



City of Boston
Board of Appeal

TUESDAY, JULY 7, 2020

BOARD OF APPEAL

CITY HALL, ROOM 801

HEARING MINUTES

Board Chair Araujo called the meeting to order promptly at 10:00 AM and commenced with a brief description of the hearing process and, pursuant to the Massachusetts Open Meeting Law, advised those in attendance that the hearings would be broadcast and recorded and hearing minutes would be kept. The Chair announced that the hearing was being conducted remotely via an online meeting platform and subject to the below advisory which was part of the publicly posted hearing agenda. The Board members then commenced with discussion of the following Agenda items which were announced on the record by Board Secretary Mark Fortune:

PLEASE BE ADVISED OF THE FOLLOWING BOARD OF APPEAL SCHEDULE CHANGES:

ALL MATTERS NOW TO BE HEARD ON JULY 7, 2020 HAVE COMPLETED THE COMMUNITY PROCESS AND MEET THE SUBCOMMITTEE ELIGIBILITY CRITERIA WHICH INCLUDE SMALLER SCALE RESIDENTIAL PROJECTS FOR SINGLE-FAMILY OR TWO-FAMILY DWELLINGS OR FOR SMALL BUSINESSES OCCUPYING LESS THAN 35,000 SQUARE FEET OF COMMERCIAL SPACE.

THE SUBCOMMITTEE HEARING AND FULL HEARING OF ALL SCHEDULED APPEALS HAVE BEEN CONSOLIDATED AND WILL NOW BE HEARD ONLY ONCE BY A QUORUM OF THE BOARD.

All matters listed on this JULY 7, 2020 hearing agenda were originally scheduled and noticed, in accordance with the Enabling Act. Due to the public health emergency, those previously scheduled hearings were postponed and all matters deferred to this JULY 7, 2020 hearing.

PLEASE BE ADVISED OF THE FOLLOWING PARTICIPATION INSTRUCTIONS:

THE JULY 7, 2020 HEARING WILL BE HELD VIRTUALLY VIA VIDEO TELECONFERENCE AND TELEPHONE VIA THE WEBEX MEETING PLATFORM.

Interested persons can participate in the hearing REMOTELY by going to bit.ly/zbajune23hearing or by calling 1-617-315-0704 and entering access code 129 919 9448.



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If you wish to offer testimony on an appeal, please click bit.ly/zbajune23comment to sign up. Please provide your name, address, the address and/or BOA number of the appeal on which you wish to speak, and if you wish to speak in support of or opposition to the project.

For individuals who need translation assistance, please notify the Board at least **48 HOURS** in advance either by signing up at <http://bit.ly/zbajune23comment>, calling 617-635-4775 or emailing isdboardofappeal@boston.gov.

The ZBA Ambassador will be available within the WebEx Event from at 9:00 AM to 10:00 AM to answer questions about ZBA procedures and offer instructions on how to participate in the hearing via WebEx. Questions and/or concerns can also be emailed to the ZBA Ambassador at zba.ambassador@boston.gov.

To signal you wish to offer comment within the meeting platform, please use the “raise hand” function, if connected by video, or dial *9, if connected by phone. The requester will be administratively unmuted and asked to state their name, address and comment. Comments will be limited as time requires.

The hearing can also be viewed via live-stream on the City’s website at <https://www.boston.gov/departments/broadband-and-cable/watch-boston-city-tv>. Closed captioning is available.

Interested persons who are unable to participate in the hearing remotely may make an appointment to appear in person at City Hall, in the BPDA board room, 9th Floor Room 900. Please notify the Board at least **48 HOURS** in advance either by calling 617-635-4775 or emailing isdboardofappeal@boston.gov for accommodations to be made. Individuals appearing at City Hall without an appointment will not be permitted to enter.

MEMBERS OF THE COMMUNITY ARE STRONGLY ENCOURAGED TO HELP FACILITATE THE VIRTUAL HEARING PROCESS BY EMAILING LETTERS IN SUPPORT OF OR OPPOSITION TO AN APPEAL TO isdboardofappeal@boston.gov IN LIEU OF OFFERING TESTIMONY ONLINE OR FROM BPDA BOARD ROOM



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BOARD FINAL ARBITER

Case: BOA-828749 Address: 198 Hanover Street Ward: 3 Applicant: Rebecca Lee, Esq.

