

1 **COMMONWEALTH OF MASSACHUSETTS**

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9 **TOWN OF BROOKLINE, MASSACHUSETTS**

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11 **ZONING BOARD OF APPEALS PUBLIC HEARING**

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14 **REMOTE ZOOM**

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16 **MONDAY, DECEMBER 27, 2021**

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18 **7:00 p.m. - 7:47 p.m.**

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APPEARANCES :

Maria Morelli, AICP, Senior Planner
Planning & Community Development
Town of Brookline
333 Washington Street
Brookline, Massachusetts 02445
(617) 730-2670

Board of Appeals:

Mark Zuroff, Chairman
Jesse Geller, Board Member
Randolph Meiklejohn, Board Member

Jennifer Dopazo-Gilbert, Attorney

P R O C E E D I N G S

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3 (7:08 p.m.)
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5 MS. MORELLI: You're on, Mark.

6 MR. ZUROFF: Good evening, ladies
7 and gentlemen. My name is Mark Zuroff.
8 I'm sitting in chair of this meeting of
9 the Zoning Board of Appeals. Tonight's
10 matter has to do with the 40B application
11 concerning 108 Centre Street.

12 If you don't mind, Maria, I'm going
13 to ask you to read the script because for
14 some reason that got lost with my audio.

15 MS. MORELLI: That's okay because I
16 actually didn't pull it out for this
17 evening. I'm sorry. Does another board
18 member, Jesse, do you have it handy? I
19 apologize.

20 MR. ZUROFF: And my apologies,
21 because that's my job.

22 MS. MORELLI: No, it's really up to
23 me to have a backup. I apologize.

24 MR. ZUROFF: I can make it up but
25 Jesse can read it better than I can. For

1 the record, however, I will call on the
2 other board members to assure that they
3 are present so as I call your name please
4 identify yourself for the record, confirm
5 that you are here while Jesse is reading
6 the rest of the script.

7 So serving with me this evening are
8 Randall Meiklejohn.

9 MR. MEIKLEJOHN: Here.

10 MR. ZUROFF: And Jesse Geller, who
11 is muted, but he will speak up. And from
12 the staff we have Maria Morelli.

13 MS. MORELLI: Present.

14 MR. ZUROFF: Okay, all right. Now
15 Jesse.

16 MR. GELLER: Right. This meeting
17 is a ZBA and open session that's being
18 conducted remotely and in a matter that is
19 consistent with the legislature's
20 extension of provision initially made
21 under Governor Baker's March 12, 2020
22 executive order concerning the now expired
23 state of emergency in the Commonwealth due
24 to outbreak of the Covid 19 virus.

25 This body is authorized to meet

1 entirely remotely so long as adequate
2 public access is provided. Adequate
3 public access does not include public
4 participation unless that participation is
5 required by law.

6 This hearing may feature public
7 comment subject to the whim of the chair.
8 For this hearing the ZBA is convening via
9 Zoom as posted on the town's calendar
10 which identifies how the public may access
11 the hearing.

12 Be advised that this hearing is and
13 that some attendees may be participating
14 by video conference. Accordingly, please
15 be aware that others may be able to see
16 you and take care not to screen share your
17 computer.

18 Anything that you broadcast may be
19 captured by the recording. All supporting
20 materials that have been provided to
21 members of this body are available on the
22 town website and attached to this hearing
23 invitation.

24 The hearing will follow the agenda
25 unless the chairman notes otherwise.

1 Finally, before turning to the
2 agenda a few ground rules that will permit
3 clear and effective conduct of the
4 business and help to insure accurate
5 hearing minutes.

6 The chairman will introduce each
7 speaker on the agenda. After they
8 conclude their remarks the chairman will
9 invite each member by name to provide any
10 comment, question or motion. Please hold
11 your own until your name is called.

12 Please also remember to mute your
13 phone or computer when you are not
14 speaking and to speak clearly and in a way
15 that helps generate accurate minutes.

16 Before responding please wait until
17 the floor is yielded to you and state your
18 name before speaking.

19 If members wish to engage in
20 sidebar comments with other members please
21 do so through the chairman.

22 Finally, each vote taken in this
23 hearing will be conducted by roll call
24 vote. For any public comment component of
25 this hearing if there is any, the chairman

1 will first ask members of the public who
2 wish to speak to identify themselves by
3 name and address only. The chairman will
4 then call on each by name.

5 Please enter your own name into the
6 chat section. You can find that chat icon
7 on the bottom of your screen. Click on
8 this icon and the chat window will appear
9 on the right.

