



# *Town of Brookline*

## *Massachusetts*

**BOARD OF APPEALS**  
Jesse Geller, Chairman  
Christopher Hussey  
Jonathan Book

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2015-0017  
OWNER: FAIRWAY BOYLSTON, LLC

Petitioner, Fairway Boylston, LLC, applied to the Building Commissioner for permission to construct a single-family dwelling and install a common driveway at 21 Crafts Road. The application was denied and appeal was taken to this Board.

The Board administratively 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 April 30, 2015 at 7:00 p.m. in the Selectmen's Hearing Room as the time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, 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 April 16, 2015 and April 23, 2015 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. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

**21 CRAFTS RD – Construct a single-family dwelling and install a common driveway with 17, 19, and 23 Crafts Road in an S-10, Single-Family, residential district, on April 30, 2015, at 7:00 PM in the 6<sup>th</sup> Floor Selectmen’s Hearing Room (Petitioner: Fairway Boston, LLC; Owner: Fairway Boston, LLC) *Precinct 13***

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

**1. Section 6.04.5.c.2; 6.04.5.e: Design of all Off-Street Parking Facilities**

*Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: [www.brooklinema.gov](http://www.brooklinema.gov).*

*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 Town programs and services may 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 email at [rsneirson@brooklinema.gov](mailto:rsneirson@brooklinema.gov).***

*Jesse Geller, Chair  
Christopher Hussey  
Jonathan Book*

**Publish: April 16, 2015 & April 23, 2015**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Board Chairman Jesse Geller, and Board Members Jonathan Book and Avi Liss. The petitioner’s attorney, Jeffrey Allen of Lawson and Weitzen, LLP (88 Black Falcon Avenue, Boston, MA) presented project details to the Board and introduced the property developer, Joe Holland of The Holland Companies (519 Albany Street, Boston, MA), and the project architect, Jan Gleysteen of Jan Gleysteen Architects, Inc. (88 Worcester Street, Wellesley, MA).

Mr. Allen stated that the proposed single-family dwelling and common driveway are part of a larger subdivision project in which five new single-family dwellings will be constructed along Crafts Road and Boylston Street (Route 9). Three of these new single-family dwellings,

19-23 Crafts Road, will be accessed by the proposed common driveway that provides entry and egress at Crafts Road. Additionally, three of these single-family dwellings, 19 Crafts Road, 1039 Boylston Street, and 1041 Boylston Street, require special permit relief for design review because they abut Boylston Street.

Attorney Allen confirmed that the common driveway complies with all dimensional and grade change requirements for off-street parking facilities in accordance with By-Law **Section 6.04**, and therefore only requires special permit relief to establish a common driveway under the Zoning by-law. The plans for the driveway were also reconfigured and building material reinforced pursuant to recommendations made by the Brookline Fire Chief to improve emergency vehicle access to the site. Attorney Allen also confirmed that the entire subdivision proposal before the Board received unanimous support from the Preservation Commission following several public meetings that were primarily focused on design review.

Mr. Gleysteen noted that the dwelling at 21 Crafts Road does not require special permit relief for design review because it does not abut Boylston Street. Mr. Gleysteen described 21 Crafts Road as an undeveloped parcel located within the Chestnut Hill North Local Historic district. The lot fronts on Crafts Road and slopes down toward that front lot line. The Shingle Queen Anne Style residence is approximately 5,308 square feet and provides an attached two-car garage. The architectural exterior borrows many features of a neighboring home on Alwyngton Road containing elements of the Queen Anne Style. The exterior features half-timber detailing at the front portico, a wraparound sunroom, and a cantilevered second floor bay window under a projected roof gable. The stained shingle siding will be accented by painted wood trim, exposed roof rafter tails, decorative wood brackets, authentic tapered wood columns, and traditional wood

double hung windows and shutters. The roof will be an architectural asphalt shingle with a 4” thick fieldstone chimney.

Chairman Geller requested additional detail regarding compliance with frontage requirements and water drainage.

Attorney Allen confirmed that lot frontage on Crafts Road exceeds 25 feet as required under By-Law Section 5.14. Mr. Holland stated that Massachusetts regulations require groundwater recharge basins for each lot individually. Additionally, the Brookline Engineering Department must approve final drainage plans for the site.

Chairman Geller called for public comment in favor of, or in opposition to the applicant’s proposal.

No members of the public spoke in favor of the proposal.

Mike Segal (27 Crafts Road) stated that his property will be encircled on three and one half sides by the common driveway, the proposed structures at 21 and 23 Crafts Road, and the existing structure at 35 Crafts Road if this proposal is approved. Mr. Segal believed that such a configuration is “unprecedented” in Brookline. Mr. Segal commented that although the proposed access is preferable to access from Fairway Road, it still is not supported by the neighbors who would have preferred access from Boylston Street. Mr. Segal also noted that the proposed common driveway is long and narrow and that snow removal, trash pick-up and mail delivery would be accomplished only with great difficulty.

