



BOARD OF APPEALS
Jesse Geller, Chairman
Mark Zaroff
Johanna Schneider

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TOWN OF BROOKLINE
TOWN CLERK
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Town of Brookline

Massachusetts

Town Hall, 1st Floor
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Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043
Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2019-0071
64 HARVARD STREET, BROOKLINE, MA

Petitioner, Bryn Ambrose, owner of The Daily Stroll, applied to the Building Commissioner for permission to open a dog daycare. 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 January 9, 2020 at 7:00 PM., in the Select Board's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioners, to their 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 December 26, 2019 and January 2, 2020 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 on 12/19/2019 at 7:30PM in the 6th Floor Select Board's Hearing Room, Town Hall, 333 Washington Street, Brookline, on the following:

64 HARVARD STREET, BROOKLINE, MA 02445, *Petitioner - Robert L. Allen, Jr.*, Open dog day-care per use 32A, G-2.0 GENERAL BUSINESS Zone, Precinct 4.

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

§4.07 - TABLE OF USE REGULATIONS, USE #32A

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
Johanna Schneider*

Publish: 12/05/2019 & 12/12/2019

At the time and place specified in the notice, this Board held a public hearing. At the hearing, the Petitioner requested that the hearing be continued so that the matter could be heard at the Planning Board. The hearing was continued to January 30, 2020 at 7:00 p.m. in the Select Board Hearing Room. Present at the hearing on January 30, 2020 at 7:00 p.m. were Chairman Jesse Geller and Board Members

Mark Zuroff and Johanna Schneider. Also present at the hearing were Polly Selkoe, Assistant Director of Regulatory Planning, and Joseph Braga, Deputy Building Commissioner.

The case was presented by Robert L. Allen, Jr., Law Office of Robert L. Allen Jr., LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts. Also present at the hearing were Bryn Ambrose, the owner of The Daily Stroll, Emma Netzel, a manager of The Daily Stroll, and Andrew Falkenstein, architect for the proposal.

Chairman Geller called the hearing to order at 7:00 p.m. Attorney Allen waived the reading of the public notice.

Mr. Allen then described the proposal stating that the Petitioner, Bryn Ambrose, is an entrepreneur and the owner of The Daily Stroll. He noted that she currently has two locations: one at 417 Harvard Street, Brookline, Massachusetts, and one in Allston, Massachusetts. He noted that she intends to open two additional dog day care facilities: one at 405 Harvard Street and one at 64 Harvard Street, both in Brookline. He further noted that over fifty (50) letters of support were submitted. Attorney Allen added that the Petitioner went to the Planning Board twice: at the first hearing, concerns were raised over the dog walking routine (number of dogs at any one time and route) and adequacy of addressing animal waste, and at the second meeting, the Planning Board unanimously supported the proposal. He noted the Planning Board's positive comments to the Petitioner's additional information provided in response to and her willingness to address the concerns of the Planning Board and neighbors. Attorney Allen stated that the original number of dogs proposed to be served by this facility was reduced and varied walking routes were developed. He noted that the proposed number of dogs was decreased from sixty (60) to forty-five (45), though, he noted that the Health Department was supportive of the original number. He stated that the applicant seeks a special permit for relief under Table 4.07, use 32A. The property is in

the G-2.0 general business district which allows the proposed domestic animal daycare via special permit.

Attorney Allen described the standards under Section 9.05 of the Zoning By-Law stating: the location is appropriate for the proposed use as a domestic animal daycare, which is allowed in the G-2.0 district by special permit; the Petitioner spoke with the surrounding businesses; the space has been vacant for a long time and there is a fitness studio located above the unit; the use will not adversely affect the neighborhood because Ms. Ambrose and her team have experience in the industry and continue to work with the neighborhood to alleviate any potential impacts; there will be no nuisance or serious hazard to vehicles or pedestrians because the property's on-site circulation will be monitored with varied walking routes developed and plans for the pick-up and drop-off van for dogs; a significant portion of customers walk the dogs to the site; adequate and appropriate facilities will be provided for the proper operation of an animal day care; and there will be no effect on the supply of housing available for low and moderate income people. Attorney Allen wanted the Board to be aware that operation of a dog day care remains subject to annual licensing required by the Town.

Chairman Geller then asked whether anyone was present to speak in favor of the proposal. No one spoke in favor of the proposal.

