



# CITY OF CAMBRIDGE

BOARD OF ZONING APPEAL

831 Massachusetts Avenue, Cambridge MA 02139

617-349-6100

2025 JAN 17 AM 9:41

OFFICE OF THE CITY CLERK  
CAMBRIDGE, MASSACHUSETTS

## BZA Application Form

**BZA Number: 1148745**

### General Information

The undersigned hereby petitions the Board of Zoning Appeal for the following:

Special Permit: \_\_\_\_\_

Variance: \_\_\_\_\_

Appeal:   X  

**PETITIONER:** Buckingham Browne & Nichols C/O Tara Gohlmann

**PETITIONER'S ADDRESS:** 80 Gerrys Landing Road, Cambridge, MA 02138

**LOCATION OF PROPERTY:** 30 Gerrys Landing Rd., Cambridge, MA

**TYPE OF OCCUPANCY:** Subject of the Appeal

**ZONING DISTRICT:** Residence A-1 Zone

**REASON FOR PETITION:**

/Change in Use/Occupancy/

### **DESCRIPTION OF PETITIONER'S PROPOSAL:**

Determination of ISD Commissioner's letter dated 12/17/24 that the variance granted in BZA-017262-2020 lapsed for non-use.

### **SECTIONS OF ZONING ORDINANCE CITED:**

Article: 4.000	Section: 4.50 (Institutional Use Classification).
Article: 4.000	Section: 4.56.C (Intuition Uses).
Article: 9.000	Section: 9.10 (Enforcement).
Article: 10.000	Section: 10.20 (Appeal).

Original  
Signature(s):

Cynthia Westerman  
(Petitioner (s) / Owner)

Cynthia Westerman  
(Print Name)

Address:

Tel. No.

E-Mail Address:

80 Gerry's Landing Rd. Camb. 02138

917-566-4512, 617-800-2740

tgohlmann@bbns.org

Date: \_\_\_\_\_

**BZA APPLICATION FORM - OWNERSHIP INFORMATION**

To be completed by OWNER, signed before a notary and returned to  
The Secretary of the Board of Zoning Appeals.

I/We Buckingham Browne & Nichols School  
(OWNER)  
Address: 80 Gerrys Landing Road, Cambridge, MA 02138  
State that I/We own the property located at 30 Gerrys Landing Rd Cambridge,  
which is the subject of this zoning application. MA 02138

The record title of this property is in the name of Buckingham Browne & Nichols School

\*Pursuant to a deed of duly recorded in the date 10-29-2019, Middlesex South  
County Registry of Deeds at Book 73544, Page 366; or  
Middlesex Registry District of Land Court, Certificate No. \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_.

[Signature]  
SIGNATURE BY LAND OWNER OR  
AUTHORIZED TRUSTEE, OFFICER OR AGENT\*

\*Written evidence of Agent's standing to represent petitioner may be requested.

Commonwealth of Massachusetts, County of Middlesex

The above name Tara S. Gohlman personally appeared before me,  
this 15<sup>th</sup> of Jan., 2025, and made oath that the above statement is true.

[Signature] Notary

My commission expires



(Notary Seal).

- If ownership is not shown in recorded deed, e.g. if by court order, recent deed, or inheritance, please include documentation.

## BZA Application Form

### DIMENSIONAL INFORMATION

**Applicant:** Buckingham Browne & Nichols  
**Location:** 30 Gerrys Landing Rd., Cambridge, MA  
**Phone:** 917-566-4512, 617-800-2740

**Present Use/Occupancy:** Subject of the Appeal  
**Zone:** Residence A-1 Zone  
**Requested Use/Occupancy:** Educational use

		<u>Existing Conditions</u>		<u>Requested Conditions</u>		<u>Ordinance Requirements</u>	
<u>TOTAL GROSS FLOOR AREA:</u>		18123		0		26137	(max.)
<u>LOT AREA:</u>		52273		0		8000	(min.)
<u>RATIO OF GROSS FLOOR AREA TO LOT AREA: <sup>2</sup></u>		.35		0		.5	
<u>LOT AREA OF EACH DWELLING UNIT</u>		52273		0		6000	
<u>SIZE OF LOT:</u>	<u>WIDTH</u>	Varies		0		80	
	<u>DEPTH</u>	Varies		0		?	
<u>SETBACKS IN FEET:</u>	<u>FRONT</u>	25'-4"		0		25'	
	<u>REAR</u>	120'		0		25'	
	<u>LEFT SIDE</u>	12'-1"		0		15'	
	<u>RIGHT SIDE</u>	68'-3"		0		35'	
<u>SIZE OF BUILDING:</u>	<u>HEIGHT</u>	41'		0		35'	
	<u>WIDTH</u>	85'		0		?	
	<u>LENGTH</u>	50'		0		?	
<u>RATIO OF USABLE OPEN SPACE TO LOT AREA:</u>		~75%		0		50%	
<u>NO. OF DWELLING UNITS:</u>		0		0		0	
<u>NO. OF PARKING SPACES:</u>		8		No change		1	
<u>NO. OF LOADING AREAS:</u>		n/a		n/a		n/a	
<u>DISTANCE TO NEAREST BLDG. ON SAME LOT</u>		25'		0		25'	

Describe where applicable, other occupancies on the same lot, the size of adjacent buildings on same lot, and type of construction proposed, e.g; wood frame, concrete, brick, steel, etc.:

Existing concrete block 4 bay garage

1. SEE CAMBRIDGE ZONING ORDINANCE ARTICLE 5.000, SECTION 5.30 (DISTRICT OF DIMENSIONAL REGULATIONS).
2. TOTAL GROSS FLOOR AREA (INCLUDING BASEMENT 7'-0" IN HEIGHT AND ATTIC AREAS GREATER THAN 5') DIVIDED BY LOT AREA.
3. OPEN SPACE SHALL NOT INCLUDE PARKING AREAS, WALKWAYS OR DRIVEWAYS AND SHALL HAVE A MINIMUM DIMENSION OF 15'.





155 Seaport Boulevard  
Boston, MA 02210-2600

617-832-1000 main  
617-832-7000 fax

Tad A Heuer  
6178321187 direct  
THeuer@foleyhoag.com

January 15, 2025

James Monteverde, Chair  
City of Cambridge Board of Zoning Appeal  
831 Massachusetts Avenue  
Cambridge, MA 02139

**Re: Appeal of Building Commissioner Determination | 30 Gerry's Landing**

Dear Mr. Monteverde and Members of the Board:

By this letter, Buckingham, Browne & Nichols School ("BB&N"), the owner of 30 Gerry's Landing, appeals the December 17, 2024 decision of the Building Commissioner that the use variance granted by the BZA on July 30, 2020 in Case No. BZA-017262-2020 has lapsed (Exhibit A). As grounds for this appeal, BB&N states as follows.

