



City of Boston
Mayor Martin J. Walsh
Board of Appeal

NOTICE OF DECISION
CASE NO. BOA 924131
PERMIT # ERT917537

APPEAL SUSTAINED
WITH PROVISOS

In reference to appeal of

Emeasures, LLC

concerning premises

11 Clare Avenue, Ward 18

to vary the application of the Zoning Act, Ch. 665, Acts of 1956, as amended, in this specific case, I beg to advise that the petition has been granted.

Decision has been filed in the office of the Commissioner of the Inspectional Services Department, 1010 Massachusetts Avenue, fifth floor, Boston, MA 02118, and is open for public inspection. Date of entry of this decision in the Inspectional Services Department was 6/14/2019.

FOR THE BOARD OF APPEAL


Kevin P. O'Connor, Jr.

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Principal Administrative Assistant



City of Boston
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DECISION OF THE BOARD ON THE APPEAL OF

April 9, 2019
DATE

Emeasures LLC

to vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8, at premises:

11 Clare Avenue, Ward 18

For the terms of the Boston Zoning Code (see Acts of 1956, c. 665) in the following respect: Variance Article(s): 67(67-32) 67(67-33) 67(67-9: Insufficient additional lot area/dwelling unit (8,000sf), Excessive F.A.R., Insufficient rear yard setback (deck projection) & # of allowed stories has been exceeded)

Erect new two family dwelling per attached drawings.

In his formal appeal, the Appellant states briefly in writing the grounds of and the reasons for his appeal from the refusal of the Building Commissioner, as set forth in papers on file numbered BOA924131 and made a part of this record.

In conformity with the law, the Board mailed reasonable notice of the public hearing to the petitioner and to the owners of all property deemed by the Board to be affected thereby, as they appeared on the then most recent local tax lists, which notice of public hearing was duly advertised in a daily newspaper published in the City of Boston, namely:

THE BOSTON HERALD on Tuesday, March 19, 2019

The Board took a view of the petitioner's land, examined its location, layout and other characteristics.

The Boston Redevelopment Authority was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BRA to render a recommendation to the Board, as prescribed in the Code.

After hearing all the facts and evidence presented at the public hearing held on Tuesday, April 9, 2019 in accordance with notice and advertisement aforementioned, the Board finds as follows:

The Appellant appeals to be relieved of complying with the aforementioned section of the Boston Zoning Code, all as per Application for Permit# ERT917537 and January 24, 2019 plans submitted to the Board at its hearing and now on file in the Building Department.



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This appeal seeks permission to erect a new two family dwelling.

The appeal is necessary as the proposed project requires relief from the terms of the Boston Zoning Code (Code). The specific relief required in furtherance of the proposed project is as follows:

Article 67, Section 32	Insufficient parking
Article 67, Section 33	Conformity with existing building alignment
Article 67, Section 9	Insufficient additional lot area per dwelling unit
Article 67, Section 9	Excessive FAR
Article 67, Section 9	Excessive height (stories)
Article 67, Section 9	Insufficient rear yard

The proposed project will allow the Appellant to have reasonable use of the premises by constructing a two-family dwelling to replace a single-family dwelling that was destroyed by fire. The project is located within a two-family zoning subdistrict of the Roslindale Neighborhood. This project is an appropriate use of the lot and will not adversely affect the community or create any detriment for abutting residents.

For these reasons, the requested relief may be granted in harmony with the general purpose and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

After the Petitioner filed the appeal, the Board, in conformity with applicable law, mailed reasonable notice of the public hearing to the Petitioner and to the owners of all property deemed by the Board to be affected thereby, as they appeared in the then most recent local tax list, which notice of a public hearing was duly advertised in a daily newspaper published in the City of Boston in accordance with applicable law. The Board held a public hearing on the Appeal on April 9, 2019.

At the hearing, representatives of the Mayor's Office of Neighborhood Services and the office of City Councilor McCarthy stood in support of the project. There was no opposition voiced at the hearing and there is none on file with the Board. This showing of approval from the community



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further supports the Board's finding that the requested relief will have no negative impact on the surrounding area and is in harmony with the general purpose and intent of the Code.

The Board of Appeal finds that all of the following conditions are met:

- (a) That there are special circumstances or conditions, fully described in the findings, applying to the land or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness or shape of the lot, or exceptional topographical conditions thereof), which circumstances or conditions are peculiar to such land or structure but not the neighborhood, and that said circumstances or conditions are such that the application of the provisions of this Code would deprive the appellant of the reasonable use of such land or structure; and
- (b) That for reasons of practical difficulty and demonstrable and substantial hardship fully described in the findings, the granting of the variance is necessary for the reasonable use of the land or structure and that the variance as granted by the Board is the minimum variance that will accomplish this purpose; and
- (c) That the granting of the variance will be in harmony with the general purposes and intent of this Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In determining its findings, the Board of Appeal has taken into account: (1) the number of persons residing or working upon such land or in such structure; (2) the character and use of adjoining lots and those in the neighborhood; and (3) traffic conditions in the neighborhood.

The Board is of the opinion that all conditions required for the granting of a variance under Article 7, Section 7-3 of the Zoning Code have been met, and that the varying of the terms of the Zoning Code as outlined above will not conflict with the intent and spirit of the Zoning Code.




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Therefore, acting under its discretionary power, the Board (the members and substitute member(s) sitting on this appeal) voted to grant the requested Variances as described above, annuls the refusal of the Building Commissioner and orders him to grant a permit in accordance with this decision, with the following proviso, which, if not complied with, shall render this decision null and void.



APPROVED AS TO FORM:


Assistant Corporation Counsel

PROVISOS: BPDA design review.

Signed, June 11, 2019


Christine Araujo - Chair


Mark Erlich

Bruce Bickerstaff


Craig Galvin - Acting Secretary


Kerry Walsh Logue


Tyrone Kindell, Jr.