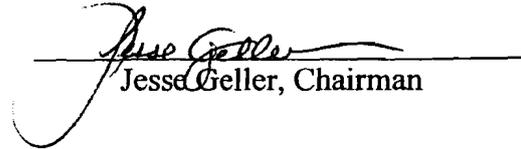
The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant a special permit and that the petitioner has satisfied the requirements necessary for relief under Section 4.07, use #18a and 9.05 of the Zoning By-Law and made the following specific findings pursuant to Section 9.05 of the Zoning By-Law:

- 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.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. The applicant shall submit evidence the decision has been recorded at the Registry of Deeds to the Building Commissioner within 45 days of the filing date of the decision.

Unanimous Decision of
The Board of Appeals


Jesse Geller, Chairman

Filing Date: September 17, 2010

RECEIVED
TOWN OF BROOKLINE
CLERK
A 8 30 10
True Copy
TEST:



Patrick J. Ward
Clerk, Board of Appeals