**Brookline Board of Appeals**
**January 7, 2016, 7:00 PM**
**Public Hearing**

**333 Washington Street**
**Town Hall Room 103**

*Board Members Present: Johanna Schneider (Chair), Christopher Hussey, Avi Liss*

*Staff Present: Michael Yanovitch (Building Department), Lara Curtis Hayes & Jay Rosa (Planning Department)*

## 1776 Beacon Street

**Proposal**: Convert Existing structure from six offices and one residential unit to one office and six residential units
**Zoning District**: M-2.0 (Apartment House)
**Precinct**: 13
**Board Decision**: Relief request **granted**, subject to conditions

## 345 Harvard Street (Edward Devotion School)

**Proposal**: Demolish two wings of school building and construct additions with associated site work
**Zoning District**: T-5 (Two-Family and Attached Single-Family)
**Precinct**: 8
**Board Decision**: Relief request **granted**, subject to conditions

*Minutes shall be posted on the Town of Brookline website (http://www.brooklinema.gov/564/Zoning-Board-of-Appeals) upon approval. Draft minutes shall be made available upon request.*

*Decisions shall be posted on the Town of Brookline website (www.brooklinema.gov). Appeals, if any, shall be filed with land court or superior court within twenty days after the date of filing of such notice in the office of the town clerk.*

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**333 Washington Street**
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Planning Board Members – Johanna Schneider (Chair), Christopher Hussey, Avi Liss
Staff Present – Michael Yanovicth (Building Dept.), Lara Curtis Hayes & Jay Rosa (Planning Dept.)

**7:00PM**
**1776 Beacon Street** – Convert existing structure from six offices and one residential unit to one office and six residential units

Board Chair Johanna Schneider opened the hearing and called case #2015-0038. Ms. Schneider reviewed standard hearing procedure.

The Petitioner's attorney, Robert Allen of 300 Washington Street, Brookline, MA waived the reading of public hearing notice for the record and introduced project architect George Warner of Warner and Cunningham Inc. and property owner Ben Hassan.

Attorney Allen stated that the subject property includes a 4-story attached brownstone structure that currently contains 6 offices (4 general and 2 medical) and 1 residential unit located on the top two floors. The Petitioner is proposing to convert all office units, excluding the basement office located at the front, to residential units for a total of 3 multi-bedroom apartments, 3 studio apartments, and one general office. Attorney Allen stated that the surrounding neighborhood consists of similar multi-family dwellings and the proposed conversion to residential uses complies with requirements for the zoning district. Attorney Allen stated that he believed requested zoning relief for design review and parking to be minimal.

Project architect George Warner further presented details of the proposed conversion. Mr. Warner stated that the top three floors (2-4) will consist of 3 separate multi-bedroom residential units. The existing floor area will not be altered but interior walls will be reconfigured and interior finishes will be renovated. Three efficiency studio units are proposed for the first floor as well as the rear portion of the basement level. Mr. Warner confirmed that these studio units comply with minimum floor area, emergency egress, and natural light requirements in accordance with state building and health codes.

Mr. Warner further stated that a new basement entryway facing Beacon Street will be installed to provide access to the remaining office unit. Mr. Warner stated that existing brick and limestone building materials are "elegant" and excavation required to install the basement-level entry will minimize disruption of these building materials as much as possible. A below grade staircase will angle toward the basement from the existing front walkway and a full-size door will be installed to match existing doors in the immediate area. This design is intended to minimize excavation and loss of front-yard greenspace. All newly exposed portions of the front façade, resulting from excavation, will be repaired/rebuilt with a stucco veneer. Mr. Warner concluded his comments by stating that this style of basement entry is common along this portion of Beacon Street.

Board Member Hussey requested that the Petitioner further describe the reasoning for the proposed basement entry and Board Chair Schneider requested that the Petitioner address parking related zoning relief.

Attorney Allen stated that the proposed basement entry will improve access to existing basement space and provide clear separation between residential and office uses within the structure. Attorney Allen also stated that this proposed design is intended to increase natural light provided to the basement level. Attorney Allen acknowledged that portions of the front yard area will be altered but the area will be re-landscaped to maintain a similar, if not improved, level of aesthetics.

