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APPEAL
under Boston Zoning Code

Boston, Massachusetts May 12, 2017

To the Board of Appeal in the Inspection Services Department of the City of Boston:

The undersigned, being: Bluestone Tremont LLC, Trustee

The Owner(s) or authorized agent

of the lot at 1575 Tremont Street.....10.....Mission Hill Neighborhood.....
number street ward district

hereby appeal(s) under St. 1956, c. 665, s. 8, to the Board of Appeal in the Inspectional Services Department of the City of Boston the action taken by Inspectional Services Commissioner as outlined in the attached refusal letter.

DESCRIBE IN DETAIL THE REASON(S) FOR THIS APPEAL

Article 9, Section 02 - Non-Conforming Use Change
Article 59, Section 59-37 - Off-street parking is insufficient.

STATE REASONS FOR THIS PROPOSAL

This appeal for 1575 Tremont Street is filed with the Board of Appeal ("Board") to seek the issuance of: Variance, Conditional Use Permit and approvals in accordance with the provisions of Article 6, Sections 6-2, 6-3 and 6-4, and Article 7, Section 7-3 of the Boston Zoning Code ("Code") in order to allow as set forth in Application no. ALT. 682602, the subdivision of the property into: Lot 1 (1575 Tremont Street) with a lot area of 50,720 SF, and Lot 2 to become 95 St. Alphonsus Street with a lot area of 37,734 SF, all as shown on the "Proposed Subdivision Plan, prepared by R.E. Cameron & Associates, Inc., Land Surveyors, Civil Engineers, dated Nov. 9, 2016, scale 1" = 20' (Subdivision Plan) in the Mission Hill Neighborhood District of Boston ("Proposed Project"). The Appellant has set forth on Exhibit A, the basis and reasons for the issuance of the requested relief by the Board in connection with the Proposed Project.

(See Exhibit A attached hereto)

PROVIDE REASONS WHY BOARD SHOULD GRANT RELIEF

COMMENTS

For these and other reasons to be addressed in greater detail at the public hearing before the Board, the appellant respectfully requests allowance of this appeal.

OWNER	Bluestone Tremont LLC, Trustee
AUTHORIZED AGENT	<i>James H. Greene</i> James H. Greene, Esq.
ADDRESS	50 Rows Wharf Boston, MA 02110
TELEPHONE	617-330-7000
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**Boston Inspectional Services Department
Planning and Zoning Division**

1010 Massachusetts Avenue Boston, MA 02118 Telephone: (617) 635-5300

Martin J. Walsh
Mayor

ZONING CODE REFUSAL

Sean Lydon
Inspector of Buildings

JAMES GREENE
50 ROWES WHARF
BOSTON, MA 02110


May 11, 2017

Location: 1575 TREMONT ST MISSION HILL, MA 02120
Ward: 10
Zoning District: Mission Hill Neighborhood
Zoning Subdistrict: MFR-3
Appl. # : ALT682602
Date Filed: March 10, 2017
Purpose: Subdivide existing lot at 1575 Tremont Street, containing 88,454 SF into 2 lots: 1575 Tremont Street with a lot area of 50,720 SF (Lot 1); and remaining area to become 95 St. Alphonsus Street (Lot 2) with a lot area of 37,734 SF, all as shown on the "Subdivision Plan", prepared by R.E. Cameron & Associates, Inc., dated Nov. 9, 2016, scale 1" = 20' (Subdivision Plan). No work to be done on this application- subdivision only. (Further Subject to Article 80 approval of ERT682958)
*Razing of any structures on lot to be performed on separate demolition permit.

YOUR APPLICATION REQUIRES RELIEF FROM THE BOARD OF APPEAL AS SAME