Chairman Geller then asked whether anyone was present to speak in opposition to the proposal. No one spoke in opposition to the proposal. Letters of concern were included with the Planning Board report.

Chairman Geller then called upon Polly Selkoe, Assistant Director of Regulatory Planning, to deliver the findings of the Planning Board. Ms. Selkoe noted the following:

FINDINGS

FINDINGS

Section 4.07, Use 32A

“Domestic Household Animal Day Care Center, including grooming, training, walking and other accessory services, and excluding overnight kenneling. No outdoor facilities for the animals shall be permitted. Studies by recognized experts shall be submitted to ensure, to the satisfaction of the Board of Appeals, that the use will be constructed so as to safeguard nearby properties against undue noise, odor and improper waste disposal. A recommendation from the Director of Public Health shall be required to address the size and location of the facility and any potential impacts. Additionally, annual licenses issued by the licensing authority are required, with the recommendation of the Director of Public Health, the Police Department’s Animal Control Officer, and the Director of Parks and Open Space.”

The applicant has submitted memos laying out their plan for protecting surrounding properties against noise, odor, and improper waste disposal. The documents were produced by the owners/managers of the business; this business already operates one location in Brookline (417 Harvard Street) and one in Allston (1354 Commonwealth Ave).

Planning Staff reached out to the Health Department on November 18, 2019, regarding this application. The Health Department has reviewed the application and submitted a memo with recommended licensing conditions and concluding that they have no objections to the proposal of having a maximum of 70 dogs in a 3,433 sf space (minimum of 49sf per dog). **The proposal to have 45 dogs increases the s.f. per dog to 74 s.f. per dog.**

PLANNING BOARD RECOMMENDATION

The Planning Board was not supportive of this proposal when it was first reviewed at the Board’s meeting on December 19, 2019 and requested that the applicant provide a variety of supporting information including supporting documentation from an acoustic consultant, information on industry standards for square footage per dog, and information on walking routes. The applicant only partially responded to the Board’s requests. After further discussion at the Board’s meeting on January 16, 2020, the Board ultimately came to the conclusion that the concerns maintained by the Board members were related primarily to the operational details of the facilities and how those operations affected the surrounding neighborhood rather than any inherent problem with the use. The Board also recognized that there is a very strong need for such facilities. The Board therefore decided to support the proposal and recommend a few conditions that could reasonably ensure that the operation of the business will have a minimal impact on the surrounding neighborhood. In particular, the Board felt that ensuring a regular variation in dog walking routes will limit the negative impacts of dog excrement on any one of the surrounding streets. The Board also expressed an interest in the content of the licensing documentation and recommended that be included as a condition.

The Planning Board recommends approval of this proposal based on the floor plans by Andrew Falkenstein, dated November 4, 2019, and any other documentation submitted to support the application, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall electronically submit a floor plan, stamped and signed by a registered architect or engineer, to the Assistant Director of Regulatory Planning for review and approval.

2. Prior to the issuance of a building permit the applicant shall electronically submit additional documentation addressing odor control plans to the Assistant Director of Regulatory Planning for review and approval.
3. The owner of the business shall maintain a minimum of 5 different dog-walking routes which shall be changed every 3 months.
4. All documentation submitted to, and received as part of, the kenneling licensing process shall be submitted to the Planning Department for distribution to Planning Board members.
5. Prior to the issuance of a building permit, the applicant shall 1) electronically submit the floor plan and additional information memo displaying the approval stamp of the Assistant Director of Regulatory Planning; and 2) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.

Chairman Geller then called upon Joe Braga, Deputy Building Commissioner, to deliver the comments of the Building Department. Mr. Braga stated that the Building Department has no objection to this request and, should relief be granted, the Building Department will work with the Petitioner to ensure compliance with the Building Code.

During deliberation, Chairman Geller and Board Members Schneider and Zuroff asked that the letter/memorandum from the Health Department be incorporated into the Decision as "Exhibit B" and that the information detailing noise, odor and waste measures to be employed by the Petitioner in operating the use be incorporated into the Decision as "Exhibit A". Attorney Allen on behalf of the Petitioner consented to inclusion of "Exhibit A" and "Exhibit B" with the Decision to be incorporated by reference and incorporation of the requirements thereof as conditions to this Decision.