10 Our host, Maria, will queue members
11 in the order in which they request an
12 audience.

13 Additionally, we will ask if
14 members of the public who are calling in
15 or speaking in favor of or in opposition
16 to the proposed relief.

17 MR. ZUROFF: Thank you, Jesse. For
18 the record, public comment is not at my
19 whim, it's whether it's appropriate but
20 for the purposes of this meeting we are
21 discussing the final decision that will be
22 issued by this -- board and for the record
23 I think I can safely say that we have
24 heard all relevant public comment and I
25 don't anticipate having public comments

1 for this hearing.

2 Also, I will correct the record and
3 say that Maria is actually our host, and
4 Maria will call upon those of us who want
5 to speak including the applicants in the
6 order which they make themselves known.

7 So Maria, for clarification and for
8 direction do we want to go, first of all,
9 do we have anything that we have to hear
10 from the applicant? Does the applicant
11 want to present anything before we start
12 going through these waivers and the
13 decision?

14 MS. DOPAZO-GILBERT: My name is
15 Jennifer Dopazo Gilbert. No, I have
16 nothing further, just here to provide any
17 comment on the remaining edits that Maria
18 and the board worked on. Thank you.

19 MR. ZUROFF: We may have some
20 questions for you, Jennifer, at some
21 point --

22 MS. DOPAZO-GILBERT: Sure.

23 MR. ZUROFF: -- as we go through
24 them. And Maria, do you want to start
25 with the waiver list or do you want --

1 MS. MORELLI: Yes.

2 MR. ZUROFF: -- to start with the
3 actual decision?

4 MS. MORELLI: What I will do is
5 I'll start with the waiver. I'm going to
6 share my screen now. Okay, can you see
7 that?

8 MR. ZUROFF: Yes, we can.

9 MS. MORELLI: Okay.

10 MR. ZUROFF: And I think I can
11 speak for the members of the board. We
12 have all read these, we've looked at them
13 and we will go through them and for the
14 board members who want to comment just
15 make your comments known.

16 So, Maria, do you want to read them
17 off in order or should we go through them
18 as you announce them?

19 MS. MORELLI: So we can start over.
20 I believe that you did accept all of them,
21 but do you want to start with A? We can
22 through A again. This was really about
23 revisions to specific waivers. So does
24 the board want to start with A all over
25 again?

1 MR. ZUROFF: Well, there are
2 comments on some of them so I guess --

3 MS. MORELLI: Okay, why don't we
4 just take it from the beginning.

5 MR. ZUROFF: We can poll the board
6 as to whether the changes as set forth are
7 acceptable. So obviously the date is
8 different so I don't think we have any
9 issues with the date.

10 MS. MORELLI: Okay, so the next
11 change has to do with Waiver 8 and this
12 was regarding specificity around Section
13 5.09 which pertains to design review.

14 And what we typically do is we
15 specify exceptions, so the following,
16 there are no waivers from the sub-
17 paragraphs that are listed in the third
18 column. They would be the highlighted in
19 red. Unfortunately, this is split between
20 two pages.

21 What this means is all of these
22 particular categories were subject to the
23 review during this public hearing process
24 and therefore the board would not be
25 granting waivers from these subsections.

1 MR. ZUROFF: All right, I think
2 that we don't have any issue. I don't
3 have any issue with the revision as
4 stated.

5 MS. MORELLI: Okay. Can we just
6 get a vote from all three members
7 regarding waiver dates as edited?

8 MR. ZUROFF: Randolph?

9 MR. MEIKLEJOHN: Yes, a vote to
10 approve.

11 MR. ZUROFF: Jesse?

12 MR. GELLER: Yes.

13 MR. ZUROFF: All right, let's keep
14 going.

15 MS. MORELLI: Okay, the next change
16 has to do with Waiver S, and this has to
17 do with fossil-fuel free requirements.
18 Just to provide very quickly some
19 background, as you know, Section 9.13 was
20 approved by town meeting in Spring, 2021,
21 and was submitted to the attorney general
22 for review and approval. We have not
23 heard back from the attorney general.

24 This project has designed, and this
25 was part of the public hearing, this

1 project proposes a design for efficiency
2 standards of Passive House and a fossil-
3 fuel free heating and cooling except for
4 domestic hot water and the back up
5 generator and will endeavor to put solar
6 panels.

