

MEMORANDUM

TO: Sherry Dong
Chairwoman, City of Boston Board of Appeal

FROM: Joanne Marques
Planning Department

Jj
DATE: January 12, 2024

RE: BPDA Recommendations

Please find attached, for your information, BPDA recommendations for the January 18, 2024 Board of Appeal's Sub Committee Hearing scheduled for 5:00pm.

If you have any questions please feel free to contact me.



Case	BOA1529769
ZBA Hearing Date	2024-01-18
Address	1301 to 1305 Boylston ST Boston 02215
Parcel ID	0504317000
Zoning District & Subdistrict	Fenway Neighborhood North Boylston NS-3
Zoning Article	Article 6, Article 7
Project Description	Application to extend the existing and long-standing zoning relief for the property's parking use.
Relief Type	Variance, Conditional Use
Violations	Additional Conditions in Restricted Parking District; Other Protectional Conditions (Conditional Use); Conditions for Variance; Other Protectional Conditions (Variance)

Planning Context:

The proposed project sits in a Neighborhood Shopping Subdistrict along Boylston Street in the West Fenway, one of the neighborhood's preeminent mixed-use corridors. The site, which is one of the few under-developed parcels in the rapidly evolving West Fenway area, is currently occupied by a restaurant space and surface parking (serving both the restaurant and other surrounding commercial and entertainment uses), including public parking.

The proposed project seeks zoning relief to extend the allowance of the site's existing and long-standing parking uses. This request comes at the sunset of the project's most recent 3-year extension, approved by the ZBA in March, 2021. A similar 3 year extension of the previously granted relief - to expire in December, 2026 - is being requested now.

While the BPDA would not support the creation of a new surface parking lot within this area of the Fenway, it does recognize: (1) that the site's parking uses are already existing and operating; (2) that accessory and ancillary parking uses are commonly found across the multiple site's in the surrounding geography; and (3) that the Fenway is a both a local and regional destination which requires parking to support the area's extensive range of high-traffic



commercial and entertainment uses and events. Because of this, the BPDA sees the continued operation of the site's existing parking uses as contextual to the site.

It's important to note that the proposed project also lies within the study area of the BPDA's ongoing Fenway Transportation Action Plan (FTAP). While the FTAP has only recently commenced, the Boylston Street corridor, on which the site resides, is one of the FTAP's focus areas highlighted for further analysis. The Plan is currently on track to be completed in late 2025, and will provide more clear transportation recommendations for the area and, indirectly, the project site in question. These recommendations should be taken into account in the review of any future proposal to extend the site's relief, upon its next expiration in 2026, for its existing parking uses.

The project previously underwent BPDA Design Review in 2021. That process focused on implementing then up-to-date design guidelines for the site's parking (mostly revolving around screening and buffering). BPDA Transportation staff have recommended further design review occur as a part of this project iteration, focusing on issues relating to curb cut dimensions, the demarcation of one-way entrance and egress points, and the potential inclusion of bicycle-parking posts/racks.

Zoning Analysis:

The proposed project seeks zoning relief to continue the operation of the site's existing parking lot and ancillary parking uses.

According to the regulations of Article 66 (Fenway Neighborhood District), parking lot uses are forbidden for the site, while ancillary parking is a conditional use for the site. Additionally, the site sits within a Restricted Parking Overlay District (subject to Article 3 of the Code), which categorized all non-residential off-street parking facilities as conditional uses. Because of this, the proposed project must comply with the approval conditions of both Article 6 (Conditional Uses) and Article 7 (Variances).



The proposed project's parking complies with these conditions by:

- (1) fulfilling a neighborhood traffic/parking demand not adequately provided for by existing public transportation modes (especially for adjacent regional destinations and special event spaces);
- (2) serving uses (accessory and ancillary), which, by their nature, do not contribute significantly to traffic flows during typical peak traffic periods (morning and evening rush hour);
- (3) residing in a location with special conditions; on a lot along a major thoroughfare that provides direct access to several major highways and regional destinations, and which is outside of the neighborhood's core residential areas; and
- (4) maintaining harmony with the neighborhood's existing context and ensuring the site's immediate and continued use.

A proviso for BPDA Design Review has been added to this recommendation to resolve issues and implement necessary conditional protections relating to the site's parking design.

Recommendation:

In reference to BOA1529769, The Boston Planning & Development Agency recommends APPROVAL WITH PROVISOR/S: that plans shall be submitted to the Agency for design review with attention to curb cut dimensions, and to include one-way entrance/egress demarcation and bicycle-parking.

