



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Prevention Regulations Appeals Board
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Docket # 2023-05
6 Kelley Court
Charlestown, Massachusetts

FIRE PREVENTION REGULATIONS APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This matter is an administrative appeal filed in accordance with Massachusetts General Laws Chapter 22D, section 5. The Appellant is seeking the Board of Fire Prevention Regulation's review of a determination of the Boston Fire Department to deny a site plan/fire department access plan filed with a building permit as it relates to a proposed single family dwelling unit to be located at 6 Kelley Court, Charlestown, Massachusetts. The property is owed by Judy Tibbetts who was represented by Attorney Patrick Sweeney (hereinafter referred to as the Appellant).

B) Procedural History

By notice dated November 15, 2023 and issued by the Boston Fire Department, the Department rejected a site plan filed with the building department as it relates to a proposed single family dwelling unit to be located at 6 Kelley Court, Charlestown, Massachusetts. The Boston Fire Department determined that as proposed, the fire department access in said plan would violate 527 CMR 1.00, Chapter 18, specifically 18.2.3.5.1.1 and 18.2.3.2.2.

On December 22, 2023, the Appellant filed an appeal of the Boston Fire Department's determination with the Fire Prevention Regulations Appeals Board. The Board held a video conference hearing on this matter on February 5, 2024.

Appearing on behalf of the Appellant was: Patrick Sweeney, Esq. Appearing on behalf of the Boston Fire Department was: District Chief/Assistant Fire Marshal, Joseph Walsh. Present for the Board were: Dr. Paul Scheiner, Presiding Panel Member; Chief Richard K. Arruda; John Correia; and Anthony Caputo, alternate. Glenn M. Rooney, Esq. and Rachel E. Perlman were the Attorneys for the Board.

C) Issue(s) to be Decided

Whether the Board should affirm, reverse or modify the determination of the Boston Fire Department regarding the proposed site plan/fire department access plan in accordance with 527 CMR 1.00, Chapter 18?

D) Evidence Received

1. Application for Appeal filed by Appellant (dated 12/22/2023)
2. Affidavit of Judy Tibbetts (dated 12/21/2023)
3. Appellant's Continuation Sheet with Exhibits
- 3A. Zoning Board of Appeals Decision (dated 2/23/2021)
- 3B. Order of Notice from Boston Fire Department (dated 11/15/2023)
- 3C. Sketch of Kelley Court
- 3D. Photograph of Kelley Court
- 3E. Fire Access plan from Columbia Design Group (dated 8/30/2023)
- 3F. Sprinkler Plan by Northern Fire Protection (dated 7/25/2023)
- 3G. Plans labeled New Single Family (dated 1/23/2023)
- 3H. Photo of 340 Medford Street, Charlestown with street sign for Kelley Court
- 3I. Civil Site Plan with Measurements (dated 10/2/2023)
- 3J. Google Map showing distance from Boston Fire Department station located at 525 Main Street, Charlestown to Kelley Court (4/10s of a mile)
- 3K. Google Map showing intersection of Kelley Court and Medford Street, Charlestown
- 3L. Boston Tax Parcel Viewer for 7 Kelley Court, Charlestown, MA
- 3M. Boston Tax Parcel Viewer for 9 Kelley Court, Charlestown, MA
4. Photographs submitted by the Boston Fire Department in Support of Order of Notice
- 4A-4D. Photos showing Medford Street with legal parking on both sides, impeding the turn for ladder trucks attempting to access Kelley Court
- 4E-4L. Photos showing how narrow Kelley Court is, as well as additional impediments located at the beginning of the incline, including yellow bollards, gas/electric meters and white PVC direct exhaust vents for gas appliances, causing an additional reduction in width.

E) Subsidiary Findings of Fact

1. The Appellant sought this Board's review of the Boston Fire Department's denial of a site plan/fire department access plan filed with the Department under the provisions of M.G.L. c. 22D, s. 5. At the hearing, the Appellant's representative testified that the proposed plan is for a proposed three-story single-family home, equipped with sprinklers, to be constructed at 6 Kelley Court, Charlestown, Massachusetts. The site is currently open space.
2. Kelley Court was described as a small side street in the Charlestown neighborhood of Boston. It is located directly off of Medford Street, described as one of the main streets in this neighborhood. Counsel for the Appellant testified that Kelley Court is not 20 feet wide and per a surveyor's sketch entered as an exhibit submitted into the record, the width is approximately 13 feet, 3 inches wide.
3. Counsel for the Appellant testified that the property was purchased by the Appellant, her late husband and extended family in 1981 from the Boston Redevelopment Authority. The property was developed by taking a portion of land that abutted Kelley Court and combined it into what was known as 46 and 48 Cooke Street.
4. Counsel indicated that while the Boston Inspectional Services Department initially noted that there was insufficient frontage for this property, the matter was resolved by subdividing 46 Cook Street from Kelley Court so that the parcel known as 6 Kelley Court

is an independent parcel with frontage on Kelley Court. Counsel stated that Kelley Court currently has two other single-family homes on it, which are listed as numbers 7 and 9.