7 That sustainability program, as I
8 just described it, is part of Condition
9 41.

10 The reason why the applicant is
11 asking for a waiver and I support this, is
12 we have not heard from the attorney
13 general. We don't know how Section 9.13
14 will be revised by the attorney general or
15 even rejected, and because of that unknown
16 it's best to have a condition regarding a
17 sustainability program rather than to not
18 have a waiver from this by-law, or
19 proposed by-law.

20 MR. ZUROFF: All right, well, I
21 think it's addressed properly given the
22 fact that it may or may not be approved.
23 I don't have any problem with allowing it
24 the way it is. Jesse?

25 MR. GELLER: Fine.

1 MR. MEIKLEJOHN: Approved.

2 MR. ZUROFF: Randolph?

3 MR. MEIKLEJOHN: Approved.

4 MS. MORELLI: Okay. All right --

5 MR. GELLER: Oh, Maria, one change.

6 Change waived to waiver.

7 MS. MORELLI: Okay, yes, thank you.

8 MR. ZUROFF: Absolutely correct.

9 MS. MORELLI: Waived will be --

10 MR. ZUROFF: Waiver.

11 MS. MORELLI: Yes, okay. All

12 right. So then all I added for the

13 demolition delay by-law is to just note

14 that Condition 35 there is a condition

15 related to prior to the issuance of a

16 demolition permit.

17 MR. ZUROFF: I have no issue with

18 that. Jesse?

19 MR. GELLER: None, that's fine.

20 MR. ZUROFF: Randolph?

21 MR. MEIKLEJOHN: Yeah, it's fine.

22 MR. ZUROFF: Okay.

23 MS. MORELLI: Okay, and then the

24 last two regarding U and V, the applicant

25 had requested waivers from two fees. One

1 was the filing fee for the comprehensive
2 permit, the appeals application and the
3 second was the building permit fees, and
4 we do not grant waivers from comprehensive
5 permit fees and also the housing advisory
6 board will only support a waiver from the
7 building permit fee if the entity is the
8 Brookline Housing Authority, and that's
9 because that entity does not have the
10 ability to raise funds, so that is an
11 isolated case for all other affordable
12 housing projects, even those to which the
13 town is contributing public funds the HAB
14 does not recommend waivers from the
15 building permit space.

16 MR. ZUROFF: And I believe that we
17 just discussed it at the last meeting and
18 we were, I think unanimous in not granting
19 those waivers, so I approve it as written
20 as deleted. Randolph?

21 MR. MEIKLEJOHN: Yes.

22 MR. ZUROFF: And Jesse?

23 MR. GELLER: Yeah, that's
24 consistent with our discussion.

25 MS. MORELLI: Okay.

1 MR. ZUROFF: Let's move on.

2 MS. MORELLI: That is it for
3 waivers. I will turn to conditions.

4 MR. ZUROFF: I don't think anyone
5 is going to have an issue with the change
6 of the number for the case.

7 MS. MORELLI: Sorry, I'm just
8 scrolling down to the first sentences.
9 Okay, I'm just adding the date. This is
10 when we worked all the dates of the
11 hearing and procedural history, paragraph
12 10.

13 The same thing with how paragraph
14 15, public hearing held on December 27th.
15 Obviously, if there isn't a vote tonight I
16 would change this.

17 As with paragraph 16, if the board
18 doesn't close the hearing tonight I will
19 change this. That's where that
20 information is.

21 MR. ZUROFF: I don't think we have
22 to vote on that.

23 MS. MORELLI: Okay, we're under
24 "Findings" right now and paragraph 6, this
25 pertains to the two buildings on the

1 Hebrew Senior Life Campus at 100 Centre
2 and 112 Center. Those total 336 units.

3 MR. ZUROFF: I don't think we have
4 to vote on these two either.

5 MS. MORELLI: Okay, all right. I
6 will skip the next one. Under Decision,
7 Conditions, I'm sorry, paragraph 4, this
8 is the change requested with commercial
9 kitchen shall be prohibited on the site.

10 MR. ZUROFF: We discussed that and
11 I think we came to a conclusion on it so I
12 approve of that. Randolph?

13 MR. MIKLEJOHN: Yes.

14 MR. ZUROFF: And Jesse.

15 MR. GELLER: Yes.

16 MS. MORELLI: Okay, paragraph 6,
17 there is the temporary trash holding area
18 that is part of the cross-easement. It is
19 not the permanent trash holding area but
20 we are acknowledging that it's part of the
21 cross-easements.