In reliance on the above referenced plans, the Board then determined, by unanimous vote that the requirements for a special permit for a domestic animal daycare in the G-2.0 District per **Section 4.07 – Table of Uses, Use 32A** pursuant to **Section 9.05** of the Zoning By-Law, were met, finding specifically under said **Section 9.05**:

- a. The specific site is an appropriate location for such a use, structure, or condition wherein the operator satisfies the operational requirements of "Exhibit A" and "Exhibit B" incorporated herein by reference relevant to address waste, odor, and noise.

- b. The use as developed will not adversely affect the neighborhood wherein the operator satisfies the operational requirements of "Exhibit A" and "Exhibit B" incorporated herein by reference.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians where the operator maintains varied walking routes for the dogs and where dogs will primarily be walked to and from the site rather than delivered/picked up by vehicle, which will avoid any traffic concerns.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use where operated in accordance with said "Exhibit A" and "Exhibit B".
- e. Development will have no effect on the supply of housing available for low and moderate income people.

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

1. Prior to the issuance of a building permit, the applicant shall electronically submit a floor plan, stamped and signed by a registered architect or engineer, to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to the issuance of a building permit the applicant shall electronically submit additional documentation addressing odor control plans to the Assistant Director of Regulatory Planning for review and approval.
3. The owner of the business shall maintain a minimum of 5 different dog-walking routes which shall be changed every 3 months and the use shall be operated in compliance with the operational recommendations of the Health Department letter/memo attached hereto and incorporated herein by reference as "Exhibit B" and with the operational specifics detailed in "Exhibit A" attached hereto and incorporated herein by reference.
4. Prior to the issuance of a building permit, the applicant shall 1) electronically submit the floor plan and additional information memo displaying the approval stamp of the Assistant Director of Regulatory Planning; and 2) evidence that the Board of Appeals decision has been obtained from the Town Clerk's office by the applicant or their representative and recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals

Filing Date: 03/04/2020


Jesse Geller, Chairman

A True Copy
ATTEST



Patrick J. Ward
Clerk, Board of Appeals

Parking

Customers are allowed to pick up and drop off anytime between the hours of 7am to 7pm (this avoids "peak times" and keeps the flow of customer traffic lighter but steady). We have metered parking spaces (20 spaces) on both sides of Harvard Street in front of 64 Harvard, as well as metered spaces along both the block to our right and to our left going either way down Harvard Street. All metered spaces are two hour limit and are payable with cash, credit card, or the mobile app. There is also a public parking lot, governed by the City of Brookline, behind 64 Harvard Street, as well as School Street metered lot within a 3 minute walking distance. In addition, there is free 2 hour parking along Homer Street for overflow, if needed, during peak traffic times.

We do offer "pick up" and "drop off" service for our clients, where we actually pick dogs up at their home and bring them to daycare or vice versa. This service is VERY popular, and definitely helps lighten the flow of traffic into/out of the building for pick-up/drop-off. Around 15-25% of our daily daycare dogs are carpool dogs, meaning we will pick up/drop off ourselves.

Most of our clients are coming from the Brookline/Fenway/Allston area. Many walk their dogs to/from daycare because they, themselves, do not own a vehicle, or because their dogs are more comfortable walking than riding in the car. We are a VERY localized business, so almost all of our clients live within 3 miles of us, and they LOVE being able to walk their dogs to "school" at the same time that they walk their children to school. This is a particularly important aspect of this daycare's location - MANY clients will be walking, first bringing their kids school and then their dogs to daycare.

Odor Control

We at The Daily Stroll pride ourselves in keeping our daycares smelling fresh and clean at all times, despite the heavy dog presence. Below is our plan for odor control:

1) Daily Cleaning Plan

- a) All floors will be cleaned twice daily, once midday ~11am-1pm and once before closing ~6:30-7:30pm. We use Nature's Miracle Hard Floor Cleanser as the base cleaning product, which uses enzymes to void animal urine smell, and then we also add Pine Sol to the mixture for that added "clean" smell. Laundry (including couch covers) is done periodically throughout the day. Walls (up to 4 ft' high) are washed daily midday to remove any dirt, grime, or bodily liquids. All toys are washed daily to avoid "dirty dog smell". Glade Plug-Ins are used throughout the facility in any outlet that is OUTSIDE of the dog pens, to help balance the smell.
- b) Every other weekend, the staff comes in for "Deep Cleaning", where we: recover all couches (wash tarps used under covers, replace covers), vacuum/wash walls all the way to the ceiling, sterilize all equipment (wash gates, toys, bowls, trashcans, leashes), wash windows. During "Deep Cleaning" days, the shop is aired out, meaning we leave open all doors/windows for fresh air.

