

Planning Board Design Guidelines on Counterbalancing Improvements For Projects Requiring Zoning Relief

The Brookline Planning Board has developed the following design guidelines for all projects requiring zoning relief, and particularly for Major Impact Projects requiring Design Review under Section 5.09, large commercial and multifamily projects requiring Design Review under Section 5.09, and projects needing setback relief under Section 5.43. Generally, the Planning Board asserts that Section 9.05 (Conditions for Approval of Special Permit) grants the Planning Board and Zoning Board of Appeals the authority to require conditions and safeguards (referred to as counterbalancing amenities in this document) for all projects seeking zoning relief. This document provides guidance on what may be considered a counterbalancing amenity and in what kind of cases certain counterbalancing amenities will be considered acceptable.

These guidelines provide guidance specifically on the following classes of project:

- Projects needing setback relief under Section 5.43 which involve new construction that are cited for Section 5.43 or existing structures that extend an existing nonconforming setback and are cited for Section 5.43. (See A below)
- Large commercial and multifamily projects which involve any new construction containing 4 or more residential units and/or more than 5,000 square feet that requires Design Review under Sections 5.09.2.a, 5.09.2.d, 5.09.2.h, or 5.09.2.i. (See B below)
- A Major Impact Project, defined as any residential development of 16 units or more, any nonresidential development containing more than 25,000 square feet, or any other project with the potential for substantial environmental impact on the community. (See C below)

Each of the above project types are expected to provide “counterbalancing amenities” or some manner of public benefit that directly or indirectly offsets any negative impacts arising from nonconformance with provisions of the Zoning By-law. Depending on the scope of the project in question, counterbalancing amenities may be minor or major and, in all cases, should be proportional to the scope of relief being sought from the Zoning By-law. Amenities that directly alleviate negative impacts (screening landscaping to alleviate a smaller setback, for example) are generally preferable to amenities that only indirectly address negative impacts or that do not address them at all.

The list below is merely meant to guide applicants. It is not exhaustive, and applicants are welcome to propose alternative, innovative solutions that ultimately satisfy the purpose of counterbalancing amenities.

A. Section 5.43 Projects

Section 5.43 (Exceptions to Yard and Setback Regulations) of the Zoning By-law is cited in cases where an applicant seeks a Special Permit for relief from a setback requirement of the Zoning By-law. The section allows, in lieu of a required setback area, the “*substitution of such other dimensional requirements as shall assure the same standard of amenity to nearby properties [...] or by the provision or preservation of a condition or a facility not otherwise required that will counterbalance such a reduction*”. Where projects are cited for Section 5.43 and require minimal additional zoning relief, the Planning Board expects the provision of one or more of the following counterbalancing amenities. Applicants should select the appropriate option(s) based on expected impacts on abutters and the public realm as well as the most convenient solution for the existing site/building.

1) *Screening*

Setback requirements exist to ensure that neighboring properties are afforded adequate air and light, that the streetscape is not overcrowded, and that residents enjoy a minimum standard of privacy. While screening cannot solve issues related to air and light, it can alleviate the sense of crowding and it is the most straightforward solution to a loss of privacy. Screening is an adequate counterbalancing amenity in cases where privacy is a concern and may be provided through both landscaping (preferable) and fencing. Applicants intending to offer screening as a counterbalancing amenity must provide a landscaping plan as part of their submission for zoning relief.

2) *Height Reduction / Stepbacks*

Setbacks benefit abutting properties by limiting the quantity of building mass located close to a property line. Where an applicant seeks a reduction in the required setback, an acceptable counterbalancing amenity that can address concerns with building mass along a property line is a reduction in the height of the building (or portion thereof located within the required setback) or a “stepback” – that is, a setback of an upper story or stories. Applicants intending to offer height reductions or stepbacks as a counterbalancing amenity need only show this in the architectural drawings and identify the height reductions or stepbacks specifically as counterbalancing amenities.

3) *General Reduction in Scale*

Alleviating the sense of overcrowding and the provision of adequate air and light can be achieved through height reductions/stepbacks near the property line as discussed in Option 2, but it can also be achieved through a general reduction in scale through the property. Proposing a building with significantly less FAR and height than is allowed under the Zoning By-law produces a building with a reduced presence and impact on the streetscape. Therefore, such reductions in the general scale of a building can also qualify as an adequate counterbalancing amenity. Applicants intending to offer a general reduction in scale as a counterbalancing amenity should specifically identify this to the Planning Board and Zoning Board of Appeals as their counterbalancing amenity.