Reviewed,

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Director of Planning, BPDA



Case	BOA1519941
ZBA Hearing Date	2024-01-18
Address	506 E Third St, South Boston 02127
Parcel ID	0603309000
Zoning District & Subdistrict	South Boston Neighborhood MFR
Zoning Article	Article 68 Section 29 and Section 8
Project Description	Add a third story to an existing two-story single-family home.
Relief Type	Variance
Violations	Roof Structure Restrictions Height Excessive (ft) Side Yard Insufficient Rear Yard Insufficient

Planning Context:

This project proposes a one-story addition to a two-story single-family home. The project's density is consistent with the existing context. The building shares a party wall with a three-story home on the abutting parcel, and the area is predominantly triple-decker residential buildings. The proposed addition would not exceed the height of the neighboring three-story buildings.

Zoning Analysis:

Article 68 MFR requires a minimum side yard of 3' and a minimum rear yard of 20'. Similar to many buildings in the area, the existing building has a non-conforming side yard because it shares a party wall with the neighboring building. The existing rear yard is not sufficient, but it is similar in size to surrounding lots with three-story buildings. The proposed project is limited to a vertical addition and does not exacerbate the non-comforming conditions by further intruding on the side or rear yards.

Article 68 MFR maximum building height is 40 feet, but Section 68-29 Roof Structure Restrictions sets the allowed building height for the parcel as the height of the existing building (25' 10.5"). This height does not reflect the existing built environment along Third Street. The proposed height of 33.5' is within the 40' MFR building height maximum and is more consistent with the height of neighboring buildings. The addition does not have the potential to significantly restrict light or airflow to adjacent structures or restrict views from roofs, windows, doors, or



balconies. This is a case for zoning reform to better reflect existing conditions and enable additions that retain existing structures.

Recommendation:

In reference to BOA1519941, The Boston Planning & Development Agency recommends APPROVAL.

Reviewed,

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Director of Planning, BPDA



Case	BOA1501014
ZBA Hearing Date	2024-01-18
Address	3141 Washington ST Jamaica Plain 02130
Parcel ID	1101330008
Zoning District & Subdistrict	Jamaica Plain Neighborhood LC
Zoning Article	55
Project Description	New owner requesting continuation of use permit for takeout restaurant
Relief Type	Variance (Remove Proviso)
Violations	Art. 06 Sec. 04: Other Conditions Necessary as Protection

Planning Context:

The proposed project is a change of ownership for a takeout restaurant requiring a new conditional use permit, as the previous permit was issued with a proviso for the specific property owner. The property is located in a Local Convenience subdistrict alongside several other local businesses including takeout restaurants and convenience grocery markets.

In 2007 conditional use as a takeout restaurant was approved. In 2009, new owners applied for a removal of the proviso for the takeout restaurant and were also subsequently approved. The proponent is not proposing changes to the property; a change of ownership triggered the need for Board of Appeal.

PLAN: JP/Rox further supports the transfer of use for this property through the intention to preserve and revitalize small independent businesses. The composition of existing businesses within the Jamaica Plain and Roxbury neighborhoods, albeit diverse, was composed of 7% takeout/fast-food establishments at the time of PLAN publication. Limiting the use of the property based on the owner negatively impacts the ability of these restaurants to undergo tenant changes over time.

Zoning Analysis:

This property is located within the Jamaica Plain neighborhood district, in a Local Convenience subdistrict under Article 55. Within this subdistrict, small takeout restaurants are listed as a Forbidden Use. The history of appeals at this address signify that the site has been used for

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takeout restaurants since 2007. The pertinent violation (Article 06 Section 04) references a protective condition that the proviso for use as a takeout restaurant was tied to the ownership of the restaurant. Given the continuation of the same use for the property without additional modifications, the proponent should receive the same relief for the violation at the property.

This appeal presents a case for future zoning reform, as uses should not be tied to the owner of a property. Reform to allow a wider range of businesses, including takeout, should make it easier to re-tenant appropriate spaces, and not limit zoning relief to individual businesses.

Recommendation:

In reference to BOA1501014, The Boston Planning & Development Agency recommends APPROVAL.

