



City of Boston
Board of Appeal

NOTICE OF DECISION
CASE NO. BOA975065
PERMIT #ALT937727
APPEAL SUSTAINED
WITH PROVISOS

Section 6-1. - Permit for Conditional Uses.

As provided for in Section 10 of Chapter 665 of the Acts of 1956, as now in force or hereafter amended, and in Section 8-3 of this code, and subject to the provisions of Sections 6-2, 6-3, 6-3A and 6-4, the Board of Appeal may, in a specific case after public notice and hearing, grant permission for a use specified in Table A of Section 8-7 or other provision of this code as a conditional use; **provided, however, that such permission shall lapse and become null and void unless such conditional use is commenced within two years after the record of said Board's proceedings pertaining thereto is filed in the office of the Building Commissioner pursuant to Section 8 of said Chapter 665.**

In reference to appeal of

Stephen Payne

Concerning premises

7 Beaver Place, Ward 05

section 105.3.2

Original 90 DAY EXTENSION (3 MONTHS) extension granted to MARCH 3, 2022
ADDITIONAL 90 DAY EXTENSIONS (3 MONTHS) extension granted to June 3, 2022
ADDITIONAL 90 DAY EXTENSIONS (3 MONTHS) extension granted to September 3, 2022
ADDITIONAL 90 DAY EXTENSIONS (3 MONTHS) extension granted to December 3, 2022
(not to exceed 180 days:)
6 month extension not allowed however BOA decision is still valid hence a professional final extension to June 3, 2023 authorized
ADDITIONAL 90 DAY EXTENSIONS (3 MONTHS) extension granted to March 3, 2023
ADDITIONAL 90 DAY EXTENSIONS (3 MONTHS) extension granted to June 3, 2023
No further extensions allowed

BOA ZONING decision expired June 3, 2023.

No further extensions allowed if ZBA extension was not filed within 45 days of expiration
Conclusion: ZBA case expired BOA order expired.

BUILDING Review conclusion:

Permit application decision also expired June 3, 2023

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 June 2, 2021.

Please be advised, due to the ongoing COVID-19 public health emergency, this decision of the Board has been reviewed and signed electronically by the signing Board Members. The addition of the certification of the Executive Secretary to the signature page attests that each Board Member who has signed this decision electronically has had an opportunity to review the written decision and has given his or her express written permission to the Executive Secretary to sign this decision electronically.

FOR THE BOARD OF APPEAL

/s/Kevin P. O'Connor, Jr.

Kevin P. O'Connor, Jr.

Principal Administrative Assistant



City of Boston
Board of Appeal

DECISION OF THE BOARD ON THE APPEAL OF

December 08, 2020

DATE

Stephen Payne

to vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8,
at premises: 7 Beaver Place, Ward 05

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

Art.32 Sec. 04

GCOD Applicability

Art.13 Sec. 13-1

Insufficient Rear Yard setback

Purpose: To correct an "unsafe" violation, V439035: Remove the front facade of the building and structural elements (primarily floor joists, and rafters) that bear on it. Nominal paid on ALT 8024843

*Clarification: Building razed

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-975065 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, July 30, 2019

and again on Tuesday, September 17, 2019

and again on Tuesday, December 17, 2019

and again on Tuesday, September 01, 2020

The Board took a view of the petitioner's land, examined its location, layout and other characteristics.

The Boston Planning & Development Agency was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BPDA 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, August 27, 2019 and discussed again on Tuesday, October 08, 2019 and discussed again on Tuesday, January 14, 2020 and discussed again on Tuesday, September 22, 2020 and discussed again on Tuesday, December 08, 2020 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#ALT-937727 and April 03, 2019 plans submitted to the Board at its hearing and now on file in the Building Department.



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This appeal seeks to correct building code violation V439035 for an unsafe and dangerous condition to remove the front façade of the building and structural elements that bear on it. Building already razed. Additionally, Appellant intends to rebuild prior single-family dwelling to same envelope on the property.

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 32, Section 4	GCOD Applicability
Article 13, Section 1	Insufficient rear yard

The proposed project will allow the Appellant to have reasonable use of the premises by removing an unsafe and dangerous structure and prepare the property for rehabilitation. The project is located within a residential zoning subdistrict of the Boston Proper district. 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 February 26, 2019.

At the hearing, representatives of the Mayor's Office of Neighborhood Services and the office of City Councilor Bok spoke in support of the project. The Beacon Hill Civic Association did not oppose the project. There are two letters of support on file with the Board. A representative of the abutting Park Street School spoke in opposition to the proposal and there are numerous letters of opposition on file with the Board. Christian Simonelli of the Boston Groundwater Trust noted



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that both the BWSC letter of compliance and letter no harm had been provided. However, Mr. Simonelli requested updated letters prior to permit issuance due to proposed changes to the groundwater infiltration system. The Board finds 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 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.



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The Board of Appeal also makes the following findings under Article 6:

- 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.

Pursuant to Articles 6 and 32 of the Boston Zoning Code, the Board is of the opinion and finds that all of the conditions for the grant of a Conditional Use Permit have been met. Specifically, the Board finds that the proposed project complies with the following standards as set forth in Article 32-6, applicable to Groundwater Conservation Overlay Districts, in addition to the standards set forth in Article 6 of the Boston Zoning Code:

- (a) The Proposed Project promotes infiltration of rainwater into the ground by capturing within a suitably-designed system a volume of rainfall on the lot equivalent to no less than 1.0 inches across that portion of the surface area of the lot to be occupied by the Proposed Project (or, in the case of a Proposed Project for a Substantial Rehabilitation, the lot area occupied by the structure to be Substantially Rehabilitated); and
- (b) The Proposed Project will result in no negative impact on groundwater levels within the lot in question or adjacent lots, subject to the terms of any (i) dewatering permit or (ii) cooperation agreement entered into by the Proponent and the Boston Redevelopment Authority, to the extent that such agreement provides standards for groundwater protection during construction.



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The Board is of the opinion that all conditions required for the granting of a variance under Article 7-3 and the Conditional Use Permits under Article 6-3 and Article 32 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 substitute member(s) sitting on this appeal) voted to grant the requested Variances and Conditional Use Permits 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 provisos, which, if not complied with, shall render this decision null and void.

APPROVED AS TO FORM:


Assistant Corporation Counsel

PROVISOS: 1. Permit not to issue pending updated letter from BWSC and updated no harm letter; and
2. Revised drawings to show sloped roof to match what previously existing dwelling.

Signed, May 25, 2021

/s/ Christine Araujo

Christine Araujo – Chair (Voted In Favor)

/s/ Mark Fortune

Mark Fortune – Secretary (Voted In Favor)

/s/ Mark Erlich

Mark Erlich (Voted In Opposition)

/s/ Joseph Ruggiero

Joseph Ruggiero (Voted In Favor)

/s/ Kosta Ligris

Kosta Ligris (Absent)

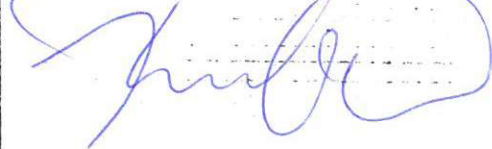
/s/ Edward Deveau

Edward Deveau (Alternate) (Voted In Favor)

/s/ Tyrone Kindell Jr.

Tyrone Kindell, Jr. (Alternate) (Voted In Favor)

**A True Copy,
Attest**



**KEVIN O'CONNOR
Esq. Assistant Corporation Counsel**