22 MR. ZUROFF: And again, I think we
23 had a specific discussion about that
24 particular term. We agreed on that so I
25 approve of that. Randolph?

1 MR. MEIKLEJOHN: Yes.

2 MR. ZUROFF: Jesse.

3 MR. GELLER: Yes.

4 MR. ZUROFF: Okay, keep going.

5 MS. MORELLI: All right. Okay, I
6 think this is pretty straight-forward
7 regarding 23. It was really wordsmithing.
8 It wasn't anything substantive.

9 MR. ZUROFF: I have no problem with
10 that. Jesse.

11 MR. GELLER: Yes.

12 MR. ZUROFF: Randolph.

13 MR. MEIKLEJOHN: Yes.

14 MR. ZUROFF: Okay.

15 MS. MORELLI: I'll just move along.
16 Okay, I think 29 was again just
17 capitalizing. 31, it's really a synonym
18 caused by the construction causally
19 connected to the construction.

20 MR. ZUROFF: Semantics. It's not
21 an issue. Approved.

22 MS. MORELLI: All right. Okay, and
23 then regarding 37, what was significant
24 here was that we don't have it worked out
25 on the grading plan what that grade will

1 be other than that the field on the 100
2 Centre Street parcel will be leveled so
3 that it is flat for recreational
4 activities.

5 So the intent that there is a field
6 that shall be re-graded to a level grade
7 and at a plane higher than the abutting
8 parking spaces and maintained as lawn area
9 for recreation with the landscape buffer,
10 and we have all of that, and a retaining
11 wall as indicated on the landscaping plan
12 and that is indicated under all of the
13 sheets, the plans under procedural
14 history.

15 MR. ZUROFF: All right, the
16 language isn't, I don't think, perfect,
17 but I think it's effective. Jesse.

18 MR. GELLER: Fine.

19 MR. ZUROFF: Randolph.

20 MR. MEIKLEJOHN: Yes.

21 MR. ZUROFF: Okay.

22 MS. MORELLI: And then the last,
23 subparagraph M, a security operations
24 narrative as pertaining to how members of
25 one residence of one building on the

1 Hebrew Senior Life campus will access
2 other areas so that's what the security
3 operations plan means.

4 MR. ZUROFF: I have no problem with
5 that.

6 MR. GELLER: I just want to make
7 one comment about that.

8 MS. MORELLI: Yes.

9 MR. GELLER: The notion here, at
10 least in my mind, and I suspect in the
11 other board members' minds, is that the
12 narrative is also to say this is how you
13 can get access, this is when you can get
14 access, and the notion is not that you can
15 get access between 11:00 o'clock and 11:05
16 in the morning.

17 The notion is that this is a part
18 of the requirements for landscaping in
19 open space and access needs to be
20 available on a regular basis.

21 So I'm avoiding putting in
22 mandatory hours because I don't know what
23 their operations are, but I want to be
24 very clear, this is part of what they need
25 to do to achieve open space.

1 MR. ZUROFF: Well, why don't we
2 specify that it'll be free and open access
3 to all members of the residential
4 community?

5 MR. GELLER: I just want to be
6 clear when we're talking about security
7 operations we're not going to be put and
8 it'll be closed for 55 --

9 MR. ZUROFF: No, I agree with you,
10 Jesse. I think again, it could specify
11 that it's free and open access to all
12 residents of the HSL property, would that
13 be better.

14 MS. DOPAZO-GILBERT: This is
15 Jennifer. I'm fine with that language,
16 free and open access, and just remind the
17 board that it does have to be signed off
18 before we can even get the building permit
19 by the director of planning, so --

20 MR. GELLER: Understood, right.
21 Jennifer, and that's actually honestly,
22 that's why I don't even want to go down
23 the road about --

24 MS. DOPAZO-GILBERT: Yeah.

25 MR. GELLER: -- starting to talk

1 about hours.

2 MS. DOPAZO-GILBERT: Okay, yes.

3 MR. GELLER: For her purposes, I am
4 actually saying this for her purposes.

5 MS. DOPAZO-GILBERT: Right.

6 MS. MORELLI: I'm noting this, but
7 I just really want to understand, are you
8 recommending any changes to the language,
9 the text and the conditions?

10 MR. GELLER: No, I think Mark is.

11 MR. ZUROFF: Yeah, I'm suggesting
12 that it say free and open access to
13 residents of the HSL community, and
14 they'll have their own mandates within
15 their security operations announcements.

16 If we say free and open access to
17 all residents of the community, I think
18 that means unrestricted or, I don't know.
19 They may have restrictions.

