



BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2013-0042
Owner: Town of Brookline

Petitioner, Erin Chute Gallentine of Brookline Parks and Open Space, applied to the Building Commissioner for permission to construct a parking area on land owned by the Town as part of the Kite Hill Recreation Area. The application was denied and an appeal was taken to this Board.

On May 23, 2013 the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed June 27, 2013 at 7:00 p.m. in the Selectmen's Hearing Room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to its attorney (if any of record), to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on June 6 and June 13, 2013 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

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: Erin Chute Gallentine, Director, Parks and Open Space

Owner: Town of Brookline

Location of Premises: 0 Fisher Avenue (Parcel ID 256-01-00)

Date of Hearing: June 27, 2013

Time of Hearing: 07:00 p.m.

Place of Hearing: **Selectmen's Hearing Room, 6th Floor.**

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

1. 4.07; Table of Use Regulations, use #55
2. 5.09.2.i; Design Review
3. 5.43; Exceptions for Yard and Setback Regulations
4. 6.04.2.c; Design of All Off-Street Parking Facilities
5. 6.02.3.e; Off-Street Parking Regulations
6. 6.04.4.f; Design of All Off-Street Parking Facilities
7. 6.04.5.c.4; Design of All Off-Street Parking Facilities
8. 6.04.12; Design of All Off-Street Parking Facilities

Of the Zoning By-Law to construct a parking area on land owned by the Town at 0 Fisher Avenue (Parcel ID # 256-01-00) as part of the development of the Kite hill Recreation Area. Use #12

At 0 Fisher Avenue

Said Premise located in a S-15 (Single-Family) residential district.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

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 Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA ~02445. ~Telephone (617) 730-2328; TDD (617) 730-2327; or e-mail atrsneirson@brooklinema.gov

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller and Board Members, Christopher Hussey and Johanna Schneider. Anne Blair of the Parks and Open Space Division presented the case for the Town.

Ms. Blair said the Town is proposing to create a parking lot with 22 spaces to serve the newly created park. The lot is located at the northern end of the park and is accessed via Fisher Avenue. One of the 22 parking spaces is handicap accessible in compliance with the Zoning By-Law and ADA requirements. There are also three interior landscaped islands within the parking lot, meeting the requirement that at least 5% of lots with 21 or more parking spaces have landscaping areas distributed throughout the parking lot. There is also a "comfort station" at the end of the parking lot which conforms to all setback and dimensional requirements. There is a 6' chain link fence on the northern property line and a concrete retaining wall on the northern edge of the parking lot. Landscaping surrounds the parking lot except for the entrance and exit drives. A bridge leads from the parking lot over a vegetated storm water retention swale to the upper area of the park. Another pathway near the back end of the parking lot leads to the playing field and is handicap accessible. She noted that the design of the lot was approved by Peter Ditto, Director of Transportation and Engineering for the Town.

The Chairman asked if anyone in attendance wanted to speak in favor of the petition. Clara Batchelor of 29 Manchester Road, a Member of the Parks and Open Space Commission and Design Review Committee, said she had substantial input from the neighborhood and they particularly like the location of the parking area and the number of spaces.

The Chairman asked if anyone in attendance wanted to speak in opposition to the proposal. No one spoke in opposition.

The Chairman called upon Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the comments of the Planning Board.

FINDINGS

1. **Sec. 4.07; Table of Use Regulations, Use #55** - a special permit is required for "... more than four spaces for a permitted nonresidential use". **A special permit may be issued under Sec. 6.02.3.e for parking lots for Town-owned recreational areas.**
2. **Sec. 5.09.2.i; Design Review** - a special permit for "non-residential uses in a residential district with more than ... 10 or more parking spaces". The special permit is subject to the following Community and Environmental Impact and Design Standard found in 5.09.4:

Preservation of Trees and Landscape—the parking lot has been designed to maintain the one valuable mature shade tree in the parking lot area; this is in the large plant bed at the front of the parking lot. Other trees to be removed are invasive species that seeded themselves once the reservoir use was discontinued by the Commonwealth and maintenance abandoned by them. When the reservoir was active, the areas around the basin were maintained as mown lawn.
3. **Sec. 5.43; Exceptions for Yard and Setback Regulations** - the Board of Appeals may allow by special permit the substitution of other dimensional requirements than those specified in the By-Law as long as there are features that counterbalance such a reduction. Counterbalancing amenities include a newly developed recreational facility, a vegetative buffer and restored woodland, conservation and preservation restrictions, and off-street parking supported by the Design Review Committee and Park and Recreation Commission.
4. **Sec. 6.02.3.e; Off-Street Parking Regulations** - this states that "For recreational or social uses primarily designed for neighborhood or Town-wide activities and owned or operated by an agency of the Town, The Board of Appeals may by special permit modify the requirements of this section". This can apply to the relief we are requesting for the number of parking spaces.
5. **Sec. 6.04.2.c; Design of All Off-Street Parking Facilities** - the parking lot was designed by a Professional Traffic Operations Engineer and is in accordance with *Parking Spaces: A Design, Implementation, and Use Manual for Architects* as cited in *Landscape Architecture Graphic Standards*, 2007 for level of service D, slow speed and low turnover. The parking spaces in the parking lot are at a 75 degree angle with one way traffic, with an 8.5 ft. wide by 18 ft. long stall. The mandated widths of backing aisles as described in this section are 17 ft. wide for 60 degree angled parking, and 23 ft. wide for 90 degree angled parking. We show a 17 ft. wide backing aisle and would find it very difficult to make this dimension larger because we are limited in the space between the property line with Newbury College and the existing berm around the reservoir basin. Widening the backing aisle would either mean cutting into the berm in a way that would negatively impact the pedestrian circulation, or reducing the width and therefore the capacity for runoff stormwater treatment which is

between the parking lot and the berm. The 17 ft. wide backing aisle was found by a qualified professional to be adequate. **A special permit may be issued under Sec. 5.43 to waive dimensional requirements.**

6. **Sec. 6.04.4.f; Design of All Off-Street Parking Facilities** - safety measures are required to minimize potential conflicts between pedestrians and vehicles. Director of Engineering and Transportation Peter Ditto has recommended the following measures shown on the submitted stamped plan (please see attached letter from Mr. Ditto):
 - More than adequate sight distances have been maintained at the parking lot exit to ensure that vehicle users have a clear view of any pedestrian; no existing or proposed plantings or other obstructions are within five ft. to either side of the exit at a distance of six ft. behind the property line and along the centerline of the driveway.
 - Pavement markings have been provided at vehicular entry and exit lanes to the parking lot where the vehicle lanes coincide with the pedestrian sidewalk.
 - Signage has been indicated to bring vehicles to a full stop before entering the sidewalk and exiting the parking lot to the street.
 - Existing street trees do not impair visibility, nor will those proposed for future planting in the streetscape.
7. **Sec. 6.04.5.c.4; Design of All Off-Street Parking Facilities** - this refers to the dimensions for front, side, and rear yards in Table 5.01 – Table of Dimensional Requirements, and requires that “a parking lot containing more than six vehicles shall be set back from all lot lines the distance specified for minimum front yard depth”, or 35 ft in this case. The parking lot design exceeds the required front and rear yard dimensions, but provides a side yard along the Newbury College property line of 15 ft. rather than the required 35 ft. The same constraints that affected the width of the backing aisle apply here, and again we are asking for relief. **This can be granted by a special permit under Sec. 5.43.**
8. **Sec. 6.04.12; Design of All Off-Street Parking Facilities** - the Board of Appeals may substitute by special permit other dimensional requirements for a new use as long as the provisions in 6.04.6 regarding protection of nearby properties from lights are met. The intent of the proposed lighting for the parking lot is to provide pedestrian scale lighting along the front of the parking lot for safety purposes only; the park and parking lot are not proposed for night use.) The provisions in 6.04.6 are as follows:
 - No illumination shines upon abutters or others nearby;
 - Abutters and those across the street are protected from headlight glare by plantings meeting the specified size requirements or a wall, barrier, or fence between five and seven feet high with not more than 50% of the face being open;
 - The screening is maintained in good condition at all times; and
 - There are no signs hung or attached to the screening other than those permitted.