Attorney Allen stated that current office uses were permitted on the subject property via special permit and variance. Additionally, the structure as currently used existed prior to recent parking requirements. Current parking requirements necessitate 12.3 off-street parking spaces to serve the structure. Based on this property history, Attorney Allen stated that the Building Department interprets these 12.3 spaces to be a theoretical parking credit. Attorney Allen confirmed that the proposed use conversion results in an increased parking requirement of 1.6 spaces. Attorney Allen stated that the property provides 2 designated off-street parking spaces located to the rear of the structure and the Board may waive up to 50% of these newly required parking spaces by special permit.

Attorney Allen further stated that the proposal before the Board also satisfies more general standards for the grant of a special permit in accordance with By-Law Section 9.05 because:

- The specific site is an appropriate location for such a use, structure, or condition
- The use as developed will not adversely affect the neighborhood
- There will be no nuisance or serious hazard to vehicles or pedestrians
- Adequate and appropriate facilities will be provided for the proper operation of the proposed use
- The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people

Attorney Allen believed that proposed studio units in fact improve the supply of affordable housing within the Town. Attorney Allen also noted that the Petitioner will monitor trash generation and trash collection in the rear alleyway to minimize any impact on abutting residents as much as practicable.

Board Chair Schneider called for public comment in favor of, or in opposition to, the Petitioner's proposal.

No members of the public commented in favor, or in opposition.

Board Chair Schneider requested that Zoning Coordinator Jay Rosa review the findings of the Planning Board. Mr. Rosa stated that The Planning Board unanimously supported this proposed use conversion following 3 public meetings. The Petitioner worked closely with the Board to modify the layout of residential units to provide adequate natural light and egress, particularly for the studio units. Mr. Rosa further stated that the overall residential unit count was also reduced in response to abutter concerns regarding the number of potential tenants and resulting trash.

Mr. Rosa confirmed that the Board specifically recommended the reconfigured front basement entry design that Mr. Warner has included in revised plans but the Planning Board does request

final review of the design and materials to be used, which is standard for all façade alterations along Beacon Street.

Mr. Rosa also stated that the Planning Board was satisfied that the site is adequately served by public transportation and street parking but defers to the Board of Appeals and Building Department's interpretation of the parking credit issue. In general, the Planning Board also supported the conversion from general offices which are a non-conforming use within the M-2.0 zoning district. Therefore, the Planning Board recommended approval of plans submitted by George Warner, dated 11/13/2015, and the site plan submitted by John Hamel, dated 9/4/2015, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan including the front staircase configuration, provided off-street parking, and the location of all trash/recycling facilities, final floor plans including gross floor area calculations, a final front elevation including all window and door dimensions, and a final building section that specifically details the new basement level entryway, subject to the review and approval of the Assistant Director for Regulatory Planning.

2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan for the front-yard area along Beacon Street, subject to the review and approval of the Assistant Director for Regulatory Planning.

3. Prior to the issuance of a building permit, the applicant shall submit plans for any window replacement that indicate window profiles, materials, and colors, subject to the review and approval of the Planning Board.

4. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner, for review and approval for conformance to the Board of Appeals Decision: 1) final floor plans, sections and elevations stamped and signed by a registered architect or engineer; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Mr. Rosa suggested that the Board consider revising these recommended conditions to require Planning Board approval of final elevations and sections rather than the Assistant Director for Regulatory Planning.

Board Chair Schneider requested that Deputy Building Commissioner Michael Yanovitch review the opinion of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the Petitioner's request to bring this structure further into compliance with use requirements for the zoning district, particularly because minimal zoning relief is required to do so. Mr. Yanovitch also confirmed that cited parking relief is a direct result of use changes rather than a floor area increase. Mr. Yanovitch confirmed that the Building Department will work with the Petitioner to ensure compliance with all imposed conditions and building codes if the Board does find that the standards for special permit relief have been satisfied.

***Board Deliberation***

Board Member Avi Liss supported Planning Board and Building Department comments. Mr. Liss stated that the two most compelling arguments in support of this requested relief are the

conversion to conforming residential uses and the consistency that the multi-family residential building will have with the surrounding neighborhood. Mr. Liss also believed that the standards for special permit relief, in accordance with By-Law Section 9.05 are satisfied. Mr. Liss also supported the request for reduced parking because the subject property is directly adjacent to reliable public transportation.

