



City of Boston  
Mayor Martin J. Walsh  
Board of Appeal

**NOTICE OF DECISION  
CASE NO. BOA 928835  
PERMIT # ALT926209  
APPEAL SUSTAINED**

In reference to appeal of

Luis Arjona

concerning premises

29-31 Mather Street, Ward 17

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.

Principal Administrative Assistant



DECISION OF THE BOARD ON THE APPEAL OF

April 30, 2019  
DATE

Luis Arjona

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

29-31 Mather Street, Ward 17

For the terms of the Boston Zoning Code (see Acts of 1956, c. 665) in the following respect: Extension of Non-Conforming Use

Article(s): 9(9-9-1)

To legalize already built up double dormer (house is side by side), with a total net area of 80 S.F. (5'x16') to provide a legal head room to existing stairs at landing and turning areas, at the attic level. Work already done. Please see SF775919.

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 BOA928835 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, April 9, 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 30, 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# ALT926209 and February 25, 2019 plans submitted to the Board at its hearing and now on file in the Building Department.



DECISION OF THE BOARD ON THE APPEAL OF

29-31 Mather Street, Ward 17  
BOA-928835  
Date of Hearing: April 30, 2019  
Permit: #ALT926209  
Page: # 2

This appeal seeks permission to legalize an already constructed dormer to increase space in attic.

The appeal is necessary as the proposal 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 9, Section 1                      Extension/Reconstruction of Nonconforming Use/Building

The requested relief will allow the Appellant to legalize already constructed double dormers. The applicant appeared at the hearing and testified that upon his initial application he was not denied a permit due to zoning violations. 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 30, 2019.

At the hearing, a representative from the Mayor's Office of Neighborhood Services stood in support of the project. There was no opposition voiced at the hearing and there is none on file with the Board. The showing of approval from the community 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.



DECISION OF THE BOARD ON THE APPEAL OF

29-31 Mather Street, Ward 17  
BOA-928835  
Date of Hearing: April 30, 2019  
Permit: #ALT926209  
Page: # 3

The Board of Appeal makes the following findings:

- 1) The premises are being used lawfully for a use not conforming to the Boston Zoning Code, other than stone quarrying.
- 2) The use is being extended on the same lot.
- 3) The use as extended shall not exceed by more than twenty-five percent either in volume or area the existing non-conforming use.
- 4) The cost of extending the use will not exceed the amount allowed in Article 9, Section 9-1.

The Board also makes the following findings:

- a) The specific site is an appropriate location for extension of such use;
- b) The extension of the use will not adversely affect the neighborhood;
- c) There will be no serious hazard to vehicles or pedestrians from the extension of the use;
- d) No nuisance will be created by the extension of the use; and
- e) Adequate and appropriate facilities will be provided for the proper operation of the extension of the use.

The Board is of the opinion that all conditions required for the granting of an extension of a non-conforming use pursuant to Article 9, Section 9-1 and Article 6 Section 6-3 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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DECISION OF THE BOARD ON THE APPEAL OF

29-31 Mather Street, Ward 17  
BOA-928835  
Date of Hearing: April 30, 2019  
Permit: #ALT926209  
Page: # 4

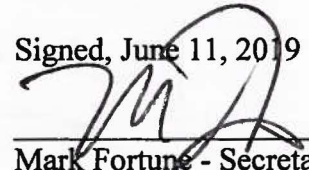
Therefore, acting under its discretionary power, the Board (the members and substitute member(s) sitting on this appeal) unanimously voted to grant the requested Extension of the Non-Conforming Use as described above, annuls the refusal of the Building Commissioner and orders him to grant a permit in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

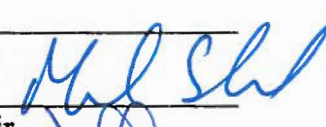
APPROVED AS TO FORM:

PROVISO: None.

  
Assistant Corporation Counsel

Signed, June 11, 2019

  
Mark Fortune - Secretary

  
Mark Erlich - Acting Chair

  
Bruce Bickarstaff

  
Craig Galvin

  
Kerry Walsh Logue

  
Tyrone Kindell, Jr.