4) *Alternative Setbacks*

Overcrowding of the streetscape can also be alleviated by providing additional, generous, open space on other portions of the property. Where an applicant seeks a reduction in the setback requirement along one property line, an acceptable counterbalancing amenity might be a generous increase in the setback along other property lines. Applicants intending to offer alternative setbacks as a counterbalancing amenity should show them on their site plans and specifically identify them to the Planning Board and Zoning Board of Appeals.

5) *Affordable Housing*

Although the provision of affordable housing units does not directly alleviate concerns related to reduced setback requirements, the Planning Board and the Town of Brookline have identified the need for affordable housing as a high priority. As such, providing affordable housing units on site in excess of what is required by the Zoning By-law can qualify as a counterbalancing amenity in that it provides a much-needed benefit to the community. Applicants intending to offer affordable housing as a counterbalancing amenity should provide a plan on how the affordable units will maintain their affordability in perpetuity.

6) *Sustainability*

Like affordable housing, sustainability does not directly alleviate concerns related to reduced setback requirements, but the Planning Board and the Town have identified sustainability as a high priority. As such, the incorporation of sustainable design elements in a proposed project can qualify as a counterbalancing amenity. The extent and quality of sustainability elements should be commensurate with the scope of the project and the extent of zoning relief requested. Elements such as solar panels, pervious pavements, and fossil-fuel free buildings are all considered viable options for sustainability with some elements providing more value than others. Applicants intending to offer sustainability as a counterbalancing amenity should provide a narrative, signed by the project architect or engineer, that commits the applicant to providing specific sustainability elements.

B. Large Commercial and Multifamily Projects

Large commercial and multifamily projects as defined by these guidelines include projects that require Design Review and involve 5,000 square feet or more of GFA and/or 4 or more residential units. Furthermore, such projects that are located in commercial zoning districts (G and L) or are located along or near major thoroughfares (Beacon Street, Harvard Street, Washington Street, Boylston Street, Brookline Avenue, and Commonwealth Avenue) are expected to provide additional, or more valuable, counterbalancing amenities. In general, the list of “public benefits” enumerated under Section 5.21 and Section 5.32 of the Zoning By-law can all be considered as acceptable counterbalancing amenities. In addition to the list of acceptable counterbalancing amenities under Section A above, large commercial and multifamily projects are expected to provide one or more of the following:

1) *Sidewalk Expansions:*

Where a project is located on a site with a relatively narrow sidewalk, such as in some of the Town’s commercial districts, setting a project back from the back of the sidewalk where it is not otherwise required by zoning may be considered a counterbalancing improvement. For

instance, in the Town's General Business (G) zoning districts, no front yard setback is required. While maintaining a consistent street line is normally an appropriate urban design goal, there may be cases where providing a front yard setback may enhance pedestrian circulation and/or provide space for outdoor amenity space, such as café seating. The provision of such a counterbalancing amenity should be explicitly identified on a site plan or landscaping plan as part of the permitting process.

2) *Robust Stormwater Management and Bio-Filtration Planters:*

Where appropriate and consistent with "best practices" for stormwater management, projects should include as a counterbalancing amenity some of the following:

- Curbed stormwater planters that include curb cuts/runnels in street or sidewalk curbs to allow for water to enter the planter.
- Where large stormwater planters are adjacent to parking spaces: provide pavement crossings to allow pedestrians to cross planters to access parked cars.
- Provide bio-mediation planting soils above drainage layer for infiltration. Where subsurface soils have slow percolation rates, provide overflow drain piping to storm drains.

Applicants intending to offer such stormwater management facilities as counterbalancing amenities must identify them on a civil engineering plan which shall be reviewed and approved by the Department of Public Works and by the Director of Parks and Open Space or his/her designee.

3) *Landscaped or Usable Open Space Accessible to the Public*

Large commercial and residential developments may provide landscaped or usable open space in excess of that required by the Zoning By-law as an acceptable counterbalancing amenity. Such open space is preferably provided along a public way and accessible for public use. Applicants intending to offer open space as a counterbalancing amenity must submit a landscape plan that specifically identifies the portion of open space acting as a counterbalancing amenity.

