

## Hummel, Robert

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**From:** Jack Dawley <jdawley@northlandresidential.com>  
**Sent:** Friday, December 10, 2021 9:38 AM  
**To:** Hummel, Robert  
**Cc:** Jack Dawley  
**Subject:** [EXTERNAL]Olmsted Drive

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Robert (Board Chair and Members – not copied),

While I am not sure why this matter is back before us and why I must address, I offer the following:

1. On or about mid June, 2021 I submitted an opinion from Deborah A. Ryan of Deborah A. Ryan Associates, an Architectural Access Specialist, dated 6.16.21, speaking directly to the accessibility requirements of the Zone 3 development parcel. I attached for ease of review and here call out the conclusions of Ms. Ryan.
  - a. As cited by Ms. Ryan, the law requires “*Within the boundary of the site*, (that) an accessible route shall be provided from accessible parking, accessible passenger loading zones and public streets or sidewalks to the accessible building entrance they serve”.
  - b. The provisions of the Fair Housing Act stipulate the same ‘*within (the) a site*’ compliance requirement.
  - c. Neither the FHA and/or State law requires a developer/owner to go beyond the boundary of their site/parcel.
2. With respect to Olmsted Drive, I offer three comments:
  - a. State Law – Section 521 CMR Section 22.3.1 – provides for an exception for the slope of an existing sidewalk which follows the natural topography of the road. The sidewalk paralleling Olmsted Drive, an existing road, is permitted to follow the natural topography of the road.
  - b. The Design and Site Plan Approval Permit issued to American Retirement Communities on December 3<sup>rd</sup>, 2001 (20 years ago last Friday), by this Board, permitted, among other things, the proposed Olmsted Drive layout, inclusive of the present pedestrian sidewalk routing, composition and construction detailing. To my knowledge the road, sidewalk, related infrastructure and utilities were constructed in accordance with the issued Design and Site Plan Approval permit and in no instance since the construction of Olmsted Drive 8+ years ago, has the Town taken issue with the compliance of the completed work with the issued permits and approvals.
  - c. Finding (k) of the D&SP approval specifically references the Planning Board’s review of the proposed ‘pedestrian and vehicular improvements’, with said finding concluding with the following statements:
    - i. “On-site Improvements have been designed to enhance pedestrian safety and the flow of pedestrians – especially to and from the public transportation in Waverly Square.”

- ii. “Design specialists reviewed and recommended (emphasis added) the Board approve the final designs/layouts of the driveways and sidewalks.” “The Board approves (emphasis added) the Plans.”

The application before the Board at present is for a development plan of the Zone 3 development parcel. Adjudication of the application’s compliance with the law as it pertains to the development parcel uniquely is the Board’s responsibility. The prior approval, by this Board, of the design, routing, layout and construction detailing of Olmsted Drive, is just that – a valid and just approval – the reliance on which is not subject to debate.

Respectively,

Jack Dawley

John C. Dawley  
President & CEO  
Northland Residential Corporation

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