5. Counsel for the Appellant testified that the project should be allowed to move forward because the parcel in question has adequate frontage and is no longer considered a building behind a building due in part to the subdivision that took place. Furthermore, Counsel for the Appellant argued that because the Appellant intends to install a sprinkler system throughout the single-family home, the fire apparatus access road distances can be increased from 150 feet to 250 feet. Accordingly, the proposed structure would be less than the 250 feet from Medford Street.
6. Counsel for the Appellant testified that despite the width of Kelley Court being approximately 13 feet, 3 inches wide, a swept path analysis conducted by Columbia Design Group, LLC demonstrated that the Boston Fire Department would be able to maneuver a fire engine into that area, based upon a fire engine width of approximately 8 feet. In addition, Counsel advised that there is a Boston Fire Department station located 4/10 of a mile away and a hydrant located on Medford Street, opposite Kelley Court, approximately 35 feet from the corner of the street.
7. Counsel also stated that because of the construction of Kelley Court and a nearby driveway, which does not have a closed off curb cut, a fire truck responding to this street would be able to turn onto the street, as no car would be able to park within 10 feet of the corner of Kelley Court.
8. District Chief Joseph Walsh testified in support of the Boston Fire Department's denial of the fire department access plan. Chief Walsh stated that the Department opposed the proposed project due to life safety concerns and access issues. As currently proposed, this project does not comply with the requirements of 527 CMR 1.00, Chapter 18 which requires that a twenty (20) foot fire apparatus access road be provided. Chief Walsh stated that Kelley Court is less than 20 feet wide and per the admission of Appellant's Counsel, may only be 13 feet, 3 inches wide.
9. Chief Walsh testified that Medford Street, which leads to Kelley Court, has legal parking on both sides of the street. As a result, a Boston Fire Department engine or ladder truck responding to that location would require a 60-foot-wide path to turn from Medford Street onto Kelley Court, despite the turn path plan submitted by the Appellant. Chief Walsh stated that the Fire Department Access Plan submitted into the record is incorrect, as it uses the wrong sized fire department ladder truck calculations. The plan shows a ladder truck with an overall length of 41 feet. The Boston Fire Department example truck used for their planning purposes (a tower ladder), has a length of 44 feet and 6 inches.
10. Chief Walsh testified that the 13 feet, 3-inch width of Kelley Court is further narrowed due to bollards that are protecting gas meters and some direct vent apparatus for gas appliances on the homes on the sides of Kelley Court, closest to Medford Street. He stated that in his experience, if a ladder truck or aerial truck were to access Kelley Court, he did not believe that either piece of apparatus would be able to properly deploy its outriggers or jacks for stability. Chief Walsh explained that the outriggers/jacks are required to be deployed to allow the aerial platform/ladder to be raised. In this instance, the raising of the platform/ladder would likely result in an intrusion of 2½ inches into either building on either side of Kelley Court.

11. Chief Walsh further argued that the street is so narrow that if a fire truck was able to turn into Kelley Court, firefighters may have less than 2 feet of space on either side of the truck, which would impede their ability to exit the cab of the truck, access compartment doors, or to allow for ground ladders to be taken off the truck. Chief Walsh indicated that Kelley Court could be narrowed even further due to snow plowing/removal issues during Boston winters.
12. Lastly, Chief Walsh testified that the pitch of Kelley Court is “fairly steep” and slopes down towards Medford Street. Chief Walsh indicated that because of the steep nature of the road, he would be very concerned about road conditions during inclement weather, including the possibility that a fire engine or truck could fishtail or skid, resulting in potential contact and/or damage to buildings on Kelley Court and/or Medford Street.
13. Counsel for the Appellant advised the Board that while the opening to Kelly Court may be narrow, the street does widen as it goes uphill towards 7 and 9 Kelley Court.

F) Ultimate Findings of Fact and Conclusions of Law

1. The applicable sections of 527 CMR 1.00, Chapter 18 to the subject property are as follows:

18.2.3.2.2 Fire apparatus access roads shall be provided such that any portion of the facility or any portion of an exterior wall of the first story of the building is located not more than 150 ft (46 m) from fire apparatus access roads as measured by an approved route around the exterior of the building or facility.

18.2.3.5.1.1 Fire department access roads shall have an unobstructed width of not less than 20 feet (6.1 m). Fire department access roads constructed in the boulevard-style shall be allowed where each lane is less than 20 feet but not less than ten feet when they do not provide access to a building or structure.

2. The Board takes administrative notice based upon Fire Prevention Regulations Appeals Board docket numbers 20-01 (East Boston) and 20-03 (Brighton) that the City of Boston has not accepted the provisions of M.G.L. Chapter 41, Section 81 *et. seq.*, the so-called *Subdivision Control Law*, or similar laws which provide local jurisdiction over fire department access and water supply. Accordingly, 527 CMR 1.00, Chapter 18 is controlling on the fire department access issues presented in this appeal.
3. As proposed, 6 Kelley Court, Charlestown would not be located on a fire apparatus access road having an unobstructed width of at least twenty (20) feet. As such, the Board finds that the proposed fire department access would be in violation of 527 CMR 1.00, 18.2.3.5.1.1.

G) Decision and Order

Based upon the forgoing reasons, this Board unanimously **upholds** the Order of the Boston Fire Department to deny the site access/fire department access plan for the property located at 6 Kelley Court, Charlestown, Massachusetts.

H) Vote of the Board

Dr. Paul Scheiner, Presiding Panel Member	In Favor
Chief Richard K. Arruda	In Favor
John Correia	In Favor

I) Right of Appeal

You are hereby advised you have the right, pursuant to section 14 of chapter 30A of the General Laws, to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order.

SO ORDERED,



Dr. Paul Scheiner, Presiding Panel Member
Fire Prevention Regulations Appeals Board

Dated: February 29, 2024

A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY E-MAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:

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