Discussion: The applicant requested approval of minor changes to the plans relative to zoning relief previously granted by the Board for the above application.

Vote: Upon a Motion and second, the Board voted unanimously to approve the request.

HEARINGS: 10:00 AM

Case: BOA-103580 Address: 65 Gove Street Ward: 1 Applicant: Richard Lynds
Article(s): 27T (27T-9) 53(53-9) 53(53-9) 53(53-9) 53(53-9) 53(53-56: IPOD Enforcement, Dimensional Regulations, Dimensional Regulations, Dimensional Regulations, Dimensional Regulations, Off-Street Parking and Loading Req)

Purpose: Amendment of Permit #ERT160207 as per plans. Applicant seeks to amend plans to alter interior and exterior of approved two family dwelling and reduce off-street parking from 2 spaces down to 1 space and amend prior ZBA decision.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to amend earlier application to reprogram building and exterior, reduce parking to one space, and add a roof deck.

Board members asked about when this appeal was previously before the Board, rationale for eliminating a parking space, and the dimensions of and access to the roof deck.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Edwards are in support.

Documents/Exhibits: Building Plans, Letters of Opposition (one from an abutter and one from a neighborhood association).

Votes: Board Member Erlich moved for approval with provisos for BPDA Design Review for the concerns found in the Maverick Neighborhood Association, hatch access to the roof deck, and no parking relief and Kindell seconded and the Board voted unanimously to approve.

Case: BOA-959516 Address: 139 Everett Street Ward: 1 Applicant: Anthony Delvecchio
Article(s): 53(53-9) 27T(27T-5: Dimensional Regulations, East Boston IPOD Applicability
Purpose: Confirm the Occupancy as a One Family Dwelling and Change to a Two Family Dwelling to include combining of lots, roof deck with new exterior rear egress per plans submitted. All interior work and full construction costs for project are filed under SF944100 issued 4/22/19.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to change occupancy to a two-family and add a roof deck.



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Board members asked about the use of the basement space, ceiling height, size of each unit, dimensions of the roof deck, and access to the roof deck.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Edwards are in support.

Documents/Exhibits: Building Plans, Letter of Support from a Neighborhood Association.

Votes: Board Member Erlich moved for approval with BPDA Design Review and hatch for roof deck access and Kindell seconded and the Board voted unanimously to approve.

Case: BOA-102870 Address: 597 Saratoga Street Ward: 1 Applicant: Leakhena Chan

Article(s): 9(9-1: Extension of Non Conforming Use)

Purpose: Install new first floor and second floor rear decks.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to build 1st and 2nd floor rear decks.

Board members asked if the building is owner-occupied and about the proposed decks.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Edwards are in support.

Documents/Exhibits: Building Plans.

Votes: Board Member Ruggiero moved for approval and Kindell seconded and the Board voted unanimously to approve.

Case: BOA-105127 Address: 14 Falcon Street Ward: 1 Applicant: Eileen Brito-Rosa

Article(s): 53(53-9) 53(53-9: Front Yard Insufficient, Floor Area Ratio Excessive)

Purpose: Rebuild existing front porch on first floor and enclose on top of porch to enlarge bedroom on second floor.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to rebuild front porch and enclose the second floor above to add a bedroom.

Board members asked if the structure was a one-family dwelling and if it was owner-occupied.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Edwards are in support.

Documents/Exhibits: Building Plans.



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Votes: Board Member Ruggiero moved for approval subject to BPDA design review and Logue seconded and the Board voted unanimously to approve.

Case: BOA-105199 Address: 236 Lexington Street Ward: 1 Applicant: William Mohan
Article(s): 53(53-52) 53(53-9) 53(53-9) 53(53-9) 27G: Roof Structure Restrictions, Floor Area Ratio
Excessive, Side Yard Insufficient, Rear Yard Insufficient, E Boston IPOD)
Purpose: Renovate existing third floor, addition on third floor. ALT1023878.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to renovate 3rd floor of a three-family building which suffered fire damage.