Reviewed,

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Director of Planning, BPDA



Case	BOA1527160
ZBA Hearing Date	2024-01-18
Address	188 to 190 Fuller ST Dorchester 02124
Parcel ID	1702962000
Zoning District & Subdistrict	Dorchester Neighborhood 2F-5000
Zoning Article	Article 65
Project Description	Renovating a 2-family dwelling to convert the attic to additional living space for the 2nd floor unit by demolishing and replacing the existing roof.
Relief Type	Variance
Violations	FAR Excessive Applicability of Small Project Review

Planning Context:

The project proposes to demolish the existing roof and convert the attic into an additional living space for the second floor unit that would include two bedrooms, a family room, and a bathroom. This project is located on 188-190 Fuller Street in Dorchester which is currently zoned for 2F-5000. There are also no zoning overlays on this site. It is consistent with the other dwellings on the street which is a mix of single-family and two-family dwellings. The current roof is a pitched roof with one elevated window and a chimney. The proposed change would maintain the pitched roof but incorporate two front facing hip roofs with windows with a pitch roof that has four windows along the side wall. The project plans to use the same siding as the existing siding of the roof.

The proposed project would help further the goals set forth in Housing a Changing City, Boston 2030 (September 2018) which is to improve the functionality and preserve the existing housing units. By adding additional living space, it will help enhance the existing housing unit while preserving the unit in the neighborhood.

Zoning Analysis:

Within the violations stated, the existing FAR for the existing dwelling was already non-conforming with the zoning requirements of the area as set forth in Article 65. The maximum



FAR allowed in Article 65 is 0.5. While the current FAR sits at 0.52, with the addition of the living space in the renovated 3rd floor, the FAR will increase to 0.62. However, while the FAR has increased, there are no violations with the other zoning requirements in Article 65 and neither the massing or use of the structure will change. While the roof will be undergoing renovations, the height of the structure will remain within the maximum allotted 35 feet as set in Article 65.

The project's refusal letter identifies a violation of Article 80, Section 80E-2 as a "Small Project Review". The comments noted that "Design Review and Design Guidelines required by Boston Planning & Development Agency per Article 65, Section 37." In order for a project to be subject to a Small Project Review under Article 65, Section 37, the project must be located in a Local Industrial Subdistrict or in a Neighborhood Business Subdistrict. However, this project is located in a Two-Family Residential Subdistrict so it would not trigger a Small Project Review based on Article 65. Under Article 80, Section 80E-2, a Small Project Review Design Component is triggered in a neighborhood if it is a project that either adds gross floor area, adds dwelling units, is an exterior alteration in a Neighborhood Design Overlay District, required by underlying zoning, or required by the Board of Appeal. This project is not adding gross floor area or adding any additional dwelling units. While this is an exterior alteration, there is no Neighborhood Design Overlay District applied to this site. This project also does not trigger design review as stated in Article 65 so there are no issues with the underlying zoning. This project has also not previously been deferred so there are also no issues with the Board of Appeal at this time. More information is necessary to determine if a design review based on the zoning requirements would be necessary.

While a design review based on zoning will require more information, a BPDA design review is recommended to help ensure that the exterior changes align with the structures on the street.

The plans reviewed are titled 188-189 Fuller Street and are dated 6/1/2023. They were prepared by Alfonso Sira of Sol and Associates Inc. Architecture and Design.

Recommendation:

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In reference to BOA1527160, The Boston Planning & Development Agency recommends APPROVAL WITH PROVISIO/S: that plans shall be submitted to the Agency for design review.

Reviewed,

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Director of Planning, BPDA



Case	BOA1498625
ZBA Hearing Date	2024-01-18
Address	4 to 6 Milton Avenue, Dorchester MA 02124
Parcel ID	1701602000
Zoning District & Subdistrict	Greater Mattapan Neighborhood 3 Family Residential (3F-5000) Local Convenience (LC) Local Industrial (LI)
Zoning Article	60
Project Description	Owner seeks to add 6 spaces for used car sales in an empty area of car repair business. Entrance is through the garage
Relief Type	Conditional Use
Violations	Use: Conditional (used car sales)

Planning Context:

The proposed project is located in the Greater Mattapan Neighborhood District, within the 3F-5000, LC, and LI subdistricts. The proposed alterations are interior only– 6 parking spaces to be painted on for the purpose of selling used cars in an empty space on the premises, with an entrance through the garage. The immediate abutting lot to the east is residential, and the lot to the southwest of the parcel is empty. This parcel is part of a larger cluster of small businesses and institutions located less than a block away along Norfolk Street, including a church, a Jamaican restaurant, and a hair salon. The site is about 6 blocks away from the Talbot Avenue T stop on the Fairmount Line.

Given the parcel’s proximity to the Talbot Avenue T stop, the Fairmount Indigo Planning Initiative Corridor Plan should also be considered (September 2014). Recommendations from the study include supporting a variety of small businesses and championing wealth creation opportunities within the neighborhood.