4) *Support of Community Services and Facilities*

Providing financial or other support towards Town and/or community services may also qualify as an adequate counterbalancing amenity for large commercial and residential projects. The maintenance, enhancement, or acquisition of Town parks, provision of public parking or parking for car rental sharing services, and the subsidization of public transportation costs for employees are all valid examples of supporting community services and facilities. Applicants intending to offer such a counterbalancing amenity should provide a narrative outlining the specific support proposed and committing the property owner to fulfillment of those obligations.

5) *Preservation of Historic Structures*

Where an applicant for a large commercial or residential project is able to ensure the preservation of a historic structure on the property or at an off-site location, such assurances may be considered as a valid counterbalancing amenity. Applicants intending to offer the preservation of a historic structure as a counterbalancing amenity will be required to provide evidence that the structure is indeed considered historic by the Preservation Commission and documentation outlining a strategy for preservation of the structure.

C. Major Impact Projects

In addition to the list of amenities under Sections A and B above, Major Impact Projects (defined as projects over 25,000 square feet or including more than 16 residential units) are expected to provide additional benefits to the community. Such projects have substantial impacts on their surrounding neighborhoods and should provide several of the amenities listed under Sections A and B as well as several of the following amenities. Counterbalancing amenities or improvements may be on or off-site and shall include, but are not limited to, some or all of the following:

1) *Street Tree Planting*

Street plantings are an essential component to a walkable and enjoyable streetscape. Significant projects that have impacts on Town facilities and lead to inalterable shifts in the experience of Brookline residents are expected to provide very significant benefits to the public realm to mitigate the impacts of the development. Street trees help to accomplish this by ensuring the pedestrian realm remains pleasant and usable. Where space permits, projects must incorporate tree planting as an essential counterbalancing improvement. To the extent possible and consistent with the dimensional standards enumerated below, projects shall utilize “best practices” that include some of the following:

- Below sidewalk pavements: provide structural planting soils with aeration pipes and a drainage layer. Permeable pavers shall cover structural planting soils where possible. Where possible, structural plantings soils should extend 3’ - 5’ wide x 3’ deep min. x 30’. Where two or more trees are included within planters, provide 3’ - 5’ wide x 3’ deep min. x 20’ per tree.
- Open tree pits should have a minimum width of 3’ covered with mulch, groundcovers or other plantings. Protect open planters with curbing, low fencing or both.
- In locations with subsurface restrictions or to provide temporary seating: Raised tree beds with stone or concrete curbing to between 16”-24” height, with 20” height being preferred, to act as a seat wall.
- Tree pits shall be as large as possible while still allowing for proper sidewalk clearances and access to parking meters.

Final street tree planting detailing must be shown on a landscape plan produced by a landscape architect and such plan is subject to review and approval by the Department of Public Works and by the Tree Warden or his/her designee.

2) *Street Furniture*

Street furniture provides additional usability to the pedestrian realm. Street furniture should not interfere with entrances to buildings, loading zones, parked cars, fire hydrants, crosswalks, etc. The style and finish of all site furnishings shall be coordinated throughout the streetscape of each commercial area to maintain a consistent aesthetic. Street furnishings shall be consistent with DPW specifications and shall be reviewed and approved by the Department of Public Works and the Planning Department. Street furnishings include benches, trash compactors, recycling bins, bicycle racks, and bus shelters.

Benches

- When considering seating: size, orientation and locations must adhere to clearance requirements as specified in the Americans with Disabilities Act.
- Location and frequency of benches will vary based upon surrounding uses.
- Provide seating at bus stops.
- Provide seating for a minimum of two people.
- Where multiple benches are located at a site, some should be backless or armless.

Trash compactors and Recycling Bins

- Where the width of the sidewalks allows, locate trash compactors and recycling bins at intersections and cross-walks where people tend to wait/congregate. Receptacles shall be sited:
 - 5' from hydrants.
 - 1' from any in-ground obstruction such as a manhole or tree pit.
 - 3' from other street furniture.
 - 5' from the pedestrian zone near the receptacle.

Bicycle Racks

- Shall be securely mounted to the pavement and allow for two-points of contact above the bike's center of gravity.
- Provide 2' x 6' clear around the bicycle rack to allow for the bicycle.
- Where possible, provide bike racks in clusters.

Bus Stops

- Provide an 8' x 5' minimum clear landing space for loading and unloading of passengers at all door locations of the bus.
- Be located a minimum 5' from crosswalks.
- Trees shall not be planted in the landing zone and shall be located a minimum of 10' from the landing zone.