2) Air Filter Deodorizer

- a) We use filters with the highest MERV rating in the industry in our HVAC system, to filter out the finer dander particles associated with pet care. We also change our systems filter every 3 weeks, and spray the new filter with deodorizer before installing and midway through its life cycle.

3) Outing Times

- a) We are VERY strict about making sure that all dogs are let out to relieve themselves frequently. We've found that this is the absolute easiest way to avoid an odor issue. We ask owners every day to take their pet to use the bathroom before entering in the morning. Then, we let out each dog when it first arrives (or within it's first 15 minutes), at 9:30am, 11:30am, 1:30pm, 3:30pm and 5:30pm. Each let out takes ~5 minutes, and is only for the dogs' to relieve themselves. Other than let outs, we also give each dog a 30 minute walk sometime between 8am-4pm (some dogs get 2 walks - depends on the dog and their needs).

4) Monitoring Dog Pens

- a) We will have cameras set up in this daycare (similar to our other daycares) Cameras help us monitor the activity of the dogs, activity of the employees, and monitor for any unwanted behavior (like marking). Cameras will run 24 hours a day during operating hours.**
- b) Any accidents will be soaked up immediately with a white rag. Rags are then placed in the plastic, lined laundry receptacle until they are washed (with Bleach, Lysol Laundry Sanitizer, and Laundry Detergent). After the accident is soaked up, the floor is then mopped TWICE with the floor cleaning mixture listed above (1A). We monitor pens closely, to ensure all accidents are cleaned up pronto.**

Noise Control

1) **Sound Absorbing Acoustic Panels**

- a) We plan on installing sound absorbing acoustic panels to both the right and left side walls, to help insulate the walls we share with neighbors. These panels will help absorb some of the sound bouncing off the walls, and will help reduce the volume of barking.

2) **Squirt Bottles**

- a) We self-monitor all dog pens constantly (no pen is left unattended if occupied). Any dog that is constantly barking will be squirted with water, which tends to shock/irritate the dogs. Most respond pretty immediately to this simple correction, and will cooperate with us.

Our Operating Hours:

Monday-Friday 7am-7pm (employees arrive at 6:30am to set up and leave at 7:30 after closing)

Saturday: 9am-5pm

Daily Management:

- ❖ **Max Number of dogs in the facility: 40x 45 as presented**
- ❖ **All dogs are temperament tested before we allow them to enroll. This ensures all dogs at the facility are happy, healthy, and ready for daycare**
 - **After their evaluation, dogs are allotted one "Trial Day", where they come for a partial day (versus a full day) and we do a more detailed assessment of their character to ensure they will be a good fit at our facility**
 - **Dogs will be expelled from daycare should they develop behavior not conducive to the "classroom" environment, including, but not limited to:**
 - **Excessive marking**
 - **Aggressive behavior of any kind (towards people or dogs)**
 - **Excessive Barking**
 - **Excessive Nervousness/Uneasiness**
 - **Intense "Flight" response**
 - **Lazy/Lethargic/Frail dogs**
 - **Excessive chewing/eating random objects**
- ❖ **We have an isolation area for new dogs to get accustomed to the "group" via smelling each other through the fence.**
- ❖ **We do not accept dogs younger than 4 months old.**
- ❖ **All dogs must be spayed/neutered if older than 8 months old.**
- ❖ **All dogs must be vaccinated yearly, and receive a yearly fecal test.**

- ❖ **This facility will be staffed at a ratio of 1:10**
- ❖ **We pay for a parking space in the parking lot behind this shop. We use these spots for potty breaks for our clients (clients also use before bringing their pet in). Parking spot will be maintained regularly including: raking leaves, picking up debris, picking up any feces, and washing weekly.**

Daily Schedule

6:45am: Employees arrive and set up for the day

7am: TDS Opens

7:30-9am: Doing Let Out of each dog as they arrive to daycare

9-9:30: Walk #1 (3 people - 9 dogs)

9:30-10am: First group Let Out

10-10:30am: Walk #2 (3 people - 9 dogs)

10:30-11am: Walk #3 (3 people - 9 dogs)

11am-11:30am: Walk #4 (3 people - 9 dogs)