**I. Factual Background**

In February 2020, BB&N applied to the BZA for a use variance authorizing the use of 30 Gerry's Landing for educational uses. 30 Gerry's Landing is a 1.2 acre parcel with a 18,000 sf formerly residential structure and outbuildings in the Residence A-1 zone, abutting the Shady Hill-BB&N Overlay District. The scheduled March 2020 hearing was postponed to July 2020 due to the declaration of the COVID-19 state of emergency.

In July 2020, the BZA unanimously granted the use variance. BB&N recorded the use variance on August 25, 2020, the day after the statutory appeal period expired. (Exhibit B).

BB&N immediately began using 30 Gerry's Landing for educational use purposes – specifically, storing significant quantities of excess classroom furniture (student desks, chairs, etc.) that had to be removed from classrooms at its three campuses in Cambridge to create sufficient space to comply with the state's emergency COVID-19 social distancing requirements for in-person education. Compliance was mandatory before the school was authorized to open for in-person education at the end of August 2020. Indeed, the importance of the use variance to enable compliance with COVID-19 mandates was specifically detailed in BB&N's supplemental statement to the BZA on July 6, 2020. (Exhibit C).

BB&N simultaneously made educational use of the outdoor premises at 30 Gerry's Landing, consistent with the use variance, during the Fall of 2020 and the Spring of 2021. As we are all aware, at that time state COVID-19 restrictions encouraged holding multi-

person activities and events outdoors. These educational uses were all made well within the one-year lapse period established in G.L. c. 40A, § 10 and Section 10.35 of the Ordinance. As detailed in the attached affidavit of BB&N's Chief Operating Officer (and supplemented with attachments) (Exhibit D), these educational uses included:

- 1) Holding Upper School English and photography classes outside on the parcel
- 2) Holding multiple student theater productions (and their rehearsals) outside on the parcel
- 3) Holding multiple school Board of Trustees meetings, various athletic team events (including volleyball practice), and grade-level events for parents outside on the parcel
- 4) Providing parking for staff who were using, working at, or attending on-campus events on the parcel or at the Nicholas Athletic Center.

Finally, certain school facilities operations were moved to the parcel during this period (as expressly contemplated by the variance, which was granted in part because "the Board note[s] that currently BB&N was required to have some of its administrative staff and functions operate out of Watertown, which was obviously not the most convenient way, and was disruptive to a smooth operation of the school"). In specific, BB&N Facilities Maintenance staff utilized the parcel for parking school vehicles and for storing the snow removal equipment necessary for maintaining the safety of school grounds at all three BB&N campuses in the City.

Because of the COVID-19 pandemic and the need to reprioritize its resources accordingly, BB&N was forced to postpone its plans for renovating the structure itself for academic and administration uses. However, BB&N did take certain essential remedial actions, including engaging a licensed contractor under permits issued by the Massachusetts Department of Environmental Protection (with notification to the City of Cambridge ISD) to remove hazardous materials from the basement and first floor areas, and removing the second story of the adjacent garage (which was a health and safety hazard).

By the fall of 2024, BB&N was prepared to move forward with its selective renovation plans, having developed the documentation required to make the first and second floors fully code-compliant for office uses. Consistent with standard and routine practice, BB&N met with ISD staff and the Commissioner in advance of submitting a building permit application. Following these discussions, however, the Commissioner issued a determination on December 17, 2024 that the property was ineligible for a building permit or certificate of occupancy, contending that the August 2020 variance had lapsed. Exhibit D.

## **II. Legal Analysis**

This determination was legal error. Under state law, G.L. c. 40A, § 10, the legal standard with respect to lapse is "exercise" — specifically, that "[i]f the rights authorized by

a variance are not exercised within one year of the date of grant of such variance such rights shall lapse.” The situation here is the exact same as that resolved by the Appeals Court in Green v. Zoning Board of Appeals of Southborough, 96 Mass. App. Ct. 126 (2019): “At issue is whether a use variance lapsed pursuant to G. L. c. 40A, § 10, which requires that variances be exercised within one year of their grant.” Id.

On the question of what constitutes “exercise,” Green held that “‘exercise’ for these purposes means ‘to bring into play: make effective in action . . . bring to bear.’” Green at 131 (internal citations omitted). Green then emphasized that unlike exercise of a dimensional variance, “a ‘use’ variance may not require any construction or excavation, and a building permit may not be necessary to exercise such a variance.” Instead, “[e]vidence of ‘use’ within one year of issuance of the variance may be sufficient to exercise such a variance.” Id., citing Cornell v. Board of Appeals of Dracut, 453 Mass. 888, 894, n.9 (2009).

Applying this law to the facts in that case, the court in Green observed that the variance holder had timely recorded the use variance, and had submitted a sworn affidavit — made on personal knowledge and supported by documentation — “detailing various steps [the variance holder] took after approval of the use variance and in reliance on it.” The Court found that evidence sufficient to establish “exercise” of the use variance and avoid lapse.

That is precisely what BB&N has provided here. There is overwhelming and undisputed evidence that BB&N began using the variance *immediately* in August 2020 for numerous educational uses: the storage of classroom furniture to enable the BB&N to operate its academic programs consistent with the state Department of Education’s COVID-19 protocols, the use of the parcel grounds for paradigmatically educational activities (including academic classes, student performances, team practices, and faculty meetings) to comply with COVID-19 mandates, and the use of the parcel grounds for both staff parking and facilities maintenance storage.<sup>1</sup>

In short, contrary to the assertion of the Commissioner, as a factual matter the August 2020 variance for educational uses *was* exercised within the lapse period, consistent with Section 10.35 of the Ordinance and the standard articulated by the Massachusetts appellate courts. For each these reasons — and certainly in combination — the variance was timely exercised and did not lapse.

\* \* \*

In closing, BB&N reiterates that it appreciates and values its long and productive relationship with the Inspectional Services Department and the Commissioner, and emphasizes that its appeal here is simply a good-faith disagreement with the conclusion of the Commissioner on a specific and discrete legal question.

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<sup>1</sup> The determination letter asserts that a building permit or a certificate of occupancy was required to “establish the use,” and that neither had been sought within the lapse period. Yet per G.L. c. 40A, § 10 and Green, the validity of the use is established by the grant of the variance itself. It is not contingent upon the grant of a certificate of occupancy pursuant to Section 9.20 of the Ordinance.