20 MS. DOPAZO-GILBERT: Well, subject
21 security, I mean subject to --

22 MR. ZUROFF: Right, hey don't want
23 people running up on the roof at all
24 hours, I guess.

25 MS. MORELLI: So this is what I'll

1 say, a security operations plan to make
2 narrative concerning free and open access
3 to the residents --

4 MR. ZUROFF: To the residents of
5 the community.

6 MS. MORELLI: To the residents of
7 the HSL campus.

8 MR. ZUROFF: Yeah, I think that's
9 fine.

10 MR. GELLER: Or by the residents.

11 MR. ZUROFF: Or for the residents.

12 MS. MORELLI: For the residents of
13 the HSL campus.

14 MR. ZUROFF: Are you okay with
15 that?

16 MS. MORELLI: Yes. If I have an
17 issue I'll call you, Mark.

18 MR. ZUROFF: Okay, thank you.

19 MS. MORELLI: Okay, all right.

20 Okay, so paragraph 41. This has to do
21 with the fossil-fuel free infrastructure
22 so this is a, we have something before. I
23 think we fine tuned it.

24 The applicant was to say shall make
25 best efforts to install photovoltaic solar

1 panels of the roof of the project, and (a)
2 the project has been designed to Passive
3 House standards and that the applicant
4 endeavors to certify the project under the
5 Passive House Institute US certification
6 program.

7 So this is that waiver that the
8 board granted from Section 9.13 pertaining
9 to fossil-fuel, free infrastructure. This
10 is the condition that defines the
11 sustainability program.

12 MR. ZUROFF: I think it says what
13 we want it to say. Randolph?

14 MR. MEIKLEJOHN: I just have a
15 question. Is it necessary to say narrowly
16 on the roof of the project. Could it not
17 just say install solar panels at the
18 project?

19 MS. MORELLI: No, because we don't
20 necessarily want large ground mounted
21 solar panels. You know it's --

22 MR. MEIKLEJOHN: Not that they have
23 a place to put them, but --

24 MS. MORELLI: They don't have a
25 place to put them but, you know, it's not

1 as, we do have to, we did, this was part
2 of the design that was the place reserved.

3 In fact, the roof plan indicates
4 where that area for the panels would be
5 and even though we're dealing with
6 schematic plans we are trying to look, you
7 know, what would be visible, where, does
8 there have to be any screening.

9 MR. MEIKLEJOHN: Okay, thank you,
10 Maria. That's fine. I didn't remember
11 that specific discussion but I'll take
12 your word for it.

13 MS. MORELLI: Okay, thanks.

14 MR. ZUROFF: Jesse, any comment?

15 MR. GELLER: Just after the end of
16 the first sentence rather than a period
17 add a colon.

18 MR. ZUROFF: Okay.

19 MS. MORELLI: Okay, so with the
20 following exceptions colon. Okay.

21 MR. GELLER: Right.

22 MS. MORELLI: Thank you. Next
23 page, I think the, so paragraph 55, do we
24 want to reinstate this? We do have
25 several conditions regarding the evidence

1 of the cross-easements that would be
2 executed to the review and approval of
3 uptown counsel and filed with the Register
4 of Deeds.

5 This actually pertains to the
6 construction of those parking spaces for,
7 you know, for accessible parking on the
8 100 Centre Street site, and I don't recall
9 the discussion about removing it, but we
10 can keep it if you feel it's important to
11 show evidence that these parking spaces
12 were, indeed, constructed.

13 MR. ZUROFF: Are we talking about
14 the two spaces that are --

15 MS. MORELLI: Yes.

16 MR. ZUROFF: -- that are on 100?

17 MS. MORELLI: Yes, the two
18 accessible parking spaces on the property
19 line but on the 100, the parcel.

20 MR. ZUROFF: Aren't those laid out
21 on the easements land and will be part of
22 the easement?

23 MS. MORELLI: They absolutely are
24 part of the draft easement plan and the
25 conditions we have regarding that is that

1 the applicants will prepare the actual
2 cross-easement, the legal mechanism to the
3 review and approval of town counsel is
4 final and file that instrument with the
5 Register of Deeds, but we don't have a
6 condition that is deleted indicating that
7 those parking spaces are actually
8 constructed before a Certificate of
9 Occupancy issued.

10 MR. GELLER: Maria, remind me by
11 what point do they have to provide
12 evidence of recording or filing of the
13 easements with the parking spaces?

