



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

# *Town of Brookline*

## *Massachusetts*

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. 2015-0020  
OWNER: FAIRWAY BOYLSTON, LLC

Petitioner, Fairway Boylston, LLC, applied to the Building Commissioner for permission to construct a single-family dwelling at 1041 Boylston Street. 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:

**1041 BOYLSTON ST – Construct a Single-Family Dwelling 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 BOYLSTON, LLC; Owner: FAIRWAY BOYLSTON 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 5.09.2.a: Design Review**

*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 is 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 a 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 are visible from Boylston Street. Attorney Allen confirmed that the entire subdivision proposal before the Board received unanimous support from the Preservation Commission, including the demolition of an existing structure at 1039 Boylston Street, following several public meetings that were primarily focused on design review.

Mr. Gleysteen described 1041 Boylston Street as a 3,377 square foot shingle style residence located within the Chestnut Hill North Local Historic District. The architectural façade facing Boylston Street, a busy thruway, is based on the famous 1920's era shingle home designed by Maine Shingle Style architect John Calvin Stevens. The front façade features connected twin gables with long flowing eaves over flanking columned porches. The stained shingle siding will be accented by painted wood trim, curved shingle rakes, authentic tapered wood columns, and traditional wood double hung windows and shutters. The roof will be an architectural asphalt shingle with a water struck red brick chimney.

Chairman Geller requested additional detail regarding drainage and water runoff.

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, in order to maintain a standard Crafts Road streetscape. 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, in Mr. Bleyleben’s opinion. 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 5.09.2.a** – Design Review

A **special permit** is required for a new structure fronting on Boylston Street.

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 1041 Boylston Street and concluded that all applicable design review standards have been met.

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 and landscaping plan, including fences and retaining walls, and a protection plan for landscaping to be preserved, subject to review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit final floor plans, including basement and third floor plans, and 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 an exterior lighting plan. Illumination shall be shielded so as not to shine upon abutting properties.
4. 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.
5. Prior to the issuance of a building permit, the applicant shall submit and record a Planning Board endorsed ANR plan to the Registry of Deeds.
6. 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 Board of Appeals decision have been recorded at the Registry of Deeds.

Board Member Book requested additional detail regarding landscaping features and the preservation of retaining walls.

Mr. Gleysteen stated that existing stone walls along Boylston Street will be maintained. All new proposed retaining walls are configured in such a way to mitigate any damage to existing trees and root systems.

Board Chairman Geller requested additional comment from Ms. Selkoe regarding the massing of new dwellings that require design review as they relate to existing area homes.

Ms. Selkoe noted that there are a variety of home sizes in the immediate neighborhood, and the design and scale of this proposed structures is consistent with area homes. Ms. Selkoe noted that grade changes do impact the height of the 19 Crafts Road structure in relation to surrounding homes. Ultimately, all proposed homes comply with maximum height requirements for the zoning district.

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 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 single-family dwelling 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 need for a finalized landscaping plan that includes protective measures in accordance with recommended Condition #1. Mr. Book also supported special permit relief for design review by stating that the proposed home is well-designed and the project architect made clear effort to incorporate various design features from existing area homes into final submitted plans.

Board Chairman Geller concurred with Mr. Book's comments concerning the special permit relief and agreed that the design of the home is consistent with the existing character of the neighborhood.

Board Members agreed to amend the recommended conditions, including recommended Condition #5, 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 **Section 5.09.2.a** 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 and landscaping plan, including fences and retaining walls, and a protection plan for landscaping to be preserved, subject to review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit final floor plans, including basement and third floor plans, and 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 an exterior lighting plan. Illumination shall be shielded so as not to shine upon abutting properties.
4. 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.
5. 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.
6. 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 Board of Appeals decision have been recorded at the Registry of Deeds.

Unanimous decision of the  
Board of Appeals

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TOWN CLERK

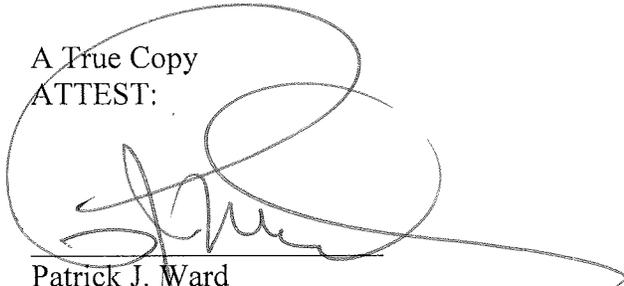
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Filing Date:

7/22/15

  
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Jesse Geller, Chairman

A True Copy  
ATTEST:



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Patrick J. Ward  
Clerk, Board of Appeals