**EXHIBIT A**

**COMMISSIONER'S DETERMINATION**

**DECEMBER 17, 2024**

To the extent the BZA elects to uphold the Commissioner's determination, BB&N respectfully requests that per G.L. c. 40A, § 10 (authorizing a zoning board to "grant upon appeal or upon petition . . . a variance"), the BZA resolve this appeal by re-granting the variance issued in July 2020, on the same terms and conditions as established therein. Dion v. Board of Appeals of Waltham, 344 Mass. 547, 554 (1962).

Sincerely,

A handwritten signature in black ink, appearing to read 'Tad Heuer', with a horizontal line above it.

Tad Heuer

Cc: City Clerk, City of Cambridge





City of Cambridge  
Inspectional Services Department  
831 Massachusetts Avenue  
Cambridge, MA 02139

Peter McLaughlin  
Commissioner

November 18, 2024

BY REGULAR MAIL AND CERTIFIED MAIL – RETURN RECEIPT REQUESTED

BUCKINGHAM BROWNE & NICHOLS SCHOOL  
C/O Cynthia Westerman  
30 GERRY'S LANDING RD  
Cambridge, MA 02138

RE: Buckingham Browne & Nichols , 30 Gerry's Landing Road – Cease & Desist order

Dear Cynthia Westerman,

It has come to our attention that the property at 30 Gerry's Landing Road is being used for Use of Land or Structure for Educational Purposes on Land not Owned or Leased by the Commonwealth or any of its Agencies, Subdivisions or Bodies Politic. Pursuant to Article 4, Section 4.56.c (Institutional Uses – Table of Use Regulations) of the Cambridge Zoning Ordinance, this use is not allowed

As you may be aware, this property received a Variance as part of BZA Case 017262-2020 for "Request for use variance from the provisions of the Institutional Use Regulations to allow the use of the parcel for Educational Uses". The rights authorized by BZA Case 017262-2020 had to be exercised within one year from July 30, 2020. From July 30, 2020 to October 10, 2024 no Certificate of Occupancy to establish the use has been applied for at this address. The rights authorized by BZA Case 017262-2020 have now lapsed and may be reestablished only after notice and new hearing pursuant to Cambridge Zoning Ordinance Section 10.30 and G.L. 40A, §10. This property will not be eligible for a building permit or a certificate of occupancy until the rights authorized by BZA Case 017262-2020 are reestablished after notice and a new hearing pursuant to Cambridge Zoning Ordinance Section 10.30 and G.L. 40A, §10 .

Please cease and desist this use immediately. If you fail to comply with this order, further steps may be taken, including court action and/or fines of up to \$300 per day, pursuant to Article 9, Section 9.16 of the Cambridge Zoning Ordinance. You have the right to appeal this decision to the Board of Zoning Appeal within 30 days from the date of this letter.

If you have questions, please contact, Peter McLaughlin, at (617) 349-6107.

Sincerely,

Peter McLaughlin  
Commissioner

Extended to 60 days  
from the date of this letter  
12/17/24

**EXHIBIT B**

**USE VARIANCE FOR 30 GERRY'S LANDING – BZA-017262-2020**

**JULY 30, 2020**



CITY OF CAMBRIDGE  
MASSACHUSETTS  
BOARD OF ZONING APPEAL  
831 MASSACHUSETTS AVENUE  
CAMBRIDGE, MA 02139  
617 349-6100

2020 JUL 30 PM 2:04

CASE NO: BZA-017262-2020

Residence A-1 Zone

LOCATION: 30 Gerrys Landing Rd  
Cambridge, MA 02138

PETITIONER: Buckingham Browne & Nichols - C/O Cynthia Westerman

PETITION: Variance: Request for use variance from the provisions of the Institutional Use Regulations to allow use of the parcel for Educational Uses.

**VIOLATION :**

Article 4.000 Section 4.50 (Institutional Use).

Article 4.000 Section 4.56.C (Use Category - Institutional Uses).

Article 10.000 Section 10.13.C (Variance).



DATE OF PUBLIC NOTICE: March 12 & 19, 2020 / June 25 & July 2, 2020

DATE OF PUBLIC HEARING: March 26, 2020; April 23, 2020; July 9, 2020;

**MEMBERS OF THE BOARD:**

CONSTANTINE ALEXANDER - CHAIR

BRENDAN SULLIVAN - VICE-CHAIR

JANET O. GREEN

ANDREA A. HICKEY

**ASSOCIATE MEMBERS:**

SLATER W. ANDERSON

ALISON HAMMER

JIM MONTEVERDE

LAURA WERNICK

Members of the Board of Zoning Appeal heard testimony and viewed materials submitted regarding the above request for relief from the requirements of the Cambridge Zoning Ordinance. The Board is familiar with the location of the petitioner's property, the layout and other characteristics as well as the surrounding district.

Doc # 73544

Page # 366

Buckingham Browne & Nichols School  
25 Seaver St.  
Wellesley, MA 02481  
sent by mail during Covid-19

Case No. BZA-017262-2020

Location: 30 Gerry's Landing Road

Petitioner: Buckingham Browne & Nichols – c/o Cynthia Westerman

On July 9, 2020, Petitioner's attorney Tad Heuer appeared before the Board of Zoning Appeal with Dr. Tara Goldman, Dr. Jen Price, and Cynthia Westerman of Buckingham Browne & Nichols ("BB&N") requesting a variance from provisions of the Institutional Use Regulations to allow use of the parcel for Educational Uses. The Petitioner requested relief from Article 4, Sections 4.50 and 4.56.C and Article 10, Section 10.13.C of the Cambridge Zoning Ordinance ("Ordinance"). The Petitioner submitted materials in support of the application including information about the project, plans, and photographs.

Mr. Heuer stated that BB&N was a pre-K to grade 12 school, which sat largely in an Institutional Overlay District ("IOD"). He stated that the school's administrative offices were currently in rented space in Watertown. He stated that the proposal was to relocate the offices to the subject address and to two other contiguous parcels, which were at least partially outside the IOD. He stated the school needed use variances to accomplish this. He stated that the hardship was having the administrative offices in another town, in a rented facility, which was not ADA compliant. He stated that the lots were irregularly shaped and had steep topography. He stated that the subject property was a vacant 18,000 square foot single family residence without any frontage, that was no longer viable as a residence. He stated that there was no detriment to the public good as BB&N was a long time neighborhood institution and that there was unanimous neighborhood support. He stated that the proposed use did not derogate from the intent or purpose of the Ordinance.

The Chair asked if anyone wished to be heard on the matter and no one indicated such. The Chair read a number of letters of support from neighbors.