14 MS. MORELLI: I think it's prior to
15 the issuance of a building permit.

16 MR. GELLER: Okay.

17 MS. MORELLI: Okay, I think that
18 was conditions.

19 MR. ZUROFF: Yeah, I think it is.

20 MS. MORELLI: It would be earlier
21 because it's prior to, let's see here.
22 Yeah, it's Condition 6, so I could
23 actually read it to you or we could just
24 go there if you --

25 MR. GELLER: I just want to know

1 timing-wise is precedes the --

2 MS. MORELLI: I'll go there. Yes,
3 so this is prior to the issuance of a
4 building permit, the applicant shall
5 execute cross-easements.

6 MR. GELLER: Right.

7 MS. MORELLI: Then if we go to the
8 end of this, and provide evidence of
9 recorded/filing of such final approved
10 cross-easements of the appropriate
11 Register of Deeds/Land Registration
12 Office. We can't make them, you know,
13 construct it, you know what I mean?

14 They would be filing the cross-
15 easements instrument, but that doesn't
16 mean they're actually constructing the
17 parking, so that's what Condition 55
18 pertains to. Do you understand the
19 difference or is it really --

20 MR. ZUROFF: One is prior to the
21 plans and one is prior to the Certificate
22 of Occupancy, right?

23 MR. GELLER: She's saying just
24 because you record an easement doesn't
25 mean you have to build it, but aren't they

1 charged with building what they propose in
2 the plans that they're submitting?

3 MS. MORELLI: Yes, yes.

4 MR. ZUROFF: That's in the
5 application for the building permit,
6 right?

7 MR. MEIKLEJOHN: The issue may be
8 that the building permit really will only
9 cover the 108 Centre site.

10 MS. MORELLI: No, it doesn't,
11 because --

12 MR. MEIKLEJOHN: Really?

13 MS. MORELLI: No, because we do
14 have to show to the director, here it is,
15 okay, I think this is at 37. Okay, prior
16 to the issuance of a building permit the
17 applicant shall submit for the review and
18 approval final site plans indicating two
19 accessible parking. So it's showing that
20 there are plans.

21 MR. MEIKLEJOHN: Maria, that's not
22 what I was, what I was talking about was,
23 you know, what I thought 55 was for was to
24 provide a mechanism for the building
25 commissioner to withhold the Certificate

1 of Occupancy until there's the
2 construction of those spaces, which
3 happens to be on another parcel of land
4 and you can tell me whether that matters
5 or not.

6 MS. MORELLI: Right.

7 MR. MEIKLEJOHN: You know, it's
8 basically off-site improvements.

9 MS. MORELLI: Right.

10 MR. MEIKLEJOHN: What was the
11 reason? I don't remember our discussion.
12 I looked at my notes from the last time.
13 I don't remember a discussion about
14 deleting it, you know. What was the
15 reason its proposed and now it is deleted?

16 MS. MORELLI: I'm just going to
17 reinstate it, and that's okay. That's
18 fine.

19 MS. DOPAZO-GILBERT: My memory of
20 this was that based on the other
21 conditions it wasn't deemed necessary but
22 I have no objection to putting it back.
23 We have to do it anyway to get the final
24 CO because have to have provide as built,
25 so either way.

1 MR. ZUROFF: All right, put it back
2 in then.

3 MR. MEIKLEJOHN: Okay.

4 MS. MORELLI: Okay, there was a
5 question about 56 when 50 percent of the
6 units are legally occupied. I believe
7 that Jessie Geller had a comment to insert
8 legally versus 50 percent of the
9 Certificates of Occupancy and the building
10 commissioner has no issue with the
11 proposed change.

12 MR. ZUROFF: So you're going to
13 make it legally occupied?

14 MS. MORELLI: Yes.

15 MR. ZUROFF: Okay, that's fine.

16 MR. MEIKLEJOHN: Yeah, this is
17 better. I had asked about this, Maria. I
18 like the unit occupancy better.

19 MS. MORELLI: It is. It makes a
20 lot more sense. Thank you.

21 MR. GELLER: Maria, did you make
22 any change to paragraph 51?

23 MS. MORELLI: Yes, I did.

24 MR. GELLER: Great.

25 MS. MORELLI: I'm sorry. I didn't

1 look at my --

2 MR. GELLER: I'm just asking.

3 MS. MORELLI: Yes, so why don't we
4 just go there.

5 MR. GELLER: No need.

6 MS. MORELLI: So we are going to
7 remove, let me just, because I didn't give
8 that to the applicant because it came at
9 six o'clock. So delete, make all
10 commercially reasonable efforts to delete
11 that.

