



City of Boston
Mayor Martin J. Walsh
Board of Appeal

NOTICE OF DECISION
CASE NO. BOA 920465
PERMIT # ALT858632

APPEAL SUSTAINED

In reference to appeal of

Catherine O'Byrne

concerning premises

19 Dartmouth Street, Ward 04

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, Sr.

Kevin P. O'Connor, Jr.

Principal Administrative Assistant



City of Boston
Mayor Martin J. Walsh
Board of Appeal

DECISION OF THE BOARD ON THE APPEAL OF

April 30, 2019
DATE

Catherine O'Byrne

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

19 Dartmouth Street, Ward 04

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

Article(s): 9(9-2)

Eliminate kitchen and install new bathroom at kitchen place, remove no structure wall, close kitchen entry door and install new framing to new bathroom. Cost is reflected on SF821586. Change occupancy from a 3 family to a 2 family.

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 BOA920465 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# ALT858632 and July 31, 2018 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 eliminate existing kitchen and install bathroom in its place and to change occupancy from a three-family to a two-family.

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 2

Change in Nonconforming Use

The requested relief will allow the Appellant to have full and reasonable use of the property by renovating the dwelling and changing the occupancy as described above. The project is located in a multifamily residential zoning subdistrict of the South End 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 30, 2019.

At the hearing, representatives of the Mayor's Office of Neighborhood Services and the office of City Councilor Flynn 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 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.

The Board is of the opinion that all conditions required for the granting of a Change of a Non-Conforming Use Pursuant to Article 9, Section 9-2 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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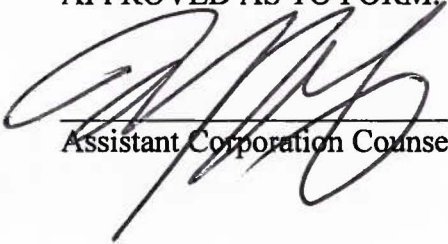
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Therefore, acting under its discretionary power, the Board (the members and substitute member(s) sitting on this appeal) voted to grant the requested Change of a Non-Conforming use as described above, annuls the refusal of the Building Commissioner 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:

PROVISOS: None.


Assistant Corporation Counsel

Signed, June 11, 2019


Mark Fortune - Secretary


Mark Erlich - Acting Chair


Bruce Bickers


Craig Galvin


Kerry Walsh Logue


Tyrone Kindell, Jr