The screen plantings shown in the stamped plan are a layered mix of woody deciduous and evergreen shrubs and trees, and will comply with this requirement and Figure 6.02 – Light Protection to Nearby Property from Parking Lot. They will be densely planted, a minimum of 4 ft. high above the parking lot elevation at installation, and will grow to 6 ft. minimum above the parking lot elevation within three years.

9. **Number of Parking Spaces Required** - According to Section 6.02, Paragraph 1, Table of Off-Street Parking Space Requirements, an unreasonable number of parking spaces would be required (7,209 spaces). This is based on a parcel size of 432,512 square feet, which at 20 square feet per one seat for Public Assembly space is 21,626 seats. Twenty-two parking spaces are being provided, which is more than most other Brookline parks, and there is on-street parking as well. **A special permit may be issued under Sec. 6.02.3.e for parking lots for Town-owned recreational areas.**

Mrs. Selkoe said the Planning Board strongly supports this proposal for a 22 space parking area to support this new park and multi-purpose playing field. The parking lot has been designed by a professional Traffic Operations Engineer, was approved by Peter Ditto, Director of Transportation and Engineering, and supported by the park's Design Review Committee and the Town Park and Recreation Commission.

The dimensional relief that is needed is minimal and is for the side yard setback with Newbury College and the width of the drive aisles in the parking lot, which have been approved by the Director of Transportation and Engineering. The number of provided parking spaces balanced park user needs and the goal of maintaining as much green space as possible. The parking lot includes internal landscaped islands and perimeter landscaping so that the lot is well-screened and attractive.

The Planning Board finds that the statutory requirements for a special permit, under Sec. 9.05, are met because:

- The parking lot site is in an appropriate location, chosen because it had the least impact on the residential abutters, was adjacent to the Newbury College parking lot, and has the safest entry and exit location due to the grades at this end of the property.
- The use will not adversely affect the neighborhood. (The Fisher Hill Association and Newbury College have provided letters of support, please see attached).
- There will be no nuisance or serious hazard to vehicles or pedestrians.
- The parking lot will be adequately and appropriately operated and maintained.

Therefore, the Planning Board voted unanimously to recommend approval of the parking lot plan, entitled Fisher Hill Reservoir Park, prepared by kmdg design group, and dated June 1, 2013, subject to the following conditions:

1. Prior to the issuance of a building permit, final plans shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
2. 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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman called upon Mark Robidoux, Building Inspector, to deliver the comments of the Building Department. Mr. Robidoux said the Building Department is supportive of this requested relief. He said all the relief can be granted by special permit and he believes that the Town has located the parking area in the most appropriate location on the site, with the least impact on abutters.

The Board deliberated on the merits of the special permit relief requested. The Board determined that the requirements for the grant of special permits from the requirements of Sections 6.04 of the Zoning By-Law and pursuant to Sections 4.07; Table of Use Regulations, Use #55, 5.09.2.i, 5.43, 6.02.3.c and 9.05 of the Zoning By-Law were met. The Board made the following specific findings pursuant to said Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to the issuance of a building permit, final plans shall be submitted to the Assistant

Director of Regulatory Planning for review and approval.

2. 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; and 2) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of

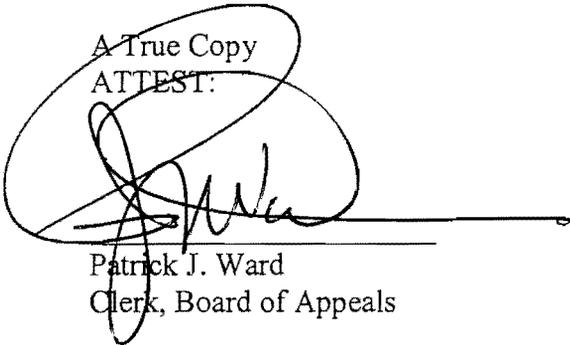
The Board of Appeals

Filing Date: August 5, 2013



Jesse Geller, Chairman

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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REGISTRY OF DEEDS