



City of Boston
Mayor Martin J. Walsh
Board of Appeal

NOTICE OF DECISION
CASE NO. BOA 927270
PERMIT # ERT912029

APPEAL SUSTAINED
WITH PROVISOS

In reference to appeal of

George Morancy

concerning premises

17 Bellflower Street, Ward 07

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

George Morancy

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

17 W Bellflower Street, Ward 07

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

Article(s): 65(65-41: Off-street parking & loading req - design. Insufficient maneuvering area and shared driveway is less than 10'-0" wide & Off-street parking & loading req location. Off-street parking facilities shall be provided on the same Lot as the main use to which they are accessory) 65(65-9: Add'l lot area insufficient, Floor area ratio excessive, Bldg height excessive (stories), Usable open space insufficient & Bldg height excessive (feet))

Erect a three-family dwelling unit with finished basement. Propose (3) off-street parking.

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 BOA927270 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# ERT912029 and January 4, 2019 plans submitted to the Board at its hearing and now on file in the Building Department.



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This appeal seeks zoning relief in the form of variances from the provisions of Article 65, Section 9, for violations owing to insufficient lot area for additional dwelling units, excessive floor area ratio, excessive building height/stories, excessive building height/feet, insufficient usable open space, and Article 65, Section 41, for design of off-street parking facilities (insufficient maneuvering area, shared driveway less than ten feet wide, and off-street parking facilities not provided on same lot as use to which they are accessory), in order to allow for the approval of the petitioner's building permit application to erect a new four-story, three-family dwelling with three off-street parking spaces.

The petitioner was represented at the hearing by its attorney, who testified that the proposed building's lot size, floor area ratio, and usable open space would not be inconsistent with other developed parcels in the neighborhood, despite being non-compliant under the code. The site is zoned 3F-D-2000. The building's height violation arises from a mezzanine-style partial fourth story, which allows for a split-level top-floor unit in the building. The plans presented to the Board depicted three accessory off-street parking spaces with access provided via a driveway shared with the abutting building at 15 West Bellflower Street benefitting from an easement recorded easement.

The granting of the variances sought would allow for the erection of a new dwelling building providing three units of housing consistent with the City of Boston's housing creation goals. The requested relief is reasonable in light of the size and shape of the lot, and massing and density levels in the surrounding neighborhood, and is the minimum relief necessary to accomplish the goals of reasonably developing the property and creating two new dwelling units. At the hearing, representatives of the Mayor's Office of Neighborhood Services and City Councilor Baker testified in support of the granting of the requested variances.

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 variances are 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 variances is necessary for the reasonable use of the land or structure and that the variances as granted by the Board are the minimum variances that will accomplish this purpose; and



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- (c) That the granting of the variances will be in harmony with the general purposes 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 the requested variances 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. Therefore, acting under its discretionary power, the Board (the members and/or substitute members sitting on this appeal) 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:

PROVISO: BPDA design review.

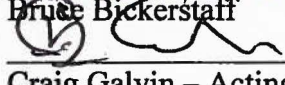

Assistant Corporation Counsel

Signed, June 11, 2019


Christine Araujo - Chair


Mark Erlich

Bruce Bickerstaff


Craig Galvin - Acting Secretary


Kerry Walsh Logue


Tyrone Kindell, Jr.