Board Member Hussey concurred with Mr. Liss' comments and stated support for the requested relief.

Board Chair Schneider also supported the Petitioner's request for zoning relief. Ms. Schneider specifically noted that the as-of-right residential units are more consistent when considering surrounding apartment buildings. Ms. Schneider also agreed that the subject property is well served by public transportation and located in a highly walkable area. Ms. Schneider agreed that applicable design review standards are adequately satisfied and supported revised conditions that were stated for the record.

**Unanimous Board grant of requested relief subject to the following revised conditions:**

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan including the front staircase configuration, provided off-street parking, and the location of all trash/recycling facilities, and final floor plans, subject to the review and approval of the Assistant Director for Regulatory Planning.

2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan for the front-yard area along Beacon Street, subject to the review and approval of the Assistant Director for Regulatory Planning.

3. Prior to the issuance of a building permit, the applicant shall submit a final building section specifically detailing the new basement level entry, and a final front elevation including building materials, window and door sizes, and colors, subject to the review and approval of the Planning Board.

4. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner, for review and approval for conformance to the Board of Appeals Decision: 1) final floor plans, sections, and elevations stamped and signed by a registered architect or engineer; 2) a final site plan, stamped and signed by a registered engineer or land surveyor; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

**345 Harvard Street (Devotion School)** – Demolish two wings of school building and construct additions with associated site work

Board Chair Schneider called case #2015-0066 and reviewed standard hearing procedure.

The Petitioner's Attorney, John Buccheit – Associate Town Counsel, waived the reading of public hearing notice for the record and introduced acting school Superintendent Dr. Joseph Connelly and Deputy Superintendent Mary Ellen Dunn. Attorney Buchheit also introduced project architects Pip

Lewis and Deborah Collins of HMFH Architects and Project Manager Tony Guigly. Attorney Bucheit stated that the school department is seeking zoning relief to renovate and expand a 234,833 square foot school and construct a 30,676 square foot parking garage at a cost of $120 million, of which $26 million will be provided by the state. Attorney Buchheit stated that the final design of the renovated school is a result of significant design review and public input over the last 3 years. Attorney Buchheit specifically noted that 36 team meetings, 3 recent design advisory meetings, and 3 community meetings occurred over that time period. As a result of this work, Attorney Buchheit believed that both the Town and public are largely in favor of this proposal. Attorney Buchheit confirmed that zoning relief is specifically requested for overall design review, the maximum height of new additions, front and rear yard setbacks, the maximum height of a fence/net screen, off-street parking requirements, off-street loading facilities, and the design of off-street parking facilities.

Attorney Buchheit stated that the Board may allow special permit relief from these Zoning By-Law Article 5 and 6 provisions specifically for educational uses, provided that the project is found to be reasonable and in general harmony with the surrounding area. In addition, general special permit standards in accordance with Zoning By-Law Section 9.05 must also be satisfied. Attorney Buchheit stated that the School Department will establish that a larger school is needed to effectively educate students living in this neighborhood. This expansion is intended to cater specifically to the needs of the neighborhood and students from other portions of the Town will not be moved to the Devotion School. Attorney Buchheit further stated that a concerted effort was made to preserve historic portions of the school as well as open/recreational space. With these goals in mind, the resulting design attempts to maximize school space in a manner that largely follows the existing building footprint. The proposed design also aims to avoid placing the majority of impact from the larger structure on any one abutting resident and maintain height and massing consistency with other larger buildings in the area. For these reasons, Mr. Buchheit believed that this proposal is therefore reasonable and in harmony with the existing neighborhood.

Alternatively, Attorney Buchheit stated that if the Board does not find that these special permit standards are satisfied, the Board may consider the applicability of the Dover Amendment to provide relief from local regulations for religious and educational uses, provided that these regulations are deemed to be inappropriate when applied to this particular site. Attorney Buchheit stated that this alternative standard is also satisfied because height and setback non-compliance are a direct result of the stated goal to preserve open space, and parking/loading demand is less significant than typical structures of this size.

