



BOARD OF APPEALS  
Jesse Geller, Chairman

## Town of Brookline Massachusetts

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**BOARD OF APPEALS DECISION  
MODIFICATION TO BOARD OF APPEALS CASE NO. NO. 2016-0036  
CHAPTER 40B COMPREHENSIVE PERMIT  
1180 BOYLSTON STREET**

Date: November 22, 2019

Location: Assessor's Atlas Map Sheet 122B, Block 433, Lot 12 known and numbered as 1180 Boylston Street, Brookline, Massachusetts, and Assessor's Atlas Map Sheet 122B, Block 433, Lot 11-00 known and numbered as 612-614 Hammond Street, Brookline Massachusetts

### PROCEDURAL HISTORY

1. The Brookline Zoning of Appeals (the "Board") issued a comprehensive permit (the "Comprehensive Permit") to Chestnut Hill Investments LLC (the "Applicant") pursuant to M.G.L. c.40B by virtue of a Decision (the "2017 Decision") filed with the Brookline Town Clerk on March 23, 2017, for 1180 Boylston Street (the "Project").
2. By letter dated November 8, 2018 (the "Request Letter"), the Applicant submitted a request to the Board to amend the Comprehensive Permit for the Project pursuant to 760-CMR 56.05(11) as follows: (i) increase lot size from 14,719 square feet (sf) to 17,690 square feet, (ii) increase living area from 65,007 sf to 73,033 sf, (iii) increase number of age-restricted (ages 55+) residential rental units from 45 to 50, (iv) increase commercial area from 5,300 sf to 6,569 sf, (v) increase number of parking spaces from 69 to 70, (vi) increase massing of the building at the southwest façade, (vii) change unit mix to add two one-bedroom units, add one two-bedroom units, and newly provide two three-bedroom units, (viii) change parking program from valet with stackers on one subgrade level to self-park ramped garage on two subgrade levels ("Modified Comprehensive Permit Project").
3. At a public meeting on November 29, 2018, the Board voted unanimously that the proposed changes in the Request Letter are substantial pursuant to 760 CMR 56.05(11).
4. The materials submitted by the Applicant in its application for the Modified Comprehensive Permit Project and during the public hearing include:

Civil drawings dated February 27, 2019, and prepared by Nitsch Engineering, Boston, Mass., and stamped by professional engineer Deborah M. Danik.

["New Site Plan"]

Memorandum in regard to "Drainage Analysis" dated February 27, 2019, and prepared by Deborah M. Danik, P.E., and Brittny Veeck, P.E., Nitsch Engineering.

["Modified Stormwater Management Plan"]

Architectural Drawings dated February 27, 2019, and updated October 16, 2019, and prepared by CBT Architects, Boston, Massachusetts.

["Modified Architectural Drawings"]

Memorandum in regard to "Revised Project Changes and Evaluation of Potential Geotechnical and Environmental Impacts" dated February 27, 2019, and prepared by Doug Aghjayan, P.E. and Catherine Johnson, P.G., LSP, GEI Consultants, Inc.

Memorandum in regard to "Environmental Conditions [Massachusetts Contingency Plan]" dated May 14, 2019 and prepared by Catherine Johnson, P.G., LSP, GEI Consultants, Inc.

Revised Geotechnical Report dated July 30, 2019, and prepared by Michael T. Flynn, P.E., and Francis D. Leather, P.E., GEI Consultants, Inc.

["Modified Geotechnical Report"]

Parking Update dated April 26, 2019 and prepared by Alan Simon, Simon Design Engineering.

["Modified Parking Plan"]

Supplemental Traffic Information dated April 26, 2019, and prepared by Giles Ham, Vanasse and Associates, Inc.

["Modified Traffic Study"]

Construction Management Plan dated July 21, 2019, and prepared by Nauset Construction Management.

["Preliminary Construction Management Plan"]

Rubbish and Recycling Plan dated October 10, 2019, and prepared by Rachna Balakrishna, Esq.

["Modified Rubbish and Recycling Plan"]

5. The Applicant submitted a list of Proposed Amended Waivers and Amended Waivers Key to Site Plan dated May 14, 2019, and amended September 26, 2019.
6. The Board, with the consent of the Applicant, opened a duly advertised public hearing on April 25, 2019. The Board continued the hearing and heard and/or deliberated on testimony on the following dates: May 15, 2019, June 19, 2019, August 20, 2019, September 11, 2019, and October 16, 2019.
7. On October 16, 2019, the Board closed the public hearing.

8. The Board deliberated on the Modified Comprehensive Permit Project at a public hearing held on October 16, 2019, and it voted to grant the Modified Comprehensive Permit subject to the Conditions set forth herein, which supplement, modify or amend the existing Conditions of the Comprehensive Permit.
  
9. During the course of the public hearing, the Town staff, boards, commissions, and local residents submitted oral and written testimony with respect to the Modified Comprehensive Permit Project. The Board considered in part the technical review of the Town department heads, an independent site and building design reviewer, an independent traffic peer reviewer, an independent parking design peer reviewer, and an independent Licensed Site Professional in regard to matters of public health and safety, environmental health and safety, traffic, parking, site circulation, massing, stormwater, and rubbish and recycling.
  
