



City of Boston
Mayor Martin J. Walsh
Board of Appeal

NOTICE OF DECISION
CASE NO. BOA896383
PERMIT # ERT880047

APPEAL SUSTAINED
WITH PROVISOS

In reference to appeal of

Ted Ahern


concerning premises

24 Norwood Street, Ward 16

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 9, 2019
DATE

Ted Ahern

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

24 Norwood Street, Ward 16

For the terms of the Boston Zoning Code (see Acts of 1956, c. 665) in the following respect: Variance & GPOD
Article(s): 65(65-15) 65(65-16: Floor area ratio is excessive, Usable open space is insufficient & Rear yard setback is insufficient) 65(65-41) 29(29-4)

Erect nine new units per plan.

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 BOA896383 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# ERT880047 and September 17, 2018 plans submitted to the Board at its hearing and now on file in the Building Department.



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This appeal seeks relief from the provisions of Article 65, Section 15, for a variance owing to a multifamily dwelling being a forbidden use; from the provisions of Article 65, Section 16, for variances owing to excessive floor area ratio, insufficient usable open space, and insufficient rear yard setback; from the provisions of Article 65, Section 41, for a variance owing to design of off-street parking facilities; and approval pursuant to the provisions of Article 29, Section 4, for compliance with Greenbelt Protection Overlay District (GPOD) requirements; in order to allow for the petitioner's application to erect a new eight-unit residential building.

The petitioner was represented at the hearing by its attorney, who presented plans to the Board depicting an eight-unit dwelling building at 24 Norwood Street in Dorchester. The project site consists of approximately 6,000 square feet of land and is located in a Neighborhood Shopping ("NS") zoning subdistrict under Article 65. While the zoning refusal letter indicates that the proposed multifamily use is not an allowed use on the ground floor, Norwood Street is predominantly a residential street on its even side. The Greenbelt Roadway in question, Morrissey Boulevard, does not even touch the site and therefore is not subject to any impacts from off-street parking and loading facilities associated with the proposed project, which is a very low-density project in relation to other existing residential and commercial uses on Morrissey Boulevard.

The proposed floor area ratio of approximately 1.29 is not inconsistent with other building densities in the neighborhood, and the site plan made part of the plans set submitted to the Board indicated usable open space well in excess of the four hundred square feet required by Code for an eight-unit dwelling building. Similarly, while the required rear yard setback is twenty feet, the plans submitted to the Board show a rear setback of approximately twenty-three feet. The building's off-street parking, located in the first-floor garage, was cited for design and maneuverability deficiencies, but the submitted plans indicate over twenty-three feet of separation distance between spaces, with only three of the proposed spaces being less than the minimum required dimensions.

At the hearing, representatives from the Mayor's Office of Neighborhood Services and the office of City Councilors Baker and Flaherty 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 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.



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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.

With respect to GPOD applicability, the Board of Appeal also makes the following findings:

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



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The Board also finds that the proposed project complies with the following standards in addition to the standards set forth in Article 6:

- (a) provision for adequate vehicular access, off-street parking and loading and shall not have a significant adverse effect on traffic and parking on the Greenbelt Roadway and adjacent streets;
- (b) provision for landscaping treatment that ensures that the natural and aesthetic quality of the Greenbelt Roadway area will be maintained; and
- (c) provision for the design of all structures that is compatible with surrounding 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, and that all conditions required for the granting of a Conditional Use Permit under Article 6, Section 6-3, and for the granting of a GPOD Permit under Article 29, Section 6, 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) unanimously 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

PROVISO:

1. Subject to design review by BPDA.

Signed, June 11, 2019

Christine Araujo - Chair

Mark Erlich

Bruce Bickerstaff

Craig Galvin - Acting Secretary

Kerry Walsh Logue

Tyrone Kindell, Jr.