



BOARD OF APPEALS
Jesse Geller

Town of Brookline Massachusetts

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Patrick J. Ward, Clerk

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TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0014
69-71 AND 73-75 WESTBOURNE TERRACE

Petitioner, K & K Development, Inc., applied to the Building Commissioner for permission to create a shared driveway on the parcel located at what was once 71 Westbourne Terrace and is now divided into two parcels comprising 69-71 Westbourne Terrace and 73-75 Westbourne Terrace. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed May 2, 2019 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 their attorney, 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 18, 2019 and April 25, 2019 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:
69-71, 73-75 WESTBOURNE TERRACE, BROOKLINE, MA 02446 - Application for shared driveway in a(n) T-5 TWO-FAMILY & ATTACHED SINGLE-FAMILY on May 2, 2019 at 7:00 pm in the 6th Floor Select Board's Hearing Room (Petitioner/Owner: Boris Kutikov)
Precinct 13

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

§6.04.5.E – DESIGN OF ALL OFF-STREET PARKING FACILITIES

Any additional relief the Board may find necessary.

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.

The Town of Brookline does not discriminate in its programs or activities on the basis of disability or handicap or any other characteristic protected under applicable federal, state or local law. Individuals who are in need of auxiliary aids for effective communication in Town programs or activities may make their needs known by contacting the Town's ADA Compliance Officer. Assistive Listening Devices are available at the Public Safety Building for public use at Town of Brookline meetings and events. Those who need effective communication services should dial 711 and ask the operator to dial the Town's ADA Compliance Officer.

If you have any questions regarding this Notice or the Assistive Listening Device, please contact Caitlin Haynes at 617-730-2345 or at chaynes@brooklinema.gov.

**Jesse Geller, Chair
Mark Zuroff**

Published: 4/18 & 4/25

At the time and place specified in the notice, this Board held a public hearing. The case was continued to the following week, May 9, 2019. On May 9, 2019, the Board reconvened the public hearing. Present at the hearing were Chairwoman Lark Palermo and Associate Members Kate Poverman and Randolph Meiklejohn. The case was presented by the attorney for the petitioner, Cameron S. Merrill, Merrill & McGear, 100 State Street, Suite 200, Boston, Massachusetts, 02109. Chairwoman Palermo called the meeting to order at approximately 7:00 p.m.

Mr. Merrill was joined by Gary Hendren of Hendren Associates, the project's architect. Mr. Merrill and Mr. Hendren described 69-71 Westbourne Terrace and 73-75 Westbourne Terrace, formerly 71 Westbourne Terrace (the "Parcels") as being recently subdivided to be comprised of two, two-family homes with four garage parking spaces each. The Parcels are currently permitted to have

two separated driveways and two curb cuts on Westbourne Terrace. The neighborhood is comprised of mostly residential single and two-family dwellings as well as being in close proximity to the Driscoll School and Corey Hill Outlook Park.

Attorney Merrill said the applicant is proposing to merge the two driveways into one shared driveway with one curb cut for the common use of the two buildings on the Parcels. Originally, the applicant proposed a shared driveway at the middle of the property which separates into an entrance and exit with their own curb cuts. However, at the request of the Planning Board, the applicant agreed to remove one curb cut, reduce the amount of paved surface and slightly widen the one remaining curb cut. The change in plan results in increased visibility for pedestrians, cyclists and vehicles, the ability to add even more landscaping, better ground water management, and preservation of parking spaces and safety for pedestrians who use the crosswalk, among other improvements. The Planning Board supported the revised proposal at its second meeting regarding this project.

Attorney Merrill and Mr. Hendren stated that as a counterbalancing amenity, the common driveway will allow for a joint ground water management system between the two buildings and significant landscaping where the previous driveway was located. The new landscaping will include ground shrubs, plants and trees as shown on the landscape plan submitted.

Chairwoman Palermo then called upon Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the comments of the Planning Board. Ms. Selkoe reported the Planning Board commented as follows:

FINDINGS

Section 6.04.5.e – Common driveway

The Board of Appeals may by special permit authorize the owners of adjoining properties to establish common driveways under common easement.

PLANNING BOARD COMMENTS

The Planning Board was supportive of the changes the applicant made in response to their initial feedback to reconfigure the driveway to preserve additional open space. The Board asked that Peter

Ditto, Director of Engineering and Transportation review the final plans prior to a building permit for the driveway being issued.

Therefore, the Planning Board recommends approval of the site plan by Stephen Davis dated 4/29/19 and the landscaping plan by Marc Mazzarelli Associates and Hendren Associates dated 4/29/19 subject to the following conditions:

- 1) Prior to the issuance of a building permit, the applicant shall submit a stamped and surveyed site plan subject to the review and approval of the Director of Engineering and Transportation and the Assistant Director of Regulatory Planning.
- 2) Prior to 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 easements and decision have been recorded at the Registry of Deeds.

Chairwoman Palermo called upon Joseph Braga, Jr., to deliver the comments of the Building Department. Mr. Braga stated the Building Department has no objection to this request. The Chairwoman asked if there were any members of the public who wanted to speak either in opposition to the application or in favor of it. No members of the public requested the opportunity to comment.

The Board then determined by unanimous vote that the requirements for relief by special permit from the application of the provisions of Sections 6.04.5.e of the Zoning By-Law pursuant to Section 9.05 of the Zoning By-Law as requested by the Petitioner 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, the applicant shall submit a stamped and surveyed site plan subject to the review and approval of the Director of Engineering and Transportation and the Assistant Director of Regulatory Planning.
- 2) Prior to 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 easements and decision have been recorded at the Registry of Deeds.

Unanimous Decision of the Board of Appeals.

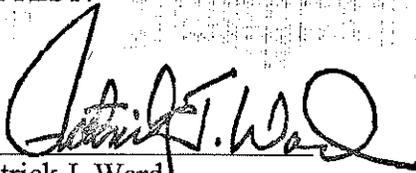


Lark Palermo, Chairwoman

Filing Date: 5/20/19

A True Copy

ATTEST:



Patrick J. Ward
Clerk, Board of Appeals