12 MR. ZUROFF: It'll read, shall
13 insure?

14 MS. MORELLI: That's correct. That
15 applicant shall insure that the entire
16 construction period from commencement of
17 construction.

18 MR. GELLER: Subject to force
19 majeure.

20 MS. MORELLI: Oh, where did you
21 want to put that?

22 MR. GELLER: No, it's subject, see
23 the phrase, subject to causes beyond the
24 applicant's reasonable control?

25 MS. MORELLI: Okay, that's that.

1 MR. GELLER: That's their safety
2 valve.

3 MS. MORELLI: Okay, go it. Okay.

4 MR. ZUROFF: I have no problem with
5 that. Go ahead.

6 MS. MORELLI: All right, so 51, and
7 then we talked about 56. Okay. All
8 right, and then Condition 61 we have to
9 fill in the amount for the public
10 improvements and this is, the improvements
11 would be \$52,840 and the applicant did
12 approve that.

13 MR. ZUROFF: And I believe we did,
14 as well.

15 MS. MORELLI: I don't think you saw
16 it the last time.

17 MR. ZUROFF: No, the amount was
18 brought up so I think Jennifer brought it.

19 MS. MORELLI: Yes.

20 MR. ZUROFF: All right, approved.
21 Randolph?

22 MR. MEIKLEJOHN: That's approved.

23 MR. GELLER: Yes.

24 MS. MORELLI: And this condition
25 was just simply part of Condition 61

1 because we're separating them for one set
2 of improvements, the applicant is
3 providing funds and for the other, the
4 contractor will be doing that work and not
5 the Town of Brookline.

6 MR. ZUROFF: Should it be subject
7 to the approval of the -- I don't know,
8 public works?

9 MS. MORELLI: I think we used this
10 language in another decision.

11 MR. ZUROFF: Determined by the
12 engineering and transportation departments
13 Okay, if that works I'm fine with it.

14 MS. MORELLI: It is according to
15 the Town of Brookline standards as
16 determined so obviously there is going to
17 be, the DPW for sure will be inspecting
18 that work, so you know, according to the
19 standards, the design as well as the
20 follow through. I think that makes sense
21 to me, and again, we've used this language
22 before in other decisions.

23 MR. MEIKLEJOHN: That's why cities
24 have those standards so you don't have to
25 vote for approval every time you want to

1 rebuild a sidewalk when you redevelopment.

2 MR. ZUROFF: Thank you, Randolph.
3 I appreciate that. I appreciate your
4 input, Randolph. Thank you.

5 MS. MORELLI: I think this is
6 pretty straight-forward regarding the snow
7 removal on the sidewalk, and then
8 regarding the trash plan, just to specify
9 that it's both for the residential and the
10 community space, trash and recycling plan.

11 Coming to the end here, okay, and
12 then the last, these are not new
13 conditions. This is simply a cross-
14 reference. We like, because there are so
15 many approvals required for the issuance
16 of the building permit we'd like to
17 provide a summary of those at the end
18 here. That's what I've provided. There's
19 nothing new.

20 And then these would be the
21 attachments, the board exhibits.

22 MR. ZUROFF: Board members, any
23 comments? Questions? Randolph?

24 MR. MIKLEJOHN: I don't have any
25 more questions.

1 MR. ZUROFF: Jesse.

2 MR. GELLER: No.

3 MR. ZUROFF: All right, I think
4 we've gone through it and I think we're
5 ready to take a vote on it. Why don't you
6 close.

7 MS. MORELLI: You might wish to
8 close the hearing to further testimony,
9 Mark.

10 MR. ZUROFF: Yes. Unless,
11 Jennifer, do you have something you want
12 to add? No? All right, then I guess
13 we'll vote on closing this for further
14 comments. I'm in favor. Randolph.

15 MR. MEIKLEJOHN: Yes.

16 MR. ZUROFF: Jesse.

17 MR. GELLER: Unanimous, yes.

18 MR. ZUROFF: Okay, so therefore,
19 the decision as we have discussed it with
20 the changes as discussed I believe there's
21 no more discussion to be had on it. What
22 else do we have?

