



# TOWN OF BROOKLINE

## *Massachusetts*

### BOARD OF APPEALS

DIANE R. GORDON, Co-Chair  
HARRY MILLER, Co-Chair  
BAILEY S. SILBERT

333 Washington Street  
Brookline, MA 02445  
617-730-2010  
Fax: 617-730-2298  
PATRICK J. WARD, Secretary

TOWN OF BROOKLINE

BOARD OF APPEALS

NO. BOA06006

Petitioner, Douglas Fisher applied to the Building Commissioner for a building permit to divide Unit 1 of the 1408 Beacon Street Condominium into two separate condominium units, and to change the use of the resulting new unit below street level from commercial/retail use to a residential dwelling unit, per plans, and to create a new egress, reconfigure the rear parking area, and to enlarge window space in the proposed new condominium unit. The application was denied, and an appeal was taken to this Board.

On February 16, 2006 the Board met and fixed March 16, 2006 at 7:00 p.m. in the Selectmen's Haring Room on the sixth floor of the Brookline Town Hall as the date, time and place of the hearing on the appeal. Notice of hearing was mailed to the petitioner's, their attorney, to the owners of the properties deemed affected as they appeared on the most recent tax list, to the Planning Board and to all others required by law.

Notice of the hearing was published March 2, 2006 and March 9, 2006 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE  
MASSACHUSETTS  
BOARD OF APPEAL  
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

PETITIONER: Douglas C. Fisher  
LOCATION OF PREMISES: 1408 Beacon Street  
DATE OF HEARING: 03/16/06  
Time of hearing: 7:00 p.m.  
Place of Hearing: Selectmen's Hearing Room, 6<sup>th</sup> Floor

A public hearing will be held for a variance and/or a special permit from

- 1) 4.01.3.a; Permitted uses; Special Permit Required.
- 2) 4.03; Pre-Existing Special Permit Uses; Special Permit Required.
- 3) 4.07; Table of Use regulations;  
Use #6; Special Permit Required.  
Use #21; Special Permit Required.  
Use #29; Special Permit Required.
- 4) 5.07; Dwellings in Business and Industrial Districts; Special Permit Required.
- 5) 5.09.2.a; Design Review, Special Permit Required.
- 6) 5.70; Rear Yard Requirements; Variance Required.
- 7) 5.91; Minimum Useable Open Space; Variance Required.
- 8) 6.01.2a; General Regulations Applying to Off-Street Parking Facilities; Special Permit Required.
- 9) 6.02.1; Table of Off-Street Parking Requirements; Variance Required.
- 10) 6.02.1.b; Off-Street Parking Regulations; Special Permit Required.
- 11) 8.02.2; Alteration or Extension; Special Permit Required.
- 12) Section 3.03.6; Coolidge Corner Interim Planning Overlay District; Special Permit Required

Of the Zoning By-Law to convert existing basement space into a residential dwelling unit per plans. Said premises located in a G-1.75 district.

*The town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone (617) 730-2330; TDD (617)-730-2327.*

**Diane R. Gordon  
Harry Miller  
Bailey Silbert**

At the time and place specified in the notice a public hearing was held by this Board. Present were, Sara McCauley Sheldon, Lawrence E. Kaplan, and Diane R. Gordon, Chairperson. The petitioner was present, along with his attorney, Gary M. Arber of Arber & Badolato, LLP, his architects, Marc Nielsen and Andrea Willette of CMYA-2 Architects.

Mr. Arber explained that the subject of the petition is Unit 1 of the 1408 Beacon Street Condominium, located at 1408 Beacon Street, which is the current location of a clay and pottery studio named The Clay Room, now comprising a street level retail space, and a second floor below level currently part of the commercial use, but that Petitioner seeks permission to divide the two levels of Unit 1 into two separate condominium units. The street level would continue to house The Clay Room, and the lower level would be a separate residential unit, requiring a Board decision allowing appropriate zoning relief for a change of use to a residential dwelling unit for the lower level. With regard to relief for parking, Mr. Arber explained that 1408 Beacon Street is the location of the Summit Avenue MBTA stop, and that The Clay Room is used primarily by local residents, most of whom walk to it, as do all but one of its employees. He pointed out that there was no increase in useable floor area being proposed, and that the re-design of the parking area and rear egress from the building constituted compensatory amenities and improvements to safety.

Marc Nielsen of CYMA-2 Architects addressed the Board on behalf of the Petitioner with more specific details of the redesign of the parking area and of the rear egress, and he explained the design of the residential unit being proposed.

Mr. Arber brought to the Board's attention the submission into the record of letters of support from all of the other unit owners in the condominium, from neighboring property owners, and from Precinct 10 Town Meeting Members Wendy Henry, Christopher Koch, Ronny M. Sydney, Esq. and Sidney Weinberg.

Mr. Frank Hitchcock, speaking on behalf of the Brookline Building Department stated that it had no opposition to the appeal, and that most of the required relief stated on the Denial Letter was not a result of changes being proposed in the permit application, but were a result of the prior nonconforming conditions which had to be cited owing to the request to change the use, and that all required relief for the proposal could be granted by Special Permits.

Mr. Tim Greenhill addressed the Board on behalf of the Brookline Planning Department. He stated that the Planning Department had voted two to one in favor of recommending that the Board grant Petitioner's appeal, with the condition that a site plan stamped and signed by a registered surveyor or civil engineer be first submitted.

The Chairman then asked if there were any members of the public who wish to speak in either support or opposition to the applicant's proposal.

There was no opposition from the public.

After all parties and the public had an opportunity to be heard, the Board determined that the following zoning relief was required in order for the appeal to be granted, and upon motion, voted unanimously to grant the relief required as follows, with the condition that a site plan stamped and signed by a registered surveyor or civil

engineer be submitted to the Building Department prior to the issuance of the building permit.:

- 1) 4.01.3.a; Permitted uses; Special Permit Required.
- 2) 4.03; Pre-Existing Special Permit Uses; Special Permit Required.
- 3) 4.07; Table of Use regulations;  
Use #6; Special Permit Required.  
Use #21; Special Permit Required.  
Use #29; Special Permit Required.
- 4) 5.07; Dwellings in Business and Industrial Districts; Special Permit Required.
- 5) 5.09.2.a; Design Review, Special Permit Required.
- 8) 6.01.2a; General Regulations Applying to Off-Street Parking Facilities; Special Permit Required.
- 9) 6.02.1.b; Off-Street Parking Regulations; Special Permit Required.
- 10) 8.02.2; Alteration or Extension; Special Permit Required.
- 11) Section 3.03.6; Coolidge Corner Interim Planning Overlay District; Special Permit Required.

RECEIVED  
TOWN OF BURLINGTON  
TOWN CLERK  
2006 MAY 12 12:22

Unanimous Decision of  
The Board of Appeals

  
\_\_\_\_\_  
Diane R. Gordon, Chairman

Date of Filing: May 3, 2006

A True Copy:  
ATTEST:

  
\_\_\_\_\_  
Patrick J. Ward  
Town Clerk

Twenty days have elapsed and  
no appeal has been filed.  
ATTEST:

  
\_\_\_\_\_  
Patrick J. Ward  
Town Clerk