Acting Superintendent Joseph Connelly stated that a steadily increasing enrollment trend is one of the driving reasons for this proposed school expansion. Dr. Connelly also reviewed the deficiencies of current Devotion School facilities and how the proposed design is intended to improve those deficiencies. Dr. Connelly specifically cited undersized classrooms, cafeteria space, gym space, and art/music/science facilities. Mr. Connelly also stated that the increased floor area will allow for additional classrooms and for these classrooms to be clustered in an age appropriate manner. Improved facilities will also allow for improved extended day programs and on-site Pre-K programs.

Dr. Connelly concluded his comments by stating that the School Department continues to work with the Town on wider public employee transportation improvements. The proposed parking garage modifications will improve overall traffic congestion, particularly during morning drop-off.

Additionally, extended garage parking also eliminates the need to expanded permitted street parking for teachers.

Project Architect Pip Lewis reviewed project design details, specifically features that require zoning relief. Mr. Lewis stated that the historic central core of the school will be preserved and wings that were constructed later (1954 and 1974) will be replaced with larger additions. Proposed alterations will result in an additional 178,535 square feet of floor area. The building is also situated toward Harvard Street to maintain streetscape consistency and preserve open/recreation space located at the rear. Mr. Lewis stated that the required front-yard setback along Stedman Street is 25 feet. Proposed structural expansion in this area will extend no closer to Stedman Street than existing portions of the building but does not satisfy the 25 foot requirement. Mr. Lewis also stated that width of Stedman Street will be increased in this area to improve vehicle queuing to enter the parking garage.

Mr. Lewis further stated that the required rear-yard setback facing the Babcock Street neighborhood is 40 feet. Portions of the new classroom wing on that side of the property do extend into that required setback. In recognition of that condition, the design team is proposing various landscaping features in that particular area and intends to "break up" horizontal length of that façade by incorporating alternate angles and colors.
Mr. Lewis stated that the required maximum height of the structure is 35 feet. The existing ridge of the school extends to 58' – 6" in height. All new construction will not exceed that height, with side additions reaching a maximum height of 53' – 9" and a cooling tower with associated screening that reaches 55' – 5".

Board Member Hussey questioned if the proposed structured parking generates the height non-compliance and requested that Mr. Lewis also describe fence height non-compliance in further detail.

Mr. Lewis explained that the lot itself slopes down away from Harvard Street. As a result, the building height increases even though the roofline remains level. All new additions will be two-stories in height with ground level parking space below as the lot slopes down. Mr. Lewis confirmed that views of the rear of the school depict a three-story structure. Mr. Lewis stated that the structured parking does not increase the overall height of the additions but rather utilizes ground level space that would otherwise be underutilized. Mr. Lewis also stated that it is rare to have structured parking for newly constructed schools.

Mr. Lewis further confirmed that a soccer fence located near the southeast portion of the lot includes a 4 foot high fence with an 8 foot high net above for a total height of 12 feet. Similarly, a fence that screens a ground level transformer at the southern end of the property extends to 12.8 feet in height largely due to grade changes found in that particular area.

Lastly, Mr. Lewis stated that two trash and delivery loading bays will be moved into the interior of the garage but do not meet the By-Law requirement of 4 loading bays.

Board Member Hussey stated that he appreciated the extensive design and vetting process that has occurred and questioned why the structure was not further increased in height/floor area as a means to mitigate enrollment related challenges.

Mr. Lewis stated that the primary difficulty that arises when considering additional stories if the ability to transport young children in an efficient manner. Generally, children do not utilize elevators and multiple flights of stairs can be difficult over the course of a school day.

Board Chair Schneider called for public comment in favor of, or in opposition to, the Petitioner's proposal.

Board of Selectmen Member Nancy Daly stated that she was a member of the Devotion School Committee. Ms. Daly stated that traffic generation is also a factor that restricts overall building size, particularly in this dense neighborhood. Ms. Daly confirmed that traffic evaluation indicates that significant challenges arise if the school starts to serve greater than 1,000 students. Ms. Daly also stated that more students would also reduce the effectiveness of provided recreation space. Ms. Daly concluded her comments by stating that the design is also intended to be respectful of abutting residents and the historic character of the school building.

Board Member Hussey requested that the Petitioner elaborate on the briefly stated transportation demand management plan (TDM).