23 MR. GELLER: The board can have
24 discussions.

25 MS. MORELLI: We can deliberate.

1 MR. GELLER: We can deliberate but
2 we can't --

3 MR. ZUROFF: Well, Jesse, I'll open
4 it to you. Deliberate.

5 MR. GELLER: So I've made my
6 comments. I think the project is much,
7 much too large and offers too little
8 landscape space to our people who frankly
9 deserve more open space, but under the
10 provisions of Chapter 40B I think it meets
11 the requirements, and in the balancing
12 test that goes on I think it meets the
13 requirements and therefore I'm in favor
14 for granting the comprehensive permit
15 subject to the decision with the
16 conditions that we have just reviewed.

17 MR. ZUROFF: Thank you, Jesse.
18 Randolph.

19 MR. MIKLEJOHN: I don't have any
20 comments to add to those Jesse has just
21 made and I would vote to approve in the
22 manner as he has described.

23 MR. ZUROFF: And I will add my
24 approval to it with the same thought
25 process that Chapter 40B does not allow us

1 the latitude to reshape an entire project.
2 The balancing test is whether it's
3 providing affordable housing to the town
4 and I believe it is and in this case
5 rarely do we see one which is 100 percent
6 affordable housing albeit on different
7 standards.

8 So we did our best to reduce the
9 project in working with the developer but
10 it is worthy under 40B for our approval so
11 I join and it is a unanimous approval.

12 MS. MORELLI: Okay. All right. So
13 at this point what I will do is I will
14 incorporate the edits as discussed here
15 and I just want to say that I would be
16 discussing with the chair, his review of
17 those edits, which would be scrivener
18 edits at this point. Does the board feel
19 okay with my --

20 MR. GELLER: Mr. Chairman, may I
21 make a suggestion?

22 MR. ZUROFF: Of course, Mr. Geller.

23 MR. GELLER: I would make a motion
24 or let me make a motion. I make a motion
25 that we board members authorize the

1 chairman to review final changes to the
2 decision and sign the decision for filing.

3 MR. ZUROFF: Thank you, Jesse.
4 Randolph.

5 MR. MEIKLEJOHN: I'll second that.

6 MR. ZUROFF: And I second it, as
7 well. Is the vote approved?

8 MR. GELLER: Yes.

9 MR. ZUROFF: Okay, so approved.

10 MS. MORELLI: All right, thank you
11 all very much. I don't think there's
12 anything that, just for the public's sake,
13 once, the board does have forty days to
14 file a decision. Obviously, we don't need
15 to wait that long, but once the decision
16 is filed with the town clerk I will send
17 out a Notice of Decision to abutters
18 within 300 feet and that will be mailed.

19 You know, should there be anyone
20 who wishes to appeal, we have information
21 in that Notice of Decision regarding what
22 recourse you may take.

23 It will be posted on the website
24 and of course with the town clerk.

25 There is a twenty day appeal period

1 as the Notice of Decision would state and
2 then at that point the decision would be
3 filed with the Register of Deeds if there
4 is no appeal.

5 So I just wanted to explain what
6 the process is. Obviously, this will be
7 in writing and if anyone has any questions
8 they may contact me. So on that note I
9 don't think there's any other business.

10 I just want to thank the board for
11 your expertise as always, and the
12 applicant for working very hard as this
13 project evolved, the plans evolved, so
14 thank you.

15 MS. DOPAZO-GILBERT: Thank you.

16 MR. ZUROFF: I want to thank
17 everyone for their participation, as well.
18 The board, and particularly the staff
19 worked very hard with the applicant to get
20 a final project, and I know that the
21 public doesn't see all that work because
22 it's behind the scenes, but it is hard
23 work and I want to thank you all for
24 participating and I thank the board, as
25 well, for your participation, and with

1 that I think this meeting is adjourned.

2 MS. DOPAZO-GILBERT: Thank you all
3 very much, and a happy, healthy new year
4 to everybody.

5 MR. ZUROFF: Same to you.

6 MR. GELLER: Happy New Year.

7 MS. DOPAZO-GILBERT: Happy New
8 Year.

9

10 (Adjourned 7:47 p.m.)

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Commonwealth of Massachusetts

I, Diane Cercone, a Notary Public
in and for the Commonwealth of
Massachusetts, do hereby certify that
the proceedings
hereinbefore set forth, was duly sworn
by me and that such hearing is a
true record of the proceedings.

I further certify that I am neither
related to or employed by any of the
parties in or counsel to this action,
nor am I financially interested in the
outcome of this action. In witness
whereof, I have hereunto set my hand
and seal this December 27, 2021.



Diane Cercone,
Notary Public
My Commission Expires: August 22, 2025

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