



City of Boston
Mayor Martin J. Walsh
Board of Appeal

**NOTICE OF DECISION
CASE NO. BOA903623
PERMIT # ALT895615
APPEAL SUSTAINED**

In reference to appeal of

Timothy Burke

concerning premises

4 Melrose Street, Ward 05

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 5/3/2019.

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

Timothy Burke

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

4 Melrose Street, Ward 05

For the terms of the Boston Zoning Code (see Acts of 1956, c. 665) in the following respect: Variance
Article(s): 63(63-20) 63(63-8: Floor area ratio excessive & Bldg height excessive (stories))

Construct new dormer on rear of house and roof deck on top of dormer. Install new bathrooms on fourth floor and in basement. Remove portion of wall at kitchen. Install new window and door at rear exterior wall on first floor. Install new mechanical, plumbing and electrical work.

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 BOA903623 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 Thursday, April 25, 2019 and discussed 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# ALT895615 and November 5, 2018 plans submitted to the Board at its hearing and now on file in the Building Department.



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OFFICE OF THE BOARD OF APPEAL

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This appeal seeks permission to construct a new dormer and roof deck on the rear the house, install new bathrooms, renovate an existing building and install new mechanical, plumbing and electrical systems.

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 63, Section 20 (Roof Structure Restrictions), Article 63, Section 8, (Dimensional Regulations-Floor Area Ratio Excessive), and Article 63, Section 8 (Dimensional Regulations-Building Height Excessive).

The requested relief will allow the applicant to construct a new dormer and roof deck on the rear of the house, install new bathrooms, renovate an existing residence and install new mechanical, plumbing and electrical systems. The applicant contends that this appeal will allow them to make much needed upgrades and provide additional outdoor open space with the roof deck, which is common in the Bay Village Neighborhood. Specifically, the applicant seeks, and with this decision is hereby granted, relief for the above referenced use violations. The Board finds that this proposal is reasonable, modest in scope and consistent with the character of abutting buildings and of the surrounding neighborhood. 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, this 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. This Board held public hearings on the Appeal on April 26, 2019, and April 30, 2019.

At the hearing, the applicant advised the subcommittee that the owners had received support for this proposal at the abutters meeting. The Bay Village Civic Association supports the proposal, and no one spoke in opposition at the hearing and there is none on file with the Board. This showing of support from the community further substantiates the Board's finding



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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 purpose 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/or substitute members sitting on this appeal) voted to grant the requested variance 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

Signed, April 30, 2019,


Christine Araujo, Chair


Mark Fortune - Secretary


Tyrone Kindell


Bruce Bickerstaff


Kelly Walsh Logue


Mark Erlich


Craig Galvin