11:30-12: Second Group Let Out

12-12:30pm: Cleaning (Vacuum/mop floors)

12:30-1pm: Cleaning (wash walls, clean bathroom, sort mail, do laundry, wipe down counters)

1-1:30pm: Walk #5 (3 people - 9 dogs)

1:30-2pm: Third Group Let Out

2-2:30: Walk #6 (3 people - 9 dogs)

2:30-3pm: Walk #7 (3 people - 9 dogs)

3-3:30pm: Walk #8 (3 people - 9 dogs)

3:30-4: Fourth Group Let Out

4-6: Daycare pick ups (Most clients pick up between 4-6pm)

5:30pm: Last Group Let Out

6:30-7:30: Cleaning

7:pm: TDS Closes

***Note: This schedule is set for MAX capacity, which we do not expect to reach for ~2 years. Initially, each walk will only be 2 people with 6 dogs.**

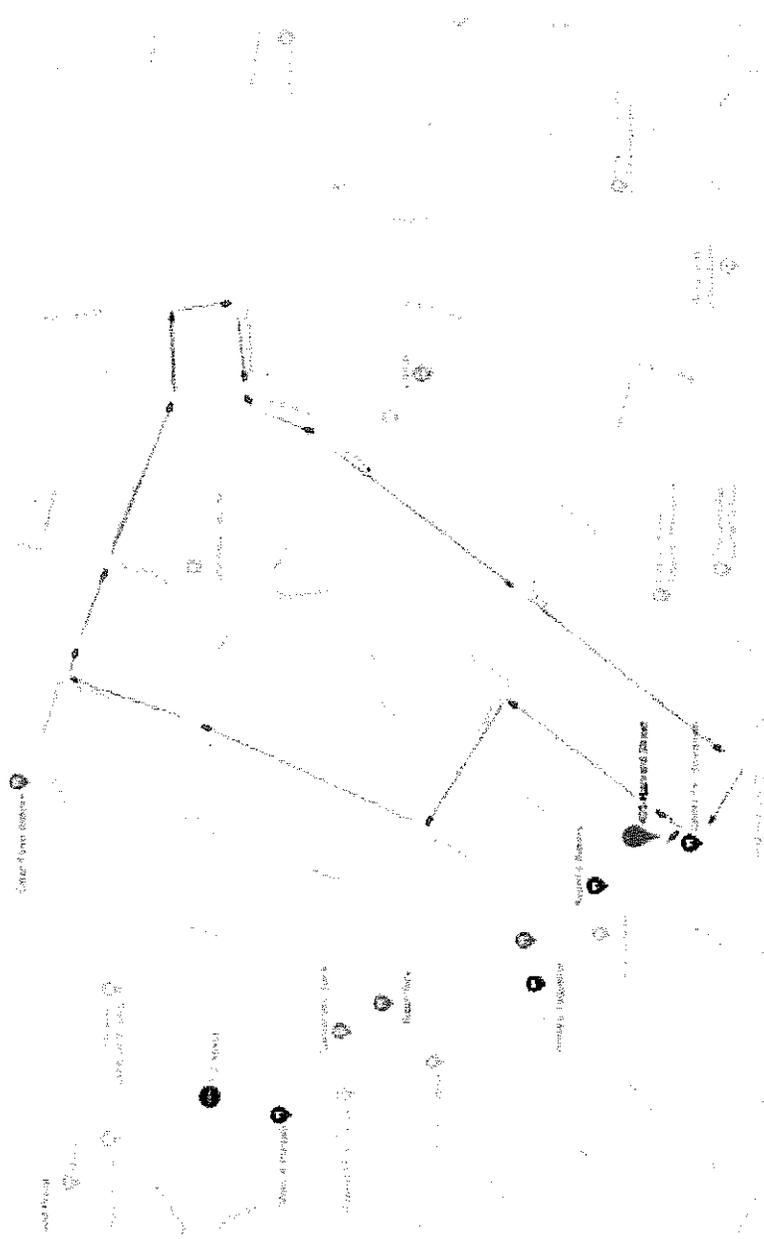
Exercise Regime - 64 Harvard

- All dogs receive ONE 30 min walk OR ONE 20 min park trip daily.
- Walks/Playgroups will be performed in groups of 3.
- Schedule will go as follows: (Refer to your maps titled "Walking Routes")
 - 7am: Daycare Opens
 - 7:30am-9am: Doing Relief Breaks for each dog as they arrive to daycare
 - 9am-9:30am: Walk 1 & Walk 2 (6 dogs - 2 attendants - Walking Routes #1 & #2)
 - 9:30am-10am: Walk 3 & Walk 4 (6 dogs - 2 attendants - Walking Routes #3 & #4)
 - 10am-10:30am: Walk 4 & Walk 5 (6 dogs - 2 attendants - Walking Routes #5 & #1)***
 - 10:30am: Universal Relief Break - all 5-6 attendants work together at the daycare to take each dog individually for potty breaks to our Relief Zone.
 - 11-12:30: Employee Breaks
 - 12:30pm: Universal Relief Break - all 5-6 attendants work together at the daycare to take each dog individually for potty breaks to our Relief Zone.
 - 1: First Playgroup leaves the shop**
 - 1:20-1:40: Playgroup 1 (1 attendant - 3 dogs - Mansfield Park in Lower Allston)
 - 1:40-2: Playgroup 2 (1 attendant - 3 dogs - Mansfield Park in Lower Allston)
 - 2-2:20: Playgroup 3 (1 attendant - 3 dogs - Mansfield Park in Lower Allston)
 - 2:20-2:40: Playgroup 4 (1 attendant - 3 dogs - Mansfield Park in Lower Allston)
 - 2:30pm: Universal Relief Break - all 3 attendants work together at the daycare to take each dog individually for potty breaks to our Relief Zone.
 - 2:40-3: Playgroup 5 (1 attendant - 3 dogs - Mansfield Park in Lower Allston)

- 3-3:20: Playgroup 6 (1 attendant - 3 dogs - Mansfield Park in Lower Allston)
- 3:20-3:40: Playgroup 7 (1 attendant - 3 dogs - Mansfield Park in Lower Allston)
- 3:40-4: Playgroup 8 *as needed* (1 attendant - 3 dogs - Mansfield Park in Lower Allston)
