



**BOARD OF APPEALS**  
Enid Starr, Co-Chair  
Jesse Geller, Co-Chair  
Robert De Vries

# *Town of Brookline*

## *Massachusetts*

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2010-0065

Petitioner, Carleton Arms Condominium Trust, applied to the Building Commissioner for permission to provide two parking spaces on their lot for a car sharing organization at 36-50 Browne Street. The application was denied and an appeal was taken to this Board.

On 30, September 2010, 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 9, December 2010, at 7:00p.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 his 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 18 and 25, November 2010, 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: **Carlton Arms Condominium Trust**  
Owner: **Carlton Arms Condominium Trust**  
Location of Premises: **36-50 Browne Street**  
Date of Hearing: **December 09, 2010**  
Time of Hearing: **7:00 PM**  
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 #22A, (in excess of 10% of spaces available on lot dedicated to CSO vehicles) special permit required.**
- 2. 8.02.2; Alteration or Extension, special permit required.**

Of the Zoning By-Law to **request to provide two spaces on your lot at 36-50 Browne Street.**

Said premise located in a **M-1.50 (Multi-Family)** residence 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 the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.*

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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, Jonathan Book and Mark Zuroff. The Petitioner, Carleton Arms Condominium Trust, was represented by Linda Olson Pehlke of 48 Browne Street, Unit #2, Brookline, MA presented the case before the Board. Ms. Pehlke reported that she was a member of the Board of Trustees of the Carleton Arms Condominium Association,

Ms. Pehlke described the neighborhood in the vicinity of 36-50 Browne Street and 228-230 Saint Paul Street as an apartment complex consisting of eight attached six-unit apartment buildings constructed in a U-shape with a common central courtyard known as Carleton Arms Condominiums. The building was constructed in the 1940's. She said that there are a total of 50 residential dwelling units in the complex, which are served by two parking spaces. The parking spaces are accessed through a rear common alley and parking area that serves multiple buildings. The surrounding uses are predominately multi-family residential properties.

Ms. Pehlke reported that the condominium association is seeking to provide two parking spaces for Car Sharing Organization (CSO) spaces. The parking spaces are currently allotted to the residents of Carleton Arms Condominiums on a yearly basis through a lottery selection process. As no one resident has exclusive use of the spaces, the Carleton Arms Condominium Association has concluded that CSO parking would be a more appropriate and optimal use for their two parking spaces.

Board Member Book inquired about the availability of parking for new residents moving into the complex. Ms. Pehlke responded that usually the new owner assumes the offsite parking space rented by the former owner. Addressing the equitability of the current parking arrangements on the site, Ms. Pehlke reported that the current lottery arrangement for the two available spaces was clearly not working.

Board Member, Zuroff inquired as to whether there was a movement among the condominium owners to make the subject spaces available to a car sharing organization. Ms. Pelkhe responded that she would not characterize it as a movement. She said others in the neighborhood had expressed an interest in car sharing availability, there is a blank spot in the immediate vicinity of CSO locations and the Trustees thought it was a good use for the property.

Chairman Geller asked whether the Trustees had negotiated a contract with a CSO, and whether it contains a provision giving priority to unit owners of the association. Ms. Pelhke responded that they had entered into negotiations but no condition had been considered regarding priority. She said the way these organizations were structured and vehicles were reserved would make it extremely difficult. Chairman Geller observed that the people living in the complex may not be the beneficiaries of the CSO availability.

Chairman Geller asked whether anyone in attendance wished to speak either in favor or against the proposal. No one rose to speak.

Courtney Synowiec, Planner, delivered the findings of the Planning Board.

**Section 4.07 – Table of Uses, Use # 22A**

Parking for vehicles owned by a Car Sharing Organization (CSO) may be allowed, as the sole or secondary use of a lot, for up to 10% of the total on-site parking. Renting of spaces in excess of 10% of the total on-site parking requires a special permit. All open air parking lots with CSO vehicles require a valid Open Air Parking Lot License from the Selectmen. The applicant is proposing to rent 100% [two parking spaces] of their on-site parking to a CSO.

**Section 8.02.2 – Alteration or Extension**

A special permit is required to alter a nonconforming use or structure.

Ms. Synowiec reported that the Planning Board was supportive of this proposal to rent 100% of their existing parking for CSO parking. The property at 36-50 Browne Street contains locking gates and fences that separate their rear entrances from the parking area and there are existing CSO members who already reside on the property. The Planning Board believes this condo association renting at least one, if not both parking spaces to a CSO will be an amenity to their property as well as neighboring properties which share the large common parking area behind the buildings as CSO parking spaces would allow for better utility of the spaces for all residents on site. Therefore, the Planning Board recommended approval of the special permit to rent up

two parking spaces to a CSO as enumerated in the proposal by Linda Olson Pehlke, dated 10/25/10, subject to the following conditions:

1. Prior to the rental of up to two parking spaces to a CSO, the applicant shall obtain an open-air parking license from the Board of Selectmen.
2. The petitioner shall not install signage for CSO parking in excess of 1 square foot per parking space.
3. The petitioner shall submit to the Building Commissioner, proof of recording of the decision at the Norfolk County Registry of Deeds within 45 days of filing date of the Board of Appeals decision.

The Chairman then called upon Michael Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard responded that his Department had no issue with the grant of the relief requested by the petitioner. He said that the Building Department is in agreement with the recommended conditions of the Planning Board however, he suggested a condition be added or one amended to include the signage required under **Section 6.01.5** of the Zoning By-Law relative to the contact information of the property owner so complaints, if any, can be addressed in a timely manner.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits and that the petitioner has satisfied the requirements necessary for relief under **Sections 4.07 Use 22A, 8.02.2, and 9.05** of the Zoning By-Law and made the following specific findings pursuant to **Section 9.05** of the Zoning By-Law:

- 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

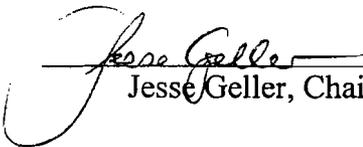
following conditions:

1. Prior to the rental of up to two parking spaces to a CSO, the applicant shall obtain an open-air parking license from the Board of Selectmen.
2. The petitioner shall not install signage for CSO parking in excess of 1 square foot per parking space. However, signage related to contact information required under Section 6.01.5 shall be provided upon program implementation.
3. The petitioner shall submit to the Building Commissioner, proof of recording of the decision at the Norfolk County Registry of Deeds within 45 days of filing date of the Board of Appeals decision.

RECEIVED  
TOWN OF BROOKLINE  
TOWNS CLERK

2011 JAN 21 A 7:36

Unanimous Decision of  
the Board of Appeals

  
\_\_\_\_\_  
Jesse Geller, Chairman

Filing Date: January 21, 2011

A True Copy  
ATTEST:



Patrick J. Ward  
Clerk, Board of Appeals