Peter Bleyleben (66 Norfolk Road) stated that the overall configuration of the proposed subdivision and the respective designs of proposed residential dwellings have certainly improved from initial plans, but neighborhood support is minimal. Additionally, his 66 Crafts Road property is not included on any submitted project plans and that the presentation does not

adequately illustrate the impact of structural massing at 19 Crafts Road. Mr. Bleyleben noted that the structure at 19 Crafts Road will be much higher than it's abutters and will be overwhelming.

Marc Harpin (76 Norfolk Road) concurred with prior comments regarding limited neighborhood support. The common driveway and scale of proposed structures is "out of character" because many surrounding homes are low and modest in size.

Chairman Geller requested that Polly Selkoe, Assistant Director for Regulatory Planning, deliver the findings of the Planning Board.

### **FINDINGS**

#### **Section 6.04.5.e – Design of All Off-Street Parking Facilities**

A **special permit** is required for a common driveway.

Ms. Selkoe stated that all subject lots are located within the Chestnut Hill North Local Historic District, therefore the Preservation Commission has total jurisdiction over new construction design and demolition of the existing 1039 Boylston Street structure. Requested relief exclusively pertains to the common driveway layout and design of single-family dwellings at 19 Crafts Road and 1039-1041 Boylston Street. The Planning Board supported this proposal to construct a single-family dwelling at 21 Crafts Road and to install a common driveway to be shared with 17, 19, and 23 Crafts Road.

Therefore, the Planning Board recommended approval of the single-family dwelling and common driveway shown on a site plan by Verne T. Porter, Land Surveyor., dated 1/12/2015, and plans by Jan Gleysteen Architects, dated 1/13/15, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, showing the common driveway, elimination of the abandoned sewer, subject to review and approval of the Fire Chief and the Assistant Director for Regulatory Planning.

2. Prior to the issuance of a building permit, the applicant shall submit floor plans, including the basement and 3<sup>rd</sup> floor, and final elevations, including any basement windows and wells, subject to 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 landscaping plan, including fencing and walls, a protection plan for landscaping to remain, landscaping to screen 17 and 27 Crafts Road from the common driveway, and perimeter landscaping to screen the abutters on Norfolk Road and Crafts Road from the new development, subject to review and approval of the Assistant Director for Regulatory Planning.
4. Prior to the issuance of a building permit, the applicant shall submit an exterior lighting plan. Illumination shall be shielded so as not to shine upon abutting properties.
5. Prior to the issuance of a building permit, the applicant shall submit an enforceable snow and trash removal plan subject to review and approval of the Building Commissioner and the Assistant Director for Regulatory Planning.
6. Prior to the issuance of a building permit, the applicant shall submit a construction management plan, subject to review and approval of the Building Commissioner and Assistant Director for Regulatory Planning.
7. Prior to the issuance of a building permit, the applicant shall submit a Planning Board endorsed ANR plan to the Registry of Deeds showing the mutual easements with Lot 1A (19 Crafts ), Lot 3A (21 Crafts) and Lot 7 (23 Crafts).
8. 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 showing only the subject lot stamped and signed by a registered engineer or land surveyor; 2) final floor plans and elevations stamped and signed by a registered architect 3) a Certificate of Appropriateness issued by the Brookline Preservation Commission; and 4) evidence that the common driveway mutual easements and Board of Appeals decision have been recorded at the Registry of Deeds.

Board Member Book questioned if there is adequate room along the common driveway to install landscape screening. Mr. Book noted that the provided landscape plan does not include plantings along the entire length of the common driveway (eastern side).

Mr. Gleysteen stated that the width and grade of available greenspace along the proposed common driveway is not adequate to sustain large-scale plantings, but a fence does currently exist along that property line. Additionally, the applicant has offered to supply landscaped

screening measures on the abutter's property. Ultimately, final landscaping approval will involve site visits from town officials and input from abutting residents.

Mr. Segal (27 Crafts Road) confirmed that a fence does exist but does not extend all the way to Crafts Road. Mr. Segal agreed that a combination of trees and bushes are required for adequate screening and safety.

Attorney Allen requested that recommended Condition #5 be amended to require final snow and trash removal plans prior to the issuance of a Certificate of Occupancy rather than prior to issuance of a building permit, and therefore read as, "Prior to the issuance of a Certificate of Occupancy or the earlier sale of the premises, the applicant shall submit an enforceable snow and trash removal plan subject to review and approval of the Building Commissioner and the Assistant Director for Regulatory Planning." Attorney Allen believed that it is inappropriate to require such a plan prior to construction, and a more effective plan may be established after significant site alterations have been completed.