Zoning Analysis:

Section 6-3 lays out the requirements for a conditional use approval, and the proposed project meets these standards. The slight change in use is not substantial (from a repair shop to a repair shop that sells up to six used cars at a time) and is appropriate for the location. There are



no serious adverse effects, no serious added hazards to drivers or pedestrians, no apparent nuisance, and a parcel this size in this district does not require off-street loading.

The last standard to meet for a conditional use approval is the “adequate facilities” provision. While the proposed project would require the addition of .5 off street-parking spaces (separate from the existing space inside the business that will be used to store the used cars), this is a minor deviation from the code and represents a case for zoning reform. The additional off-street parking space is not necessary for this project.

Recommendation:

In reference to BOA1498625, The Boston Planning & Development Agency recommends APPROVAL.

Reviewed,

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Director of Planning, BPDA



Case	BOA1521693
ZBA Hearing Date	2024-01-18
Address	83 Deforest St Hyde Park 02136
Parcel ID	1808593000
Zoning District & Subdistrict	Hyde Park Neighborhood 1F-6000
Zoning Article	Art. 9, Art. 69
Project Description	Upper story and rear additions to convert an existing 1-story building to a 2.5-story building with a new rear deck, new front porch, and new attic.
Relief Type	Variance, Conditional Use
Violations	FAR Excessive Front Yard Insufficient Side Yard Insufficient Extension of Nonconforming Uses and Reconstruction and Extension of Nonconforming Buildings

Planning Context:

This project will make additions to an existing 1-story, 1-family residential dwelling to convert it to a 2.5-story building with a new rear deck, new front porch, and new attic. The project will bring the whole building to 2.5 stories by making a 1.5-story addition above the existing building and a 2.5-story addition to the rear of the existing building in the eastern section of the lot. This project will not change the existing 1-family residential use. An existing small mudroom that extends into the northern side yard will be removed as part of the project. The basement has an existing small broadcasting studio, small audio studio, and laundry utilities. The new addition will add storage space to the basement in the rear. The proposed new attic will be used for storage only.

The surrounding context on Deforest Street is made up of mostly 1-story and 1.5-story buildings. There are some 2-story or higher buildings further north and south on Deforest Street from this property as well. The proposed upper and rear additions make use of available land in the rear yard to increase the living area and number of bedrooms on this property, which aligns with City goals to expand housing diversity that meets growing and changing living arrangements, particularly for larger households, as detailed in Housing a Changing City, Boston 2030 (September 2018).



Zoning Analysis:

This property is located within the 1F-6000 (One-Family Residential) subdistrict of the Hyde Park Neighborhood District (Art. 69). This property has existing dimensional insufficiencies in the front yard and side yard (Art. 69 – Sec. 9). In the 1F-6000 subdistrict, the front yard minimum is 25 feet and the side yard minimum is 10 feet. The property has a 20-foot front yard and about 8-foot side yards. The front yard will not be changed and the northern side yard will be increased but will still be insufficient with the removal of the existing mud room. The rear yard addition will extend this side yard non-conformity by extending the building along both side yards with the same non-conforming depths (below 10 feet).

This extension of those existing non-conformities triggered the “Extension of Nonconforming Uses and Reconstruction and Extension of Nonconforming Buildings” violation on this project (Art. 9 – Sec. 1). The non-conforming front and side yard conditions are a common trait among buildings in the surrounding area, signifying a case for zoning reform in this section of the 1F-6000 subdistrict in that these dimensional requirements should be amended to better align with existing building and parcel dimensions and to reduce the number of existing buildings in this area that are designated as non-conforming.

The maximum FAR for the 1F-6000 subdistrict is 0.5 and this project triggers an excessive FAR violation (Art. 69 – Sec. 9). While the proposed new attic can be excluded from the Gross Floor Area calculation due to the attic being “used for storage or laundry facilities in areas not used or designed to be used for human occupancy” (Art. 2 – Definitions), the resulting FAR is still about 0.6 and exceeds the maximum. It is not common for buildings in this section of the 1F-6000 subdistrict to exceed the 0.5 FAR minimum. However, due to this proposed project not triggering rear yard or height violations as well as the front and side yard depths being common non-conformities within this area, this project’s proposed scale seems appropriate in its use of available and allowable heights within this parcel.

Site plans completed by CCR Associates on April 22, 2011. Project plans completed by Aesthetic Images: Architects & Planners on January 28, 2023.

Recommendation:

In reference to BOA1521693, The Boston Planning & Development Agency recommends APPROVAL.