10. The following consultants and independent peer reviewers assisted the Board in its review of the Modified Comprehensive Permit:

**Engineering and Traffic**

James Fitzgerald, P.E., LEED AP  
Director of Transportation  
Environmental Partners Group, Inc.  
Quincy, Massachusetts

**Parking Plan**

Arthur G. Stadig, P.E.  
Vice President / Managing Principal  
Walker Parking Consultants  
Boston, Massachusetts

**Geotechnical / Environmental Engineering**

Daniel LaFrance, Professional Engineer and Licensed Site Professional  
Fuss and O'Neill  
Boston, Massachusetts

**Site and Building Design**

Clifford Boehmer, AIA, President  
Davis Square Architects  
Somerville, Massachusetts

**MassHousing Partnership Fund**

Chapter 40B Advisor  
Judith Barrett, Principal  
Barrett Planning LLC  
Duxbury, Massachusetts

## SUPPLEMENTAL FINDINGS

1. The Board's independent geotechnical consultant, Daniel LaFrance, stated in his August 20, 2019, letter to the Board that the building at 612-614 Hammond Street takes up most of the parcel and therefore, the Applicant would need to conduct soil characterization and soil testing after demolition of the building and prior to Commencement of Construction. Mr. LaFrance stated the Board should include in the conditions for the Modified Comprehensive Permit Project a condition specifying the Applicant as the Responsible Party under the Massachusetts Contingency Plan for remediation of any contaminated soil and water at 612-614 Hammond Street.
2. The Board's independent traffic consultant, James D. Fitzgerald, stated in his June 18, 2019, letter to the Board that the modified project "is still expected to generate fewer trips than the previous [gas station use]."
3. The Board's independent parking consultant, Arthur Stadig, stated that he "does not have enough information regarding the retail use to comment on the [proposed] reduction in parking to spaces from 32 [required by zoning] to 20 [the remainder after one parking space is allocated for each of the 50 residential units]. If the development complies with zoning, providing 32 spaces to retail, leaving 38 spaces to residential the residential ratio is 0.76 spaces/unit which is near the bottom of the recommended range, but falls within it. This would not include the 10% visitor and tradespeople requirement [per zoning]." Mr. Stadig stated that "the retail tenants have not been determined in the application and it is difficult to estimate what the PHV [Peak Hour Volume] will be. PHVs for retail can vary between 30% to 60% for both in-bound and out-bound movements."

## DECISION

At a duly noticed public hearing held on October 16, 2019, the Board considered the request of the Applicant and voted 3-0 to approve the requested changes as substantial pursuant to 760 CMR 56.05(11), subject to the following Conditions, which supplement, modify or amend the existing Conditions in the Comprehensive Permit.

## CONDITIONS

1. "Project" shall be modified to mean the construction of 50 units of rental housing and approximately 6,569 square feet of commercial space and 70 underground self-park parking spaces on approximately 17,690 square of land located at two parcels known and numbered as 1180 Boylston Street and 612-614 Hammond Street Brookline, Massachusetts (the "Site"). "Site" shall be modified as defined herein.
2. The Project shall be constructed substantially as shown on the New Site Plan attached hereto as Schedule 1, and substantially as shown on the New Site Plan and the Modified Architectural Drawings, which were approved by the Board, and related drawings, planning documents, and supplemental reports included in Schedule 1.
2. The gross floor area and commercial space, units and corresponding bedroom mix, and parking spaces shall be modified as set forth on the Comparison of Specifications table attached hereto as Schedule 2.

3. The Conditions in the Comprehensive Permit shall be modified as set forth in the "New Conditions" attached hereto as Schedule 3 and Modified Conditions attached hereto as Schedule 3A.
4. The Waiver List and Waiver Site Plan Key in the Comprehensive Permit shall be modified as set forth in the "Modified Request for Waivers" attached hereto as Schedule 4.
5. Any damage to structures and parking areas within a 100-foot radius of 1180 Boylston and 612-614 Hammond Street, as listed in Schedule 5, causally connected to construction of the Project shall be the financial responsibility of the Applicant to repair, and the Applicant shall indemnify and hold harmless the Town to repair said damage.
6. Prior to the issuance of a Building Permit, the Applicant shall provide evidence to the Building Commissioner that an endorsed Approval Not Required (ANR) Plan consolidating the lots at 1180 Boylston Street and 612-614 Hammond Street into one lot has been filed with the Norfolk County Registry of Deeds.
7. Except as noted herein, the terms and conditions of the Comprehensive Permit shall otherwise remain in full force and affect.

**Attachments:**

- Schedule 1 - New Site Plan and related plans, reports, and drawings
- Schedule 2 - Comparison of Specifications
- Schedule 3 - New Conditions
- Schedule 3A - Modified Conditions
- Schedule 4 - Modified Waivers and Waivers Site Plan Key
- Schedule 5 - Abutters within 100 foot radius of 1180 Boylston Street and 612-614 Hammond Street
- Schedule 6 - Notice of Hearing
- Schedule 7 - Exhibit 2 of 2017 Decision (Terms to be included in replacement regulatory agreement)

**RECORD OF VOTE**

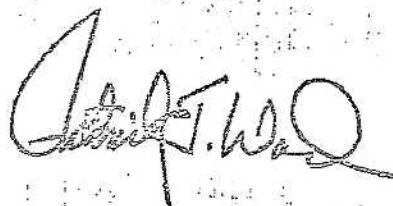
The following members of the Board vote to approve the foregoing as substantial changes to the Development and the Comprehensive Permit:

Signed this 22 day of November 2019

  
Johanna Schneider, Chair

By: ..

Johanna Schneider, Acting Chair  
Mark Zuroff, Member  
Randolph Meikdejohn, Associate Member



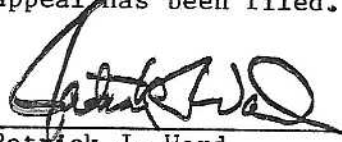
[Schedules 1, 2, 3, 3A, 5, 6, and 7 follow]

A TRUE COPY  
ATTEST:



Town Clerk  
Brookline

Twenty days have elapsed and no appeal has been filed.



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Patrick J. Ward  
Town Clerk