After discussion, the Chair moved that the Board make the following findings based upon the application materials submitted and all evidence before the Board and that based upon the findings the Board grant the requested relief as described in the Petitioner's submitted materials and the evidence before the Board: that the Board find that a literal enforcement of the provisions of the Ordinance would involve a substantial hardship, financial or otherwise to the Petitioner; that the Board find that unless it granted relief, BB&N would be prohibited from using the northern portion of the undivided parcel where the separate school was located, as well as using the two contiguous parcels that it owned for educational uses; that the Board find that a literal enforcement would require BB&N to reconfigure site access, if that were even possible, and would preclude it from using these properties to alleviate its existing administrative space constraints; that the Board note that currently BB&N was required to have some of its administrative staff and functions operate out of Watertown, which was obviously not the most convenient way, and was disruptive to a smooth operation of the school; that the Board find that the hardship was owing to the shape and topography of the lots, which were irregular and unlike other properties in the zoning district; that the Board find that the structures on the lots were not well-suited for residential use; that the Board find that desirable relief could be granted without substantial detriment to the public good, or nullifying or substantially derogating from the intent or purposes of the Ordinance; that the Board find the site plan proposed would be compatible with the neighborhood, and

that the institution would be accessible to, or primarily oriented toward neighborhood residents; that the Board find that the institutional use is particularly appropriate on the lot, given previous use of the lot, and residential development in this area would not be feasible or reasonably practical on the site.

The Chair further moved that the Board specifically find that based upon all the information presented, there are circumstances involving a substantial hardship relating to this property within the meaning of M.G.L. c. 40A § 10 and that the Board grant the variance for the requested relief on the condition that the parcels involved only be used for day care and prekindergarten through grade 12 educational uses.

The five-member Board voted unanimously in favor of the findings and of granting the variance as conditioned (Alexander, Sullivan, Green, Hickey, and Monteverde). Therefore, the variance is granted as conditioned.

The Board of Zoning Appeal is empowered to waive local zoning regulations only. This decision therefore does not relieve the petitioner in any way from the duty to comply with local ordinances and regulations of the other local agencies, including, but not limited to the Historical Commission, License Commission and/or compliance with requirements pursuant to the Building Code and other applicable codes:



Constantine Alexander, Chair

Attest: A true and correct copy of decision filed with the offices of the City Clerk and Planning Board on 7-30-20 by Maria Pacheco, Clerk.

Twenty days have elapsed since the filing of this decision.

No appeal has been filed ✓

Appeal has been filed and dismissed or denied.



Date: Aug 24, 2020 City Clerk.

**EXHIBIT C**

**BB&N SUPPLEMENTAL COVID-19 STATEMENT IN BZA-017262-2020**

**JULY 6, 2020**





Seaport West  
155 Seaport Boulevard  
Boston, MA 02210-2600

617.832.1000 main  
617.832.7000 fax

July 6, 2020

**BY ELECTRONIC MAIL**

Constantine Alexander, Chair  
Board of Zoning Appeal  
City of Cambridge  
831 Massachusetts Avenue  
Cambridge, Mass. 02139

**Re: BZA-017260-2020; BZA-017261-2020; BZA-017262-2020 | COVID-19  
Supplemental Statement**

Dear Mr. Alexander and Members of the Board:

As you know, the hearing on BB&N's three use variance petitions was originally scheduled for March 26, and was postponed due to the declaration of the statewide COVID-19 state of emergency and the City's own declaration.

The pre-COVID reasons provided in BB&N's petitions—explaining why the limited zoning relief sought will ameliorate a substantial hardship and can be granted without substantial detriment to the public good—remain both compelling and valid. Yet at the risk of stating the obvious, the educational world has changed dramatically since the submission of these petitions in February 2020.

Strict social distancing is likely to remain mandatory for educational institutions in some form for the foreseeable future, creating an additional significant hardship that warrants the grant of the relief requested. Simply in order for BB&N to reopen (and remain open), BB&N will need to not only reconfigure its existing educational spaces, but creatively examine how to utilize each square foot of its existing physical plant—including its administrative facilities and the properties that are the subject of these petitions—in order to educate students in a safe environment in compliance with state law.

The Massachusetts Department of Elementary and Secondary Education's *Initial Fall School Reopening Guidance*, released two weeks ago on June 25, 2020 (<http://www.doe.mass.edu/covid19/return-to-school/guidance.docx>), makes plain the all-encompassing dramatic impact that adhering to social distancing requirements will have on how educational institutions utilize space.

For instance, the *Guidance* informs schools that “[a]lternative spaces in the school (e.g., cafeteria, library, and auditorium) should be repurposed to increase the amount of available space to accommodate the maximum distance possible.” The *Guidance* also requires that schools “maximize physical distance between desks within their physical and operational constraint,” placing all desks a minimum of three feet apart. And the *Guidance* even encourages schools to “consider engaging community partners to find spaces outside the school (e.g., libraries, community centers) to set up additional classrooms to accommodate more students, reduce class size, and/or enable additional distancing while adhering to the health and safety guidelines.”

As a practical matter, BB&N’s current intent is to utilize the properties for academic administration purposes, particularly as the school will need to reconfigure its current administrative spaces (both in Cambridge and in Watertown) for use in educating its students. The limited use zoning relief BB&N is seeking—allowing these properties, contiguous to BB&N’s existing campus, to be used for educational purposes—is thus not only essential to its ongoing educational mission notwithstanding COVID-19, but will also be an essential element of allowing BB&N to open in the Fall.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tad Heuer', with a stylized, cursive script.

Tad Heuer

**EXHIBIT D**

**AFFIDAVIT OF DR. TARA GOHLMANN, BB&N COO/CFO**

**JANUARY 17, 2025**

**CITY OF CAMBRIDGE  
BOARD OF ZONING APPEAL**

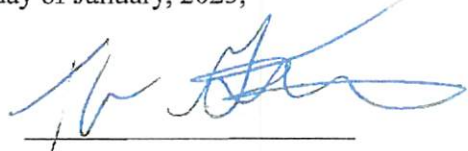
**AFFIDAVIT OF DR. TARA GOHLMANN**

I, Tara Gohlmann, do hereby state and affirm as follows:

1. I am the Chief Operating and Financial Officer at Buckingham, Browne & Nichols School ("BB&N"). I have held this position since 2018.
2. I hold a EdD from Boston College, and an MBA from the Wharton School of Finance.
3. In my capacity as COO/CFO of BB&N, I oversee the use of all BB&N facilities and property, including the property known as 30 Gerry's Landing.
4. In February 2020, BB&N applied to the Cambridge BZA for a use variance authorizing the use of 30 Gerry's Landing for all educational uses.
5. In March 2020, the Commonwealth declared a state of emergency in response to the COVID-19 pandemic.
6. In July 2020, the BZA unanimously granted the use variance. BB&N recorded the use variance on August 25, 2020, the day after the statutory appeal period expired.
7. BB&N immediately began using 30 Gerry's Landing for purposes in furtherance of its educational mission, specifically, storing significant quantities of excess classroom furniture (including student desks and chairs) that had to be removed from classrooms at BB&N's three campuses in Cambridge to create sufficient space to comply with the state's emergency COVID-19 social distancing requirements for in-person education.
8. Compliance with the state's COVID-19 social distancing requirements and related protocols issued by the Massachusetts Department of Education was mandatory before the school was authorized to open for in-person education at the end of August 2020.
9. BB&N simultaneously used the outdoor premises at 30 Gerry's Landing for multiple purposes in furtherance of its educational mission during the Fall of 2020 and the Spring of 2021.
10. At that time, state COVID-19 restrictions encouraged holding multi-person activities and events outdoors.
11. Outdoor activities during the Fall of 2020 and the Spring of 2021 on the lawn of 30 Gerry's Landing included holding Upper School theater, English, and photography classes. Selected contemporaneous documentation of these activities clearly showing the exterior of 30 Gerry's Landing is attached as Attachment 1.

12. Outdoor activities during the Fall of 2020 and the Spring of 2021 on the lawn of 30 Gerry's Landing included holding multiple student theater productions (and their rehearsals). Selected contemporaneous documentation of these activities clearly showing the exterior of 30 Gerry's Landing is attached as Attachment 2.
13. Outdoor activities during the Fall of 2020 and the Spring of 2021 on the lawn of 30 Gerry's Landing included holding multiple school Board of Trustees meetings, various athletic team events (including volleyball practice), and grade-level events for parents on the lawn of 30 Gerry's Landing.
14. Outdoor activities during the Fall of 2020 and the Spring of 2021 included staff parking on the parcel at 30 Gerry's Landing when using, working at, or attending on-campus on the parcel or at the Nicholas Athletic Center.
15. Between August 2020 and August 2021, BB&N Facilities Maintenance staff began utilizing 30 Gerry's Landing for the parking of school vehicles and for storing the snow removal equipment necessary for maintaining the safety of school grounds at all three BB&N campuses in the City.

Signed under the pains and penalties of perjury this 14th day of January, 2025,



Tara Gohlmann



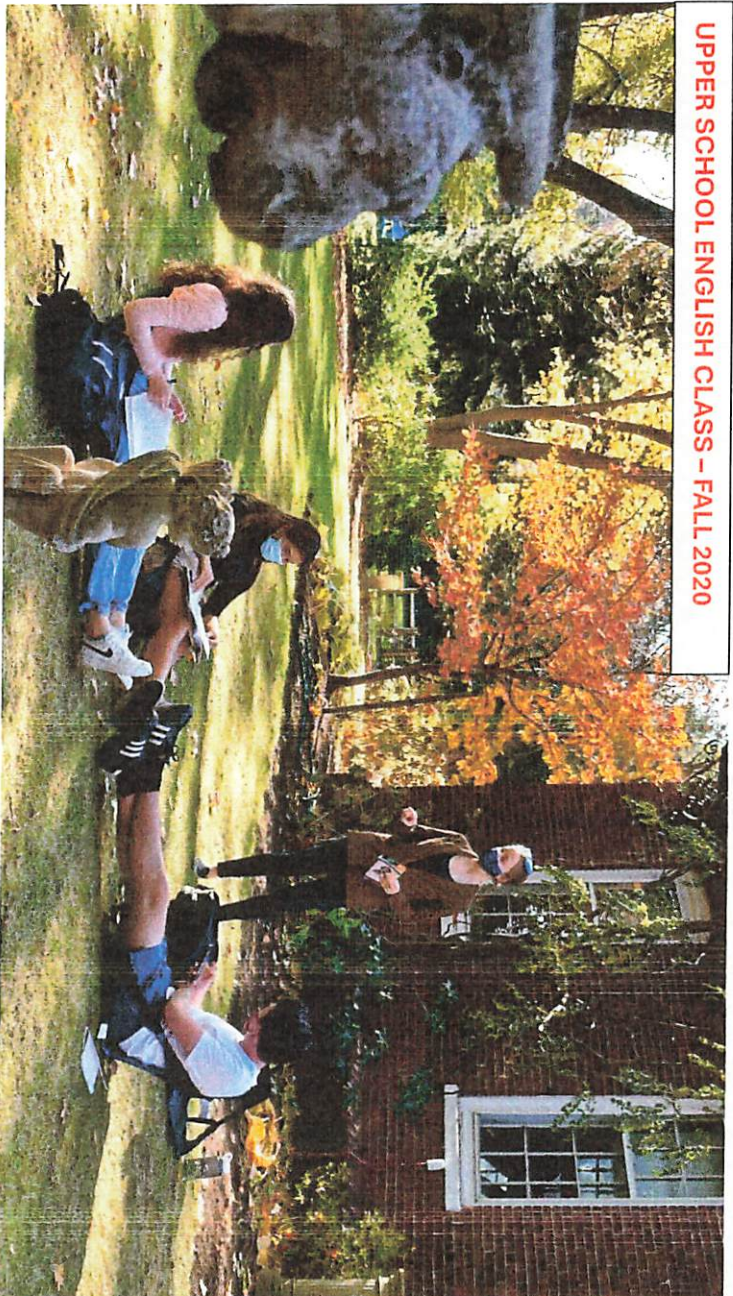
*Misti M O'Connell*  
01-14-25

**ATTACHMENT 1**

**ACADEMIC CLASS WORK**



## UPPER SCHOOL ENGLISH CLASS – FALL 2020



### Pandemic Proof: Forging Connections Through Literature

In many ways, it's a typical English class, but this one is happening outdoors, masked students sitting distantly in Crazy Creek chairs they will later swab with disinfectant wipes, their masked teacher perched apart on the brick steps of the imposing Pechet House. Still, the essentials of engagement with a text and with one another have mostly endured, despite the restrictions on both teachers and students in the time of COVID-19.

Although Getchell is one of several faculty teaching all of their classes remotely, she managed this fall, aided by the mercifully mild weather, to be on campus a couple of days a week after she scoped out the Pechet property, an out-of-the-way locale she felt safe in. Especially as she was getting to know them early on, Getchell has valued the time she could have in person with her students, though she misses the casual contact that comes with being able to wander around campus, with conferencing and chatting during free blocks. Nico Berger '22 notes, "the classes that we were able to have by the mansion were very nice for getting some fresh air in a time that is very much centered inside, as well as for collaboration with my peers."