Reviewed,

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Director of Planning, BPDA



Case	BOA1498471
ZBA Hearing Date	2024-01-18
Address	92 Windham Rd Hyde Park 02136
Parcel ID	1808381000
Zoning District & Subdistrict	Hyde Park Neighborhood 1F-6000
Zoning Article	Art. 69
Project Description	Addition to an existing four-season room on the right side of the house.
Relief Type	Variance
Violations	Rear Yard Insufficient

Planning Context:

This project will make a side yard addition to an existing four-season room on the southern side of the building, increasing its size to 8' x 16'. The rear of the proposed four-season room addition will extend eastward to align with the existing rear wall of the building.

The shape of most lots along Windham Road are defined by 90-foot long side yard lot lines and 57-foot long front and rear yard lot lines. The lot that this property sits on is unique because it has comparatively smaller side yard lot lines of about 63 feet and 78 feet in length. It also has front and rear yard lot lines of about 73 feet in length, making the lot much more square-like compared to the longer, rectangular lots in the area. This lot condition is likely due to the lot of 92 Windham Road being just three lots north of the Y-shaped intersection of Windham Road and Sherrin Road, thus producing a shorter lot than lots further north where the land widens and allows for larger lot depths.

Zoning Analysis:

This property is located within the 1F-6000 (One-Family Residential) subdistrict of the Hyde Park Neighborhood District (Art. 69). The 1F-6000 subdistrict requires a rear yard depth of 40 feet and this property has an existing rear yard non-conformity with a rear yard that varies between about 23 feet and 31.5 feet depending on the relative location of the building to the rear lot line. This rear yard non-conformity would be extended by the four-season room addition because the room would align with the existing rear wall of the building on the southern side for a rear yard at about 23 feet. Due to the shallow lot of this property (as outlined in the Planning



Context), this property has particular site conditions that produce this existing dimensional violation, thus producing an existing hardship. This proposed project would be affected by this hardship by extending a rear yard non-conformity that originally resulted from these site conditions.

Site plans completed by Marc Besio & Associates. on May 18, 2023.

Recommendation:

In reference to BOA1498471, The Boston Planning & Development Agency recommends APPROVAL.

Reviewed,

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Director of Planning, BPDA



Case	BOA1515093
ZBA Hearing Date	2024-01-18
Address	14 Tarleton RD West Roxbury 02132
Parcel ID	2008762000
Zoning District & Subdistrict	West Roxbury Neighborhood 1F-6000
Zoning Article	Article 56
Project Description	Full renovation of kitchen, bathroom and dining room. Relocation of front entrance. Relocation of other point of egress. Relocation of stairs. New second floor construction: roof with front and rear dormer. New siding. Addition to kitchen.
Relief Type	Variance
Violations	Side Yard Insufficient Front Yard Insufficient

Planning Context:

The project proposes a comprehensive interior and exterior renovation to an existing single-family home, in order to add more living space, add accessible egress points to the front and rear (including a ramp), and make exterior renovations to the home. Adding more living space and making necessary repairs to existing dwellings is in keeping with planning goals of preserving housing stock and increasing accessibility for families to grow or age in place, as detailed in Housing a Changing City, Boston 2030 (September 2018).

Zoning Analysis:

The project has been cited for front and side yard zoning violations. Currently, the existing dwelling has a front yard setback of 9.7' and a west side yard setback of 7.9'. The zoning code requires a front yard minimum setback of 20' and a side yard minimum setback of 10' on each side. The proposed scope of the project will further exacerbate the nonconforming front yard setback to 5.7', due to the proposed inclusion of a front deck and stairs in order to relocate the front entrance. The dimension of the nonconforming west side yard setback (7.9') will remain unchanged, but it will be extended further back due to the proposed rear addition.



However, even with these extended or exacerbated nonconformities, the proposed changes will not create a project that is out of character for the surrounding neighborhood. Although zoning requires a 20' front yard, very few to none of the homes along Tarleton Road would meet this minimum requirement. The nonconforming side yard setback is also in keeping with the side yard dimensions of neighboring houses, and although the proposed scope will extend it further towards the rear, the impacts of this are offset by the generous rear yard dimension of 73'. It should also be noted that the existing dwelling (which, as described, has pre-existing side and front yard nonconformities), was built in 1940, predating the zoning code itself -- and therefore not accurately reflected in the neighborhood's zoning. This project is an example of a case for zoning reform, in order to update zoning dimensions to better match existing built conditions of Boston's neighborhoods.

The plans referenced in review are titled "Proposed Addition for Coleman Residence" and were prepared by Fino Design Group Architects. They are dated 06/01/23.

Recommendation:

In reference to BOA1515093, The Boston Planning & Development Agency recommends APPROVAL.

Reviewed,

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Director of Planning, BPDA