



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

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Town of Brookline
BUILDING DEPT.
TOWN OF BROOKLINE
Massachusetts

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2011-0073

Petitioner, 60-66 Brainerd Road, applied to the Building Commissioner for permission to construct a parking area on their property at 0 Verndale Street. The application was denied and an appeal was taken to this Board.

On January 5, 2012 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 26, 2012 at 7:00 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 January 5 and 12, 2012 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: 60-66 Brainerd Road

Owner: **60-66 Brainerd Road**
Location of Premises: **0 Verndale St**
Date of Hearing: **January 26, 2011**
Time of Hearing: **7:30 p.m.**
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 #22, special permit required.**
2. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
3. **6.04.5c(2); Design of All Off-Street Parking Facilities, variance required.**
4. **6.04.5c(4); Design of All Off-Street Parking Facilities, variance required.**
5. **6.04.6; Design of All Off-Street Parking Facilities, special permit required** of the Zoning

By-Law to construct a parking area to serve the proposed construction at **60-66 Brainerd Road, Allston, MA.**

Said premise located in a **T-5 (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
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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, Enid Starr and Board Members, Mark Zuroff and Christopher Hussey. The case was presented by the attorney for the petitioner, Robert L. Allen Jr., 300 Washington Street, Brookline MA 02445. Also in attendance was David A. Chilinski of Prellwitz Chilinski Associates, Inc., 221 Hampshire Street, Cambridge, MA, the architect for the applicant.

Mr. Allen stated that he represented Mt Vernon Company, the owner of the property and described the property located at 60-66 Brainerd Road / 0 Off Verndale Street as a lot located in both Boston and Brookline with its frontage along Brainerd Road in Allston. The total lot size is 53,145 s.f., with 19,657 s.f. in Brookline and 33,488 s.f. in Boston. Currently on the site is a large, two-story brick commercial building that had previously been used as a dress making shop and more recently to store cars for a local car dealership. The building is ruin down, the entire property is paved and there is a chain link fence surrounding it. Neighboring properties in Brookline are mainly to the rear on Verndale Street and are residential in nature, primarily two-family dwellings. Nearby properties in Boston range from two-family dwellings to large apartment buildings, including a new multi-family development currently under construction across the street. The project is to construct on the lot a multi-family dwelling with 79 units and 79 parking spaces, some of which would be located in an underground garage and the rest would be located on the back of the lot in an at-grade parking lot. The parking lot is the only portion of the project located in Brookline. The proposed building would be 83,542 s.f., and four stories (52 feet) tall. The building would have a mix of studio, one-bedroom and two-bedroom units. Immediately behind the building would be a pool and outdoor space. The new building would be located entirely in Boston, while the proposed parking lot would be located entirely in Brookline.

Mr. Allen then introduced Mr. Chilinski, the architect, who described the proposed project. Mr. Chilinski stated that the parking lot would be accessed by two existing curb cuts on Brainerd Road. The lot would have 48 parking spaces and provide access to the underground garage as well. Landscape strips would line the perimeter of the parking lot, and the plans indicate landscaping beds within portions of the parking lot's interior.

Mr. Allen discussed several zoning issues regarding the proposal. Mr. Allen stated that, pursuant to *Section 5.43*, the Board of Appeals may by special permit waive the dimensional requirements for

yards and setbacks if counterbalancing amenities are provided. He mentioned amenities as follows: The proposal actually sets back the proposed building further away from existing Brookline residents than the current commercial building. It takes a completely paved area and adds significant landscaping including shrubbery and trees. It was brought up in the Planning Board hearing that a wall rather than a fence should be installed on the rear of the property and the applicant has agreed to that condition. This would replace the existing chain link fence. Further, the petitioner has agreed to submit a landscaping plan that will serve to further beautify and reduce sound and has agreed that a new fence or wall would be installed along the perimeter which would be designed to reduce noise by as much as possible. Regarding Section 6.04.6_(Design of all Off-Street Parking Facilities), Mr. Allen stated that to protect nearby properties from lights, the applicant has agreed to a lighting plan, indicating low or full cutoff light fixtures in the parking lot, thus ensuring the neighboring properties will be adequately shielded from headlight glare. In regards to snow plowing, Mr. Allen further stated that one benefit of this property is that it is rental housing, so there will be one person to contact should noise ever become a problem. The petitioner has committed to working with its snow plow contractor to minimize backups during overnight hours. For those reasons, Mr. Allen argued that the applicant meets the requirement for a Special Permit, as (a) the specific site is an appropriate location for such a use, structure, or condition; (b) the Developer has taken appropriate steps to ensure that the use as developed will not adversely affect the neighborhood; (c) there will be no nuisance or serious hazard to vehicles or pedestrians. The existing driveways continue to be used so the pattern around the new dwelling has not changed; (d) adequate and appropriate facilities will be provided for the proper operation of the proposed use; and (e) the development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

The Chairman asked whether anyone in attendance wished to speak in favor of or against the proposal. No one spoke in favor of the proposal. Shari Kleiner of 55 Verndale spoke in opposition to the proposal. She stated that notice for the meeting was incorrect – the notice stated that the appeal would be heard at 7:30p.m., not 7:00p.m., and as a result, she missed the first portion of the hearing. Chair Enid Starr addressed this issue and confirmed that the notice was for 7:30p.m. However, Chair Starr stated that the hearing remained in progress after 7:30 and Ms. Kleiner and any other member of the public has the opportunity to address the Board with concerns or questions for the applicant. Ms. Kleiner stated that she lives on Verndale Street and opposes the building project. She believes it negatively impacts Brookline and is not in the interest of Brookline residents who live on Verndale Street. Chair Starr stated that the building portion of the project is in Boston and is not subject to the Board's authority. The Board will make a decision in regards to parking and setback relief. To do so, the Board must decide whether the petitioner meets the requirements for a special permit. Jacqueline Dupree, 52 Verndale Street, spoke in opposition to the proposal and seconded the comments made by Ms. Kleiner. Seth Rubin, 69 Verndale Street, spoke in opposition of the proposal and asked that the petitioner respond to a letter sent addressing several concerns, among them lighting and landscaping issues. Attorney Allen, in response to Mr. Rubin's letter said that the petitioner changed their plans and will now build a seven foot wall which will block residents' view of the lot. Mr. Allen also stated that the petitioner will provide lighting that should not affect the Verndale residents and the petitioner will provide the Planning Department with a lighting plan and landscaping plan. Heidi Helf, 65 Verndale Street, spoke in opposition to the proposal and asked whether neighbors would be able to review the plans mentioned by Mr. Allen. Polly Selkoe from the Planning Department stated that the plans could be made available for public viewing, however, approval/denial was decided administratively.

Polly Selkoe, Planner, delivered the findings of the Planning Board.

Section 4.07 – Table of Use Regulations, Use #22: Residential parking garage or parking area, whether as the sole use of a lot or as a secondary use, solely for the storage of cars of residents of other lots located within 1,400 feet.

The applicant has indicated that all parking on site is intended for use by the property's residents; otherwise, a special permit is required.

Section 5.43 – Exceptions to Yard and Setback Regulations

Section 6.04.5.c(2) – Design of all Off-Street Parking Facilities: Side yard setback for a parking lot in the side and front yard of the lot shall be at least 20 feet.

Section 6.04.5.c(4) – Design of all Off-Street Parking Facilities: A parking lot for more than six vehicles shall be set back from all lot lines the distance specified for minimum front yard depth in *Table 5.01*: 25 feet.

Section 6.04.6 – Design of all Off-Street Parking Facilities: Protection of nearby properties from lights.

Dimensional Requirements	Required	Existing	Proposed	Relief
Parking Area Side Yard Setback	25 feet	N/A	20 feet	Special permit/Variance*
Parking Area Rear Yard Setback	25 feet	N/A	5 feet	Special permit/Variance*

*Under *Section 5.43*, the Board of Appeals may by special permit waive the dimensional requirements for yards and setbacks if counterbalancing amenities are provided.

Ms. Selkoe stated that the Planning Board is supportive of the proposal to construct a new parking lot to serve a multi-family building to be built in Boston. The current site, though well maintained for a commercial property, is unsightly, with cars parked over all of the open space. A very tall chain link fence with slats lines the property's perimeter. The proposed project would increase the building's setback from the rear property line, add landscaping to the site and provide for an orderly arrangement of vehicles as opposed to the current somewhat haphazard parking arrangement. A residential parking lot would likely have a less detrimental impact on the property's neighbors. A new fence should be installed, preferably a stockade or similar of wood or other substantial material, in order to ensure adequate shielding of neighboring properties from headlight glare.

Therefore, the Planning Board recommends approval of the plans by Prellwitz Chilinski Associates, dated 11/21/2011, subject to the following conditions:

1. Prior to the issuance of a building permit, a final site plan, indicating all salient dimensions, and final lighting plan, shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to the issuance of a building permit, a final landscaping plan, stamped and signed by a registered architect, indicating all planting, hardscape and fencing materials, shall be submitted subject to the review and approval of the Assistant Director for Regulatory Planning. This plan shall indicate a new fence or wall along the rear and side lot lines of the property.
3. 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 indicated that he had met several times with the petitioner and its representatives regarding ways to improve the project and make it beneficial to the Town. Mr. Shepard stated that he felt the petitioner has addressed many of the neighborhood concerns and he has no issue with the proposal as it currently stands. 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 Geller stated that he felt the builder has made several concessions at the request of the Town. Both the Chair and Board Member Hussey indicated that they would like more specificity on the type of wall being built between the lot and neighbors on Verndale Street, but they are comfortable leaving that to the review and approval of the Assistant Director for Regulatory Planning. All members of the Board felt that the counterbalancing amenities were more than adequate.

The Board then determined, by unanimous vote that the requirements of Section 4.07, Section 5.43, Section 6.04.5.c(2), Section 6.04.5.c(4), and Section 6.04.6 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.

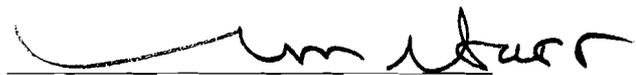
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

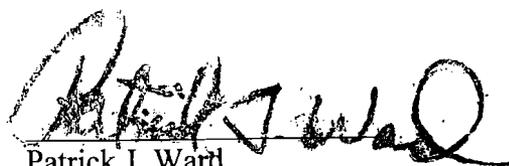
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- 3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land 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

Filing Date: February 14, 2012

A True Copy
ATTEST:


Enid Starr, Chairman

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

Patrick J. Ward
Clerk, Board of Appeals