Board members asked about the size of the third floor unit.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Edwards are in support.

Documents/Exhibits: Building Plans.

Votes: Board Member Erlich moved for approval and Kindell seconded and the Board voted unanimously to approve.

Case: BOA-105175 Address: 7 Wallace Court Ward: 02 Applicant: Brian Heneghan
Article(s): 62(62-25: Roof Structure Restriction)
Purpose: New gut renovation of residence. New electrical, plumbing, HVAC, and sprinkler. Exterior renovations include new siding and deck. New insulation and wallboard. New bathrooms and kitchen. Build new interior stairs and finish trim.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to add dormers for headroom for a new bathroom and add a new deck.

Board members asked about additional square footage, if there is a proposed deck, and whether the dwelling was a one or two family structure.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Edwards are in support.

Documents/Exhibits: Building Plans, Letters of Opposition.

Votes: Board Member Erlich moved for approval subject to BPDA design review for stairs and dormers and Kindell seconded and the Board voted unanimously to approve.



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Case: BOA-107122 Address: 1 Financial Center Ward: 3 Applicant: Brittany Walsh

Article(s): 40(40-12: Use: Conditional)

Purpose: Change of occupancy from restaurant to restaurant with take out. No work to be done.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to change occupancy from restaurant to restaurant with take out.

Board members asked about the proposed use of the space and the name of the restaurant.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services is in support. City Councilor Flynn is in opposition because of a lack of engagement with the community process.

Documents/Exhibits: Building Plans, Letter of Support.

Votes: Board Member Erlich moved for approval subject with the proviso that the Applicant contact Councilor Flynn's office for community process and a one year sunset proviso and Ruggiero seconded and the Board voted unanimously to approve.

Case: BOA-103870 Address: 81 Warren Ave Ward: 4 Applicant: Eben Kunz

Article(s): 64(64-9.4) 9th 780 CMR (1011: Town House/Row House Extension, Stairways)

Purpose: Amendment to ALT983435. Cost of work reflected on original permit. Install roof deck with access hatch. Install bracketed rear deck.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to build a roof deck with hatch access below railings of roof deck.

Board members asked about the size of the deck and the Landmarks Commission process.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Flynn are in support.

Documents/Exhibits: Building Plans.

Votes: Board Member Erlich moved for approval for zoning code relief and Kindell seconded and the Board voted unanimously to approve.



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Case: BOA-1038708 Address: 81 Warren Avenue Ward: 4 Applicant: Eben Kunz
Section: 9th 780 CMR 1011 Stairways. 1011.12.2 Roof access. Where a stairway is provided to a roof, access to the roof shall be provided through a penthouse complying with Section 1510.2.
Purpose: Amendment to ALT983435. Cost of work reflected on original permit. Install roof deck with access hatch. Install bracketed rear deck.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to build a roof deck with hatch access below railings of roof deck.

Board members asked about the size of the deck and the Landmarks Commission process.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Flynn are in support.

Documents/Exhibits: Building Plans.

Votes: Board Member Erlich moved for approval for building code relief and Fortune seconded and the Board voted unanimously to approve.

Case: BOA- 104325 Address: W 190 Brookline St Ward: 4 Applicant: Stephen Relly Sir Archit
Article(s): 64(64-9) 64(64-34) 9th 780 CMR (1011: Dimensional Regulations, Roof Structure Restrictions, Stairways)

Purpose: Replacement of existing roof deck with a new roof deck to match existing.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to replace existing roof deck with hatch access as opposed to head house.

Board members asked if a fire pit was being proposed and if it had been approved by the Landmarks Commission.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Flynn are in support.

Documents/Exhibits: Building Plans.

Votes: Board Member Erlich moved for approval of zoning code relief and Kindell seconded and the Board voted unanimously to approve.