**ATTACHMENT 2**

**ACADEMIC PERFORMANCES**

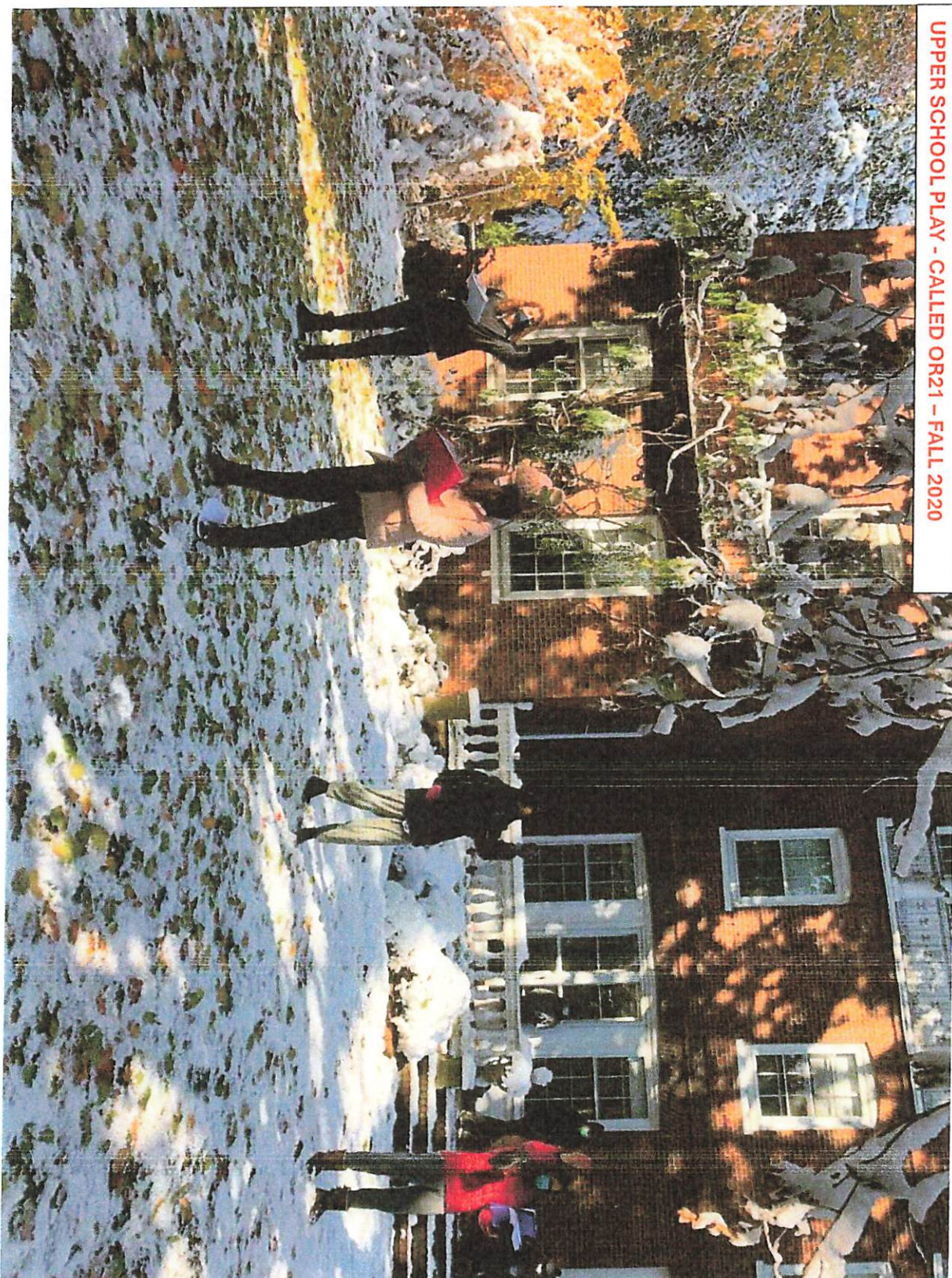


UPPER SCHOOL PLAY - CALLED OR21 - FALL 2020



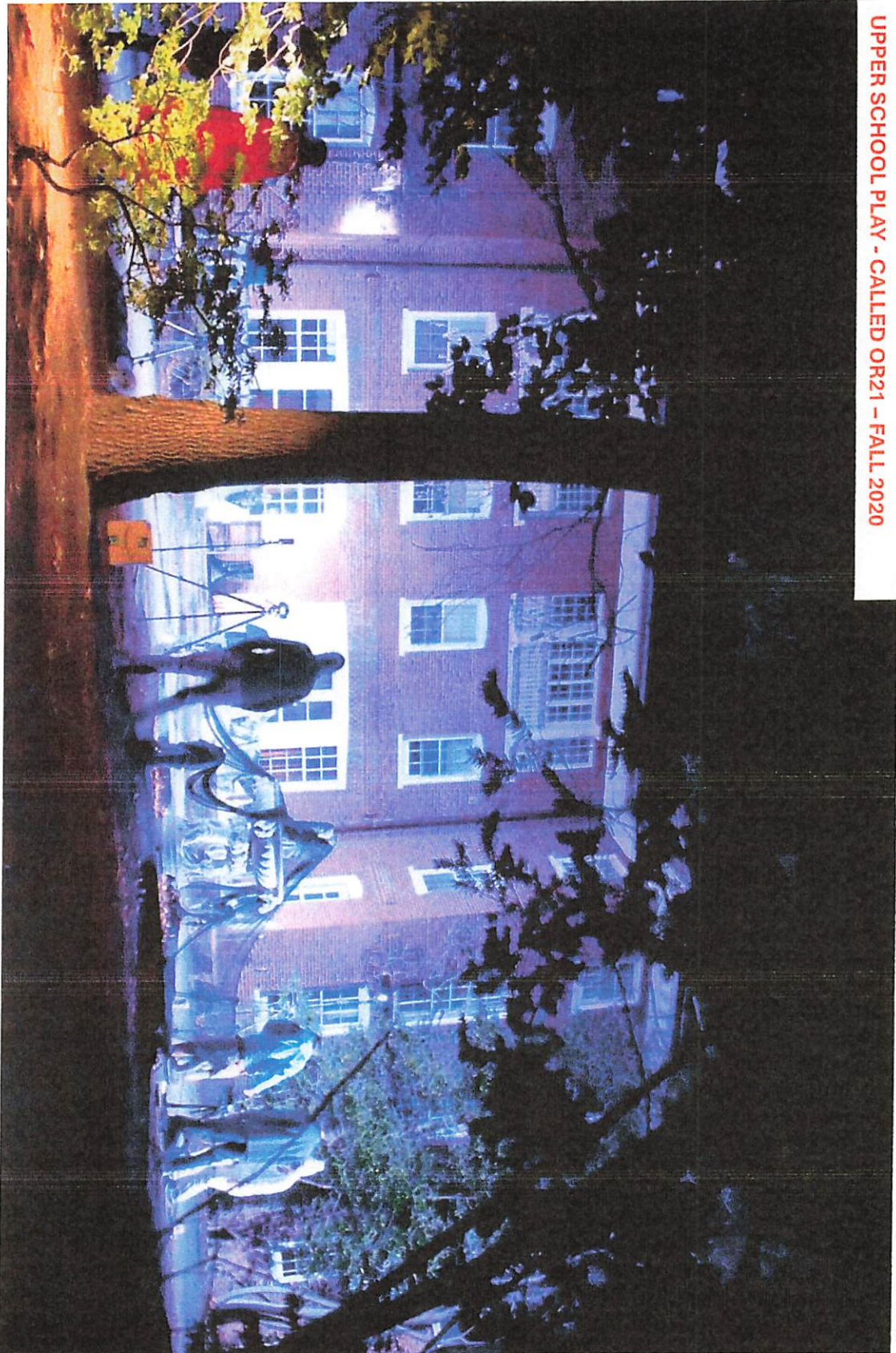


UPPER SCHOOL PLAY - CALLED OR21 - FALL 2020





UPPER SCHOOL PLAY - CALLED OR21 - FALL 2020





6<sup>th</sup> GRADE PLAY- SPRING 2021





6<sup>th</sup> GRADE PLAY- SPRING 2021





6<sup>th</sup> GRADE PLAY- SPRING 2021

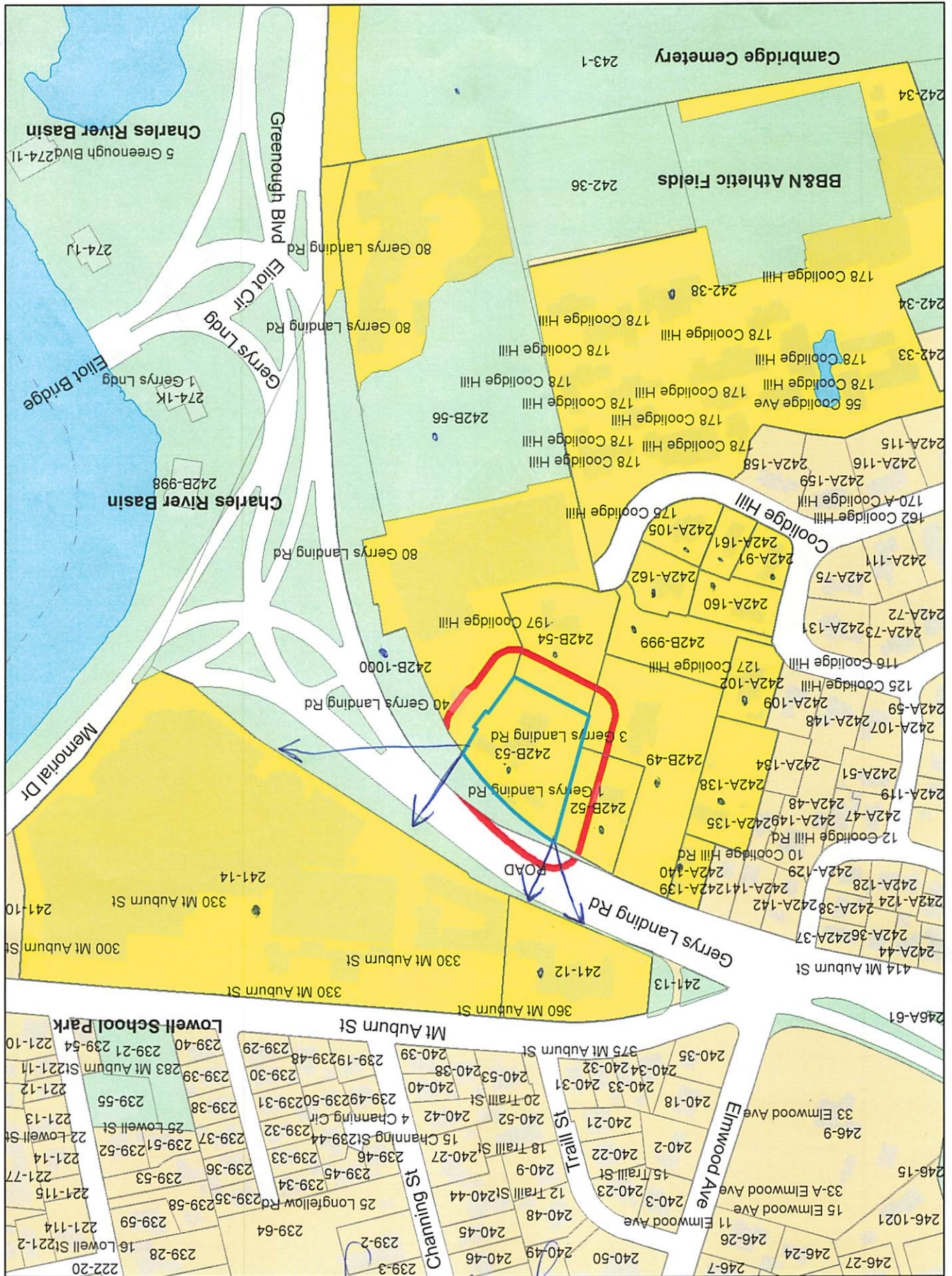




UPPER SCHOOL PLAY: DREAM THE MUSICAL - SPRING 2021







30 Gerry's Landing Rd.

(A)



30 Gerry's Landing Rd.

Petitioners

241-12  
CAMBRIDGE HOME FOR THE AGED PEOPLE  
C/O SENIOR LIVING RESIDENCES /CAMBRIDGE  
45 BRAINTREE HILL OFFICE PARK - SUITE 306  
BRAINTREE, MA 02184

242-38  
SHADY HILL SCHOOL  
178 COOLIDGE HILL  
CAMBRIDGE, MA 02138

BUCKINGHAM BROWNE & NICHOLS  
C/O CYNTHIA WESTERMAN  
80 GERRY'S LANDING ROAD  
CAMBRIDGE, MA 02138

242A-102  
MCCLATCHEY, DEVEREAUX F. &  
EMILY MCCLATCHEY  
127 COOLIDGE HILL  
CAMBRIDGE, MA 02138

242A-91  
ROBBOY, ANITA W.  
139 COOLIDGE HILL  
CAMBRIDGE, MA 02138-5518

BUCKINGHAM BROWNE & NICHOLS  
C/O TARA GOHLMANN  
80 GERRY'S LANDING ROAD  
CAMBRIDGE, MA 02138

242A-160  
WHITE, HOLLY BROWNING  
133 COOLIDGE HILL  
CAMBRIDGE, MA 02138

242A-162 & 242B-999  
177 COOLIDGE HILL, LLC  
ATTN: ICONIQ CAPITAL  
394 PACIFIC AVENUE, 2ND FL  
SAN FRANCISCO, CA 94111

