



**BOARD OF APPEALS**  
Enid Starr, Co-Chair  
Jesse Geller, Co-Chair  
Christopher Hussey

RECEIVED  
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*Town of Brookline*  
BUILDING DEPT.  
TOWN OF BROOKLINE  
*Massachusetts*

Town Hall, 1<sup>st</sup> Floor  
333 Washington Street  
Brookline, MA 02445-6899  
(617) 730-2010 Fax (617) 730-2043  
**Patrick J. Ward, Clerk**

TOWN OF BROOKLINE  
BOARD OF APPEALS  
CASE NO. 2011-0065

Petitioner, Stephanie Finn, applied to the Building Commissioner for permission to construct an additional parking space in the front yard of her home at 246 Wolcott Road. The application was denied and an appeal was taken to this Board.

On November 10, 2011, 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 January 5, 2011, at 7:30 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 (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 15 and 22, 2011, 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: **FINN STEPHANIE**  
Owner: **FINN STEPHANIE**  
Location of Premises: **246 WOLCOTT RD**  
Date of Hearing: **January 05, 2012**  
Time of Hearing: **7:30 p.m.**  
Place of Hearing: **Selectmen's Hearing Room, 6<sup>th</sup> Floor**

A public hearing will be held for a variance and/or special permit from:

- 1. 5.43; Exceptions to Yard and Setback Regulations, special permit required.**
- 2. 6.04.4.f; Design of All Off-Street Parking Facilities, special permit required.**
- 3. 6.04.5.c.l; Design of All Off-Street Parking Facilities, variance required.**
- 4. 6.04.12; Design of All Off-Street Parking Facilities, special permit required.**
- 5. 8.02.2; Alteration or Extension, special permit required**

of the Zoning By-Law to provide an additional parking space in the front yard at **246 WOLCOTT RD.**

Said Premise located in a **S-10** (single-family) residential 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.*

**Enid Starr  
Jesse Geller**

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Mark G. Zuroff and Board Members Jonathan Book and Christopher Hussey. The case was presented by Mr. Finn of 246 Wolcott Road.

Mr. Finn advised the Board that they had received zoning relief earlier in the year for the construction of an addition to the rear of the home. He said the addition was finished and exceeded expectations.

Mr. Finn described their home at 246 Wolcott Road as a Tudor-style single-family located on a triangular-shaped corner lot. The home is accessed via a driveway off of the side of the house and they have a recessed single-car garage. The rear of the house is screened by a fence in the side and rear yards. The home is located in South Brookline near the Putterham Golf Course and is surrounded primarily by other single-family homes.

Mr. Finn explained that they are proposing to construct a new parking space on the side of the home, which is technically a front yard due to the lot being a corner lot. The parking space would be 12 feet by 22 feet deep. The current retaining wall for the existing driveway was compromised during the construction of the rear addition, which was previously approved by the Board of Appeals. Therefore, the wall needs to be rebuilt. With this proposal the retaining wall would be moved and rebuilt to allow for a new parking space next to the existing driveway. The curb cut serving the site is extra wide and would not have to be modified. The new wall along the side of the parking area would be 3 feet 9 inches high and of stone, and the existing concrete foundation wall would be 6 feet 4 inches high. The new driveway surface would be all pervious pavers to match the existing driveway. Because their car often blocks a portion of the driveway, this expansion would alleviate that problem. He also said that by moving the wall back, sightlines would be improved thereby making it safer for those using the driveway but also for passersby.

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

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

**Section 5.43 – Exceptions to Yard and Setback Regulations**

**Section 6.04.4.f – Design of All Off-Street Parking Facilities:** Adequate sight distance

**Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities:** Front yard setback

**Section 6.04.12 – Design of All Off-Street Parking Facilities:** The Board of Appeals may by special permit allow for the substitution of other dimensional requirements for parking facilities provided the substitution is necessary to install some or all of the off-street parking spaces that would be required for a similar new building.

<b>Dimensional Requirements</b>	<b>Required</b>	<b>Proposed</b>	<b>Relief</b>
<b>Front Yard Setback</b>	20'	4' (est.)	Special permit*

\* Under **Section 6.04.12**, the Board of Appeals may by special permit allow for the substitution of other dimensional requirements for parking facilities provided the substitution is necessary to install some or all of the off-street parking spaces that would be required for a similar new building. In the alternative, under **Section 5.43**, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided.

**Section 8.02.2 – Alteration or Extension**

A special permit is required to alter a pre-existing non-conforming structure.

Ms Synowiec reported that the Planning Board was supportive of the proposal to construct a new front yard parking space to serve this single-family home. This lot is a triangular corner lot, and the front entrance for the dwelling is on the other side of the proposed parking area.

Therefore, the parking area actually gives the impression of being on the “side” of the house, rather than the front. The proposed parking area does not require an expanded curb cut, and the rebuilt wall will actually partially screen any vehicles from neighboring properties. The Board felt that the petitioner should submit final plans indicating all stairs, setback dimensions and wall heights associated with the parking area. Therefore, the Planning Board recommended approval of the plans by Sousa Design Architects, dated 10/13/2011, subject to the following conditions:

1. Prior to the issuance of a building permit, a final site plan and wall section indicating all paving and wall materials, stair locations, and salient dimensions shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning. The paving material shall be consistent throughout the entire parking area.

2. Prior to the 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 that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Shepard, Building Commissioner, to deliver the comments of the Building Department. Mr. Shepard explained that a permit to move the wall was issued weeks ago at the request of the contractor. With the typical cold weather coming he thought that he could get most of the work done before bad weather set in. Mr. Shepard said the permit was conditioned on approval of the requested relief and the owners knew that if the relief was not granted, the expanded area would have to be landscaped and could not be used for parking. Mr. Shepard said that the old wall was in disrepair and in its location blocked significantly sightlines required to exit the driveway. Mr. Shepard said that the new wall is well constructed and will exacerbate somewhat the safety issue. Mr. Shepard reported that the Building Department was supportive of the requested relief.

The Board, having heard all the testimony, deliberated on the merits of the application. Board Member Book inquired as to how many parking spaces were currently on the property. The petitioner responded that there were two spaces one in the garage and one in the driveway. Mr. Book noted that this would effectively give the petitioner three spaces and only two were required under zoning. He said that **Section 6.04.12** speaks to providing required parking spaces and he would be more comfortable considering relief under **Section 5.43** to waive dimensional requirements. Board member Hussey asked the petitioner what counterbalancing amenities they were providing as required under **Section 5.43**. Mr. Finn explained that they were repairing an existing fence, will be providing additional decorative vegetation as well as providing an

evergreen screen. Mr. Hussey stated that the increased safety provided by the relocation of the wall was a substantial amenity.

The Board then determined, by unanimous vote that the requirements of **Section 9.05**, **Section 8.02.2** and **Section 5.43** of the Zoning By-Law to waive the required parking setback requirements under **Section 6.04.5.c.1** 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, a final site plan and wall section indicating all paving and wall materials, stair locations, and salient dimensions shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning. The paving material shall be consistent throughout the entire parking area.**
- 2. **Prior to the 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 that the Board of Appeals decision has been recorded at the Registry of Deeds.**

Unanimous Decision of  
The Board of Appeals

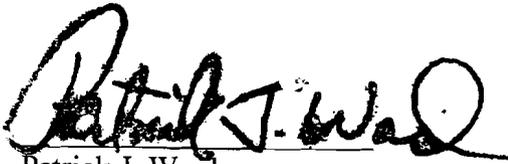


Mark G. Zuroff, Chairman

Filing Date: **February 17, 2012**

A True Copy

ATTEST:

A handwritten signature in black ink, appearing to read "Patrick J. Ward". The signature is written in a cursive style with a large initial "P" and a distinct "Q" at the end.

Patrick J. Ward  
Clerk, Board of Appeals