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Case: BOA-1043252 Address: 190 West Brookline Street Ward: 4 Applicant: Reilly SLR Architecture Section: 9th 780 CMR 1011 Stairways. 1011.12.2 Roof access. Where a stairway is provided to a roof, access to the roof shall be provided through a penthouse complying with Section 1510.2. Exception: In buildings without an occupied roof, access to the roof shall be permitted to be a roof hatch or trap door not less than 16 square feet (1.5 m²) in area and having a minimum dimension of 2 feet (610mm). Section: 9th 780CMR 101 Referenced Codes. 2015 IFC 307.4 Location. The location for open burning shall not be less than 50 feet (15 240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15 240 mm) of any structure Fire Pit is prohibited from Roof Deck space. Purpose: Replacement of existing Roof Deck with a new Roof Deck to match existing

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to replace existing roof deck with hatch access as opposed to head house.

Board members asked if a fire pit was being proposed and if it had been approved by the Landmarks Commission.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor Flynn are in support.

Documents/Exhibits: Building Plans.

Votes: Board Member Erlich moved for approval of building code relief for hatch access to the roof deck and no relief for fire pit and Fortune seconded and the Board voted unanimously to approve.

Case: BOA92849 Address: 190 Calumet Street Ward: 10 Applicant: Timothy Burke Article(s): 59(59-8: Floor Area Ratio Excessive) Purpose: Extend living space for Unit 1 into a portion of the Basement. Work requires ZBA approval for floor at area ratio.

Discussion: At the applicant's request, this matter was deferred to the September 29, 2020 hearing.

Case: BOA-104196 Address: 135 Carolina Avenue Ward: 11 Applicant: Cameron Merrill Article(s): 14(14-1) 14(14-4) 14(14-3) 15(15-1) 18(18-1) 19(19-1: Lot Size Insufficient, Lot Frontage Insufficient, Lot Width Insufficient, Floor Area Ratio Excessive, Front Yard Insufficient, Side Yard Insufficient) Purpose: Erect rear addition to existing 2 family house.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to expand living room and kitchen on 1st floor.

Board members asked about the size of the addition, any proposed basement work, and whether the dwelling is one or two family.



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Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor O'Malley are in support.

Documents/Exhibits: Building Plans, Letters of Support.

Votes: Board Member Erlich moved for approval subject to BPDA design review and Logue seconded and the Board voted unanimously to approve.

Case: BOA-105782 Address: 53 Oldfields Road Ward: 14 Applicant: Prince Kallon
Article(s): 50(50-29) 50(50-29: Floor Area Ratio Excessive, Usable Open Space Insufficient)
Purpose: Change occupancy from two to three family dwelling and extend existing deck in the rear.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to change occupancy from two-family to three-family and extend the rear deck.

Board members asked about the mechanical units locations and access, the basement ceiling height, unit size, size of the deck, and whether the dwelling is one family or two family.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services is in support. Two abutters of the property are also in support.

Documents/Exhibits: Building Plans.

Votes: Board Member Erlich moved for approval and Logue seconded and the Board voted unanimously to approve.

Case: BOA-103921 Address: 12 Denvir Street Ward: 16
Article(s): 15(15-1) 18(18-1) 19(19-1) 53(53-12: Floor Area Ratio Excessive, Front Yard Insufficient, Side Yard Insufficient, Height Excessive)
Purpose: Converting single family to 2 family per architect plans. Add additional electric panel, heating, kitchen, baths, add additional second egress for both units, finish basement.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to change occupancy from one family to two family and finish the basement.

Board members asked about the location of the second unit, basement ceiling height, the number of bedrooms in the basement, the square footage of the basement, and location of utilities.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services is in support.



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Documents/Exhibits: Building Plans.

Votes: Board Member Erlich moved for approval and Kindell seconded and the Board voted unanimously to approve.

Case: BOA-105348 Address: 54 Danforth Street Ward: 19 Applicant: Luiza Santos
Article(s): 55(55-40) 10(10-1) 55(55-9: Off-Street Parking and Loading Requirement, Limitation of Area, Usable Open Space Insufficient)
Purpose: Owner occupied, off-street parking space and new curb cut.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to build off-street parking and curb cut for 1 car.

Board members asked about existing street parking at the property, existing parking space at the property, and the existing curb cut.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and City Councilor O'Malley are in support.

Documents/Exhibits: Building Plans, Letter of Support.

Votes: Board Member Ruggiero moved for approval and Deveau seconded and the Board voted unanimously to approve.

Case: BOA-105807 Address: 4403-4407 Washington Street Ward: 20 Applicant: Yan Chen
Article(s): 6(6-4: Other Protectional Conditions)
Purpose: Remove existing proviso #1 from previous BOA 18390 for previous owner, no work to be done; existing condition. As per property owner's letter allowing the current tenant at 4403 Washington Street, C&L Wok Inc to operate existing restaurant (previously known as Golden House) as the new owners as of 8/16/2019.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to remove proviso on relief to prior owner.

Board members asked about the applicant's takeout restaurant experience, the number of tables, and if there are grates on the front of the building.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and Councilor O'Malley are in support.

Documents/Exhibits: Building Plans.

Votes: Board Member Erlich moved for approval with takeout provisos and Kindell seconded and the Board voted unanimously to approve.



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Case: BOA-105975 Address: W 727 Roxbury Parkway Ward: 20 Applicant: Margaret Clarke
Article(s):50(50-29) 10(10-1: Rear Yard Insufficient, Limitation of Off Street Parking Areas)
Purpose: Owner Occupied. 1st floor one story addition of two bedrooms. One bedroom is 15'x18', the other is 16.3'x8'.

Discussion: At the request of the Board, the applicant presented plans and described the proposed project in detail requesting zoning relief required to build a one story addition on first floor and continue to use an existing parking space.

Board members asked about the curb cut and location of the parking space.

Testimony: The Board then requested testimony from neighbors and elected officials. Mayor's Office of Neighborhood Services and Councilor O'Malley are in support.

Documents/Exhibits: Building Plans, Letters of Support, Letter of Opposition.

Votes: Board Member Erlich moved for approval subject to BPDA design review and Logue seconded and the Board voted unanimously to approve.

Case: BOA-105360 Address: 9 Keswick Street Ward: 21 Applicant: Matthew Calkins
Article(s): 61(61-8: Dimensional Regulations)
Purpose: Owner occupied. Add living space in basement, no occupancy change. Extension of living space only. 2.19.20 Modified to include rear deck.

Discussion: As a result of the applicant's failure to appear at the hearing, the Board moved to dismiss without prejudice.

Votes: Board Member Erlich moved for a dismissal without prejudice and Logue seconded and the Board voted unanimously to dismiss without prejudice.

Case: BOA101291 Address: 46 Bellamy Street Ward: 22 Applicant: E Geoghegan
Article(s): 51(51-9) 51(51-9) 51(51-57.13) 51(51-9) 51(51-9) 51(51-9) 51(51-9): Front Yard Insufficient, Side Yard Insufficient, Two or More Dwellings on Same Lot, Floor Area Ratio Excessive, Side Yard Insufficient, Rear Yard Insufficient)
Purpose: Add attached 2 car garage with storage, add new front deck, and add covered and open rear deck. Change occupancy to include 2 car garage.

Discussion: The applicant requested to withdraw the appeal for zoning relief.

Votes: Secretary Fortune moved for a denial without prejudice and Ruggiero seconded and the Board voted unanimously to dismiss without prejudice.



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CALL OF THE CHAIR/INTERPRETATION: 12:00 PM

Case: BOA-1020647 Address: 54 River Street Ward: 17 Applicant: Paul Clarke

Votes: Board Member Erlich moved that ISD did not err in issuing the permit and Fortune seconded and the Board voted unanimously to deny applicant's request.

BOARD MEMBERS:

**CHRISTINE ARAUJO- CHAIR
MARK FORTUNE- SECRETARY
MARK ERLICH
JOSEPH RUGGIERO
TYRONE KINDELL, JR.
KERRY WALSH LOGUE
EDWARD DEVEAU**

For the complete text of the Boston Zoning Code Articles and definitions of terms in this agenda, please go to https://ww.w.municode.com/library/ma/boston/codes/redevelopment_authority.

For a video recording of the July 7, 2020 Board of Appeal Hearing please go to:
https://www.cityofboston.gov/cable/video_library.asp.