



City of Boston
Mayor Martin J. Walsh
Board of Appeal

**NOTICE OF DECISION
CASE NO. BOA918229
PERMIT # ALT903718
APPEAL SUSTAINED
WITH PROVISOS**

In reference to appeal of

Mirchandani Bharat

concerning premises

2 Snelling Place, Ward 03

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 6/28/2019.

FOR THE BOARD OF APPEAL

Kevin P. O'Connor, Jr.
Principal Administrative Assistant



DECISION OF THE BOARD ON THE APPEAL OF

April 09, 2019
DATE

Mirchandani Bharat

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

2 Snelling Place, Ward 03

For the terms of the Boston Zoning Code (see Acts of 1956, c. 665) in the following respect: Variance

Article(s): 54(54-10) 54(54-10) 54(54-18)

Purpose: Seeking to construct a 4th floor addition and roof decks and extend living space into the basement for Unit #1.

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 BOA-918229 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 09, 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# ALT903718 November 30, 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 construct a fourth-floor addition, roof decks, and extend living space into the basement for Unit One.

The purpose of this Appeal is to allow the Appellant to have reasonable use of the property, while constructing a one-story addition and decks to the building and extending living space into the basement. The project is located within a Multi-Family Residential Subdistrict (MFR). 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 54, Section 10 Dimensional Regulations (Floor Area Ratio Excessive);
Article 54, Section 10 Dimensional Regulations (Rear Yard Insufficient);
Article 54, Section 18 Roof Structure and Building Height Restrictions.

The requested relief will allow the Appellant to have full and reasonable use of the property. The Appellant wishes to erect a one-story addition with a roof deck to the existing three-story, three-unit building. Additionally, the Appellant is seeking to extend living space into the basement to provide the residents of the existing first floor unit with some much-needed extra living space. This proposal will not add any additional units to the building, rather it will add a bedroom to unit one and two bedrooms to unit three. Unit one will have two bedrooms and will be located in the basement and first floor. Unit two will remain and one-bedroom unit and will be located on the second floor. Unit three will be a three-bedroom unit with a rear deck and roof deck and will be located on the third and fourth floor. The proposed renovation and addition is appropriate for this location and greatly benefits the neighborhood because usable living space is very limited in this section of Boston and this proposal will create additional living space in a manner that is consistent with existing surrounding uses and structural designs. Further, due to the unusually small size of the lot, totaling only approximately six hundred and eighteen feet, the proposed project is the most reasonable and efficient way to provide future residents with needed living space without adversely affecting the neighborhood.

This project will improve the quality of life for the residents of this building and will not adversely affect the North End community. This proposal will not alter the character of the neighborhood, as many of the surrounding buildings are multi-family residential buildings of similar or greater heights. Further, the Appellant modeled this proposal to mimic the size and scope of the previously approved project at the abutting 3 Snelling Place. That proposal, which



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also included a fourth-story addition, roof deck, and extension of living space into the basement, was universally supported by the abutters, the North End neighborhood associations, and the city councilor, and was approved by the Zoning Board of Appeal demonstrating the reasonableness and validity of the project. The approved project at 3 Snelling Place actually included two additional bedrooms evidencing that the current proposal at 2 Snelling Place will be less dense and detrimental to the neighborhood. Finally, this project will improve the aesthetics of the specific property, as well as the surrounding neighborhood as a whole.

The proposal was cited for three zoning violations after plans were filed and reviewed by the City of Boston Inspectional Services Department. These violations included Floor Area Ratio, Rear Yard Setback, and Roof Structure Restriction. The allowed Floor Area Ratio in this section of the North End is 3.0. Although the proposed Floor Area Ratio exceeds what is allowed by the Boston Zoning Code, it is comparable, if not below, many of the surrounding properties, and therefore does not alter the character of the neighborhood, nor create any detriments.

The second cited violation is Rear Yard Setback. This violation is a preexisting condition. The structure currently is located on the rear lot line and therefore does not have a rear setback. This proposal includes a fourth floor which includes a deck that provides approximately six feet of open air along the rear of the property. Therefore, even though the rear setback is less than the twelve feet required, it is keeping in character with the existing structure and is less obtrusive than if the entire building extended to the rear property line.

The final violation cited in this proposal is Roof Structure Restriction. A Roof Structure Restriction is cited when you are seeking to alter the existing roofline. In the present case, the Appellant is proposing a fourth-floor addition with a head house. Even with the proposed addition and head house the project still does not exceed the allowed fifty-five foot height restriction in this zoning subdistrict in the North End. Additionally, the existing structure currently contains a head house on top of the third floor and the head house in this proposal was designed to be rebuilt on the top of the proposed fourth floor in a similar manner to what currently exists. Finally, the proposed head house will match the approved head house at 3 Snelling Place, once again promoting uniformity.



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This appeal will not adversely affect the community or create any detriments. 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.

The Appellant engaged in an extensive community process attending a city sponsored abutters meeting, a North End Waterfront Residents Association meeting, a North End Waterfront Neighborhood Council meeting, and several meetings and communications with his direct abutters and city officials. The Appellant showed his willingness to work with the community throughout the process, as several design changes were made to the Project based upon the feedback he received at these meetings. Some of these changes include proposing a fourth-story rear pullback to allow his direct abutters access to his building in case of emergency and to orient the roof deck in a manner similar to his abutter at 3 Snelling Place to promote uniformity along the street and to minimize any invasion of privacy to the abutters at 1 Snelling Place.

At the subsequent Zoning Board of Appeals hearing on April 9, 2019, Maria Lanza, on behalf of the Mayor's Office of Neighborhood Services, stood in support of the project. Additionally, several letters of support from members of the community, including two from direct abutters, were submitted to the Board. There was opposition voiced at the hearing by a representative of the office of City Councilor Edwards and an abutter. There are also letters of opposition on file with the Board from the North End Waterfront Residents association and a direct abutter. Taking into consideration all of the evidence presented, the Board determined the showing of approval from the community 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



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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 substitute member(s) 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

PROVISO:

1. Subject to design review by BRA.

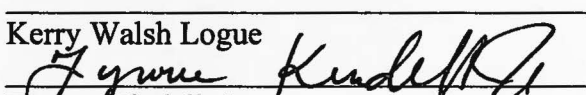
Signed, June 25, 2019


Christine Araujo - Chair


Mark Erlich


Bruce Bickerstaff


Craig Galvin - Acting Secretary


Kerry Walsh Logue


Tyrone Kindell, Jr.