Attorney Buchheit stated that the School Department and other public departments are collaborating to address growing concerns about parking availability and transportation to work for municipal employees. Mr. Buchheit stated that this is a town-wide effort and imposing these requirements, which are not finalized, on this particular property may hinder an overall larger plan. Mr. Buchheit agreed that all schools should consider transportation improvement strategies but he did not feel that it is appropriate to establish a condition to that effect that may impede the issuance of a building permit.

No members of the public spoke in opposition to the proposal.

Board Chair Schneider requested that Lara Curtis Hayes review the findings of the Planning Board. Ms. Curtis Hayes stated that the Planning Board was very supportive of the renovated school building and requested relief. The Board recognized significant public input in the development and design process. The Board also noted that the need for various setback relief is triggered as a direct result of the stated goals to preserve historic portions of the structure and usable open space. Proposed new additions also do not exceed the existing maximum height of the structure. The Planning Board also believed that the school as proposed is an amenity for the neighborhood and drop off/ pick up practices will be improved. Therefore, the Planning Board recommended approval of the plans by HMFH Architects, dated 11/20/2015, and those revised 12/8/2015, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit final plans and elevations, indicating all dimensions and materials, subject to the review and approval of the Planning Board.

2. Prior to the issuance of a building permit, the applicant shall submit a final site plan showing all setbacks, parking and driveway areas, subject to the review and approval of the Planning Board.

3. Prior to the issuance of a building permit, the applicant shall submit a final landscape plan indicating all walls, fencing, planting types and sizes, lighting, paving and other hardscape materials, subject to the review and approval of the Planning Board.

4. Prior to the issuance of a building permit for demolition, the applicant shall submit a construction management plan, indicating the location of trailers, dumpsters, portable toilets, and parking for construction vehicles, and including details about rodent control methods, deliveries of materials, work hours, and contact information, subject to the review and approval of the Director of Engineering/Transportation and the Building Commissioner, with a copy submitted to the Department of Planning & Community Development.

5. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Board Chair Johanna Schneider requested that Deputy Building Commissioner Michael Yanovitch reviewed the findings of the Building Department. Mr. Yanovitch stated that the Building Department recognizes the challenges presented to school operations due to the current lack of physical space. Mr. Yanovitch stated that, from a zoning relief standpoint, the requested relief is rather minimal for a building of this scope. Mr. Yanovitch also agreed with Attorney Buchheit that the proposed educational use itself serves to "loosens" dimensional and parking related requirements. Mr. Yanovitch believed that the project is well designed and can be granted by special permit alone rather than utilizing the Dover Amendment. Mr. Yanovitch also noted efforts to reduce visual impact on abutting properties through the installation of landscaped features, particularly on the southern portion of the lot that faces the Babcock Street neighborhood.

Mr. Yanovitch concluded his comments by supporting the incorporation of interior loading and trash bays and did not believe that provided parking garage aisle widths will present any safety related issues. For these reasons, the Building Department expressed no objection to the relief as requested and ensured further collaboration with the Petitioner to ensure compliance with state building codes if the Board does find that the standard for special permit relief and/or the statutory requirements of M.G.L., c 40A, Section 3 (Dover Amendment) are satisfied.

***Board Deliberation***

Board Member Hussey agreed that the relief requested by the Petitioner is modest when considering the size and scope of the school building. Mr. Hussey commended the architects for an appropriate design that meets the needs of the growing student population while also minimizing non-compliance with the Zoning By-Law.

Board Member Liss also commended the School Department for achieving design goals while also generating consensus amongst various stakeholders. Mr. Liss did not feel that Dover Amendment standards are required because the standards for special permit relief under By-Law Sections 9.05, 5.09, 5.43, 6.02, and 6.06 are satisfied.

Board Chair Schneider concurred with previous Board Member statements. Ms. Schneider commended the Petitioner for engaging in a thorough and transparent planning process for this project. Ms. Schneider also agreed that conditions of By-Law Section 5.08.2 (educational uses) are applicable and the standards for the grant of a special permit are met in accordance with By-Law Section 9.05. Ms. Schneider also supported the application of Dover Amendment standards but

agreed that the Petitioner's decision to seek special permit relief results in a more complete and transparent design review process.

**Unanimous Board grant of requested relief, subject to conditions stated in the record.**