Chairman Geller requested that Michael Yanovitch, Interim Chief Building Inspector, deliver the opinion of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the proposal. Mr. Yanovitch agreed that a significant and varied level of review has occurred and the developer has improved plans accordingly. He specified that the Preservation Commission, Transportation Department, Department of Public Works, the Building Department, and the Fire Department all reviewed and had significant input. Mr. Yanovitch noted that there are other common driveway schemes in Brookline.

Mr. Yanovitch noted that all proposed homes will include sprinkler systems (although not required by state law) in an effort to further alleviate Fire Department concerns about site access. He further noted that the requested zoning relief is minimal and the Building Department will

work with the applicant to ensure compliance with all building codes and conditions if requested relief is granted by the Board.

The Board deliberated on the merits of special permit relief as requested. The Board was satisfied that the standards for special permit relief for the common driveway have been met in accordance with By-Law **Section 9.05**. Board Member Liss commended the applicant for collaborating with abutting residents and Town representatives during the lengthy project review process.

Board Member Book reiterated the fact that a final landscaping plan must include adequate and appropriate screening, specifically along the entire length of the common driveway to Crafts Road in accordance with recommended Condition #3.

Board Chairman Geller concurred with Mr. Book's comments and added that a single curb cut to access multiple new residential structures is generally more preferable to multiple curb cuts for multiple driveways for aesthetic and safety reasons.

The Board supported Attorney Allen's request to modify recommended Condition #5, and agreed that recommended Condition #7 should be modified to require that the final ANR plan shall be recorded at the Registry of Deeds.

The Board voted unanimously that the requirements have been met for the issuance of a special permit under **Section 9.05** of the Zoning By-Law, granting relief from the application of provisions of **Sections 6.04.5.e** of the Zoning By-Law. The Board made the following specific findings pursuant to **Section 9.05** of the Zoning By-Law:

- 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.

Accordingly, the Board Voted unanimously to grant the 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, showing the common driveway, elimination of the abandoned sewer, subject to review and approval of the Fire Chief and the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit floor plans, including the basement and 3<sup>rd</sup> floor, and final elevations, including any basement windows and wells, subject to 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 landscaping plan, including fencing and walls, a protection plan for landscaping to remain, landscaping to screen 17 and 27 Crafts Road from the common driveway, and perimeter landscaping to screen the abutters on Norfolk Road and Crafts Road from the new development, subject to review and approval of the Assistant Director for Regulatory Planning.
4. Prior to the issuance of a building permit, the applicant shall submit an exterior lighting plan. Illumination shall be shielded so as not to shine upon abutting properties.
5. Prior to the issuance of a Certificate of Occupancy or the earlier sale of the premises, the applicant shall submit an enforceable snow and trash removal plan subject to review and approval of the Building Commissioner and the Assistant Director for Regulatory Planning.
6. Prior to the issuance of a building permit, the applicant shall submit a construction management plan, subject to review and approval of the Building Commissioner and Assistant Director for Regulatory Planning.
7. Prior to the issuance of a building permit, the applicant shall submit and record with the Registry of Deeds a Planning Board endorsed ANR plan showing the mutual easements granting rights in and to the common driveway for vehicular and pedestrian uses by each of Lot 1A (19 Crafts ), Lot 3A (21 Crafts) and Lot 7 (23 Crafts).
8. 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 showing only the subject lot stamped and signed by a registered engineer or land surveyor; 2) final floor plans and elevations stamped and signed by a registered architect 3) a Certificate of Appropriateness issued by the

Brookline Preservation Commission; and 4) evidence that the common driveway mutual easements and Board of Appeals decision have been recorded at the Registry of Deeds.

Unanimous decision of the

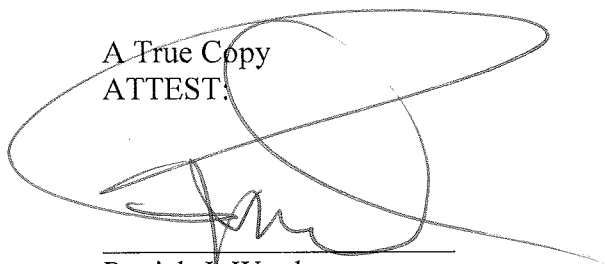
Board of Appeals

Filing Date:

7/22/15

Jesse Geller  
Jesse Geller, Chairman

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals

RECEIVED  
TOWN OF BROOKLINE  
TOWN CLERK  
2015 JUL 22 A 8 45