- 4-4:20: Playgroup 9 *as needed* ((1 attendant - 3 dogs - Mansfield Park in Lower Allston)
- 4:30pm: Universal Relief Break - all 4 attendants work together at the daycare to take each dog individually for potty breaks to our Relief Zone.
- 7pm: Daycare closes

****Please Note:** For "Playgroups", one attendant is stationed at the park. This attendant stays with the groups of dogs brought, plays with them, and monitors them at the park. Another attendant (one WITH a personal vehicle) is driving the different groups of dogs back and forth from the park to the daycare facility.

*****One Walking Route** may need to be covered twice (depending on our daily capacity). Should this be the case, we will alternate which route is doubled, so as to ensure an even spread of distance covered.



WALKING ROUTE NO. 5

DAILY STROLL
405 HARVARD ST
BROOKLINE, MA



TOWN OF BROOKLINE

DEPARTMENT OF PUBLIC HEALTH

11 Pierce Street, Brookline, Massachusetts, 02445
Telephone: (617) 730-2300 Facsimile: (617) 730-2296
E-mail: Pat_Maloney@town.brookline.ma.us

December 4, 2019

**Bryn Ambrose
The Daily Stroll LLC
64 Harvard Street**

RE: Plan Review – Keeping of Animals

This office has reviewed the submitted plans for the above mentioned establishment. Please be advised that the plans, as submitted with discussed conditions, are in compliance with the regulations relative to Brookline Town Bylaws & Massachusetts General Laws Section 129. Discussed conditions include:

- Installation of sound-proofing/reduction equipment, should nuisance complaints occur
- Installation of an odor control system, should nuisance complaints occur
- Submit written protocol for emergencies / disaster plans to the Health Department
- Submit written protocol for the sanitary disposal of animal waste to the Health Department
- Mandatory reporting of biting incidents to the Health Department
- Current rabies vaccination records on file for each dog (Bordetella recommended)
- Access to veterinary services, if necessary
- Obtaining a Dog Kennel License from the Clerk's Office
- Zoning Board Approval
- Abutter Notification

You must contact this office and arrange for a pre-operational inspection at least fourteen (14) days prior to scheduled opening.

Final approval to operate will be contingent on all other applicable Town agencies (i.e. Building and Zoning) review and approval.

If you have any questions, you may contact me at this office.

Sincerely,

Abbie Atkins, MPH
Sr. Public Health Inspector