242A-161  
PARMIGIANI, GIOVANNI  
FRANCESCA DOMINICI  
173 COOLIDGE HILL  
CAMBRIDGE, MA 02138

242A-105  
175 COOLIDGE HILL, LLC  
50 BEALE ST STE 2300  
SAN FRANCISCO, CA 94105

242B-52  
REIMANN, WILLIAM P. & HELEN S. REIMANN  
1 GERRYS LANDING  
CAMBRIDGE, MA 02138-5714

242B-56-54-53  
BUCKINGHAM BROWNE AND  
NICHOLS SCHOOL  
80 GERRYS LANDING ROAD  
CAMBRIDGE, MA 02138

242A-138  
GATES, PRISCILLA FORNEY  
6 COOLIDGE HILL RD  
CAMBRIDGE, MA 02139

242A-140  
KOUNDOURAKIS, ELENA,  
TR. OF THE ELENA DECLARATION TRUST  
12 GERRYS LNDG  
CAMBRIDGE, MA 02138

242B-1000  
COMMONWEALTH OF MASSACHUSETTS  
STATE HOUSE  
BOSTON, MA 02133

241-14  
MT. AUBURN HOSPITAL  
C/O NICHOLAS DILESCO, CHIEF OPER OFFICER  
300 MT AUBURN ST  
CAMBRIDGE, MA 02138-5502

243-1  
CAMBRIDGE CITY OF PWD  
147 HAMPSHIRE ST  
CAMBRIDGE, MA 02139

243-1  
CITY OF CAMBRIDGE  
C/O YI-AN HUANG  
CITY MANAGER

243-1  
CITY OF CAMBRIDGE  
C/O MEGAN BAYER  
CITY SOLICITOR

242B-49  
3 GERRY'S LANDING LLC  
155 FEDERAL ST - STE 700  
BOSTON, MA 02110

## Pacheco, Maria

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**From:** Brendan Hickey <brendan.m.hickey@gmail.com>  
**Sent:** Thursday, February 20, 2025 10:38 AM  
**To:** Pacheco, Maria  
**Subject:** Feb 27, 2025: 30 Gerry's Landing

Hello,

I am writing in opposition to the appeal put forth by BB&N. The appeal must be rejected as a matter of law.

In *Roman Catholic Archbishop of Boston, a Corporation Sole v. Board of Assessors of the Town of Scituate* (RCAB v Scituate, December 16, 2011), the Appellate Tax Board rejected the appellant's claim that a closed church qualified for an exemption from property tax, despite incidental and future planned use of the property as a house of worship:

The other parcels which comprise the subject properties were essentially unused for any purposes and were not used for any purposes connected to religious worship or instruction. On this basis, the Board rules that the Church and the subject properties were not occupied and used for religious worship or instruction as required under Clause 11, and they, therefore, are not entitled to the exemption from real estate taxes under Clause 11.

The Supreme Judicial Court writes *In The McClean Hospital Corporation vs. Town of Lincoln & others* (April 23, 2019):

In *Regis College*, 462 Mass. at 285-291, we articulated a two-pronged test to determine whether a proposed use falls within the protections of the Dover Amendment. First, the use must have as its "bona fide goal something that can reasonably be described as 'educationally significant.'" *Id.* at 285, quoting *Whitinsville Retirement Soc'y, Inc. v. Northbridge*, 394 Mass. 757, 761 n.3 (1985). Second, **the educationally significant goal must be the "primary or dominant' purpose for which the land or structures will be used."** *Regis College*, supra, quoting *Whitinsville Retirement Soc'y, Inc.*, supra at 760. The primary or dominant purpose requirement "helps ensure that a party invoking Dover Amendment protection does so without engrafting an educational component onto a project in order to obtain favorable treatment under the statute." *Regis College*, supra at 290. [emphasis added]

The appellant argues,

BB&N immediately began using 30 Gerry's Landing for educational use purposes – specifically, **storing significant quantities of excess classroom furniture** (student desks, chairs, etc.) that had to be removed from classrooms at its three campuses in Cambridge to create sufficient space to comply with the state's emergency COVID-19 social distancing requirements for in-person education. Compliance was mandatory before the school was authorized to open for in-person education at the end of August 2020. Indeed, the importance of the use variance to enable compliance with COVID-19 mandates was specifically detailed in BB&N's supplemental statement to the BZA on July 6, 2020. (Exhibit C). [emphasis added]



Storing furniture is not an educationally significant goal. Storing furniture on behalf of an educational institution is insufficient to confer favorable treatment or establish use in accordance with the variance. The appellant could have contracted to store the furniture in a warehouse, utilizing 30 Gerry's Landing as extra space to comply with social distancing requirements. The elected, to their detriment, to use the property for non-educational purposes. Thus, the appellant fails this two pronged test.

The appellant goes on to argue,

BB&N simultaneously made educational use of **the outdoor premises** at 30 Gerry's Landing, consistent with the use variance, during the Fall of 2020 and the Spring of 2021. As we are all aware, at that time state COVID-19 restrictions encouraged holding multi-person activities and events outdoors. These educational uses were all made well within the one-year lapse period established in G.L. c. 40A, § 10 and Section 10.35 of the Ordinance. As detailed in the attached affidavit of BB&N's Chief Operating Officer (and supplemented with attachments) (Exhibit D), these educational uses included:

1. Holding Upper School English and photography classes outside on the parcel
2. Holding multiple student theater productions (and their rehearsals) outside on the parcel
3. Holding multiple school Board of Trustees meetings, various athletic team events (including volleyball practice), and grade-level events for parents outside on the parcel
4. Providing parking for staff who were using, working at, or attending on-campus events on the parcel or at the Nicholas Athletic Center.

Finally, certain school facilities operations were moved to the parcel during this period (as expressly contemplated by the variance, which was granted in part because "the Board note[s] that currently BB&N was required to have some of its administrative staff and functions operate out of Watertown, which was obviously not the most convenient way, and was disruptive to a smooth operation of the school"). In specific, BB&N Facilities Maintenance staff utilized the parcel for parking school vehicles and for storing the snow removal equipment necessary for maintaining the safety of school grounds at all three BB&N campuses in the City. [emphasis added]

Per *RCAB v Scituate*, this incidental use is insufficient to establish a predominant educational use. Moreover, the appellant here concedes that the building itself was not used for educational purposes.

While these circumstances are unfortunate for the appellant, this appeal must be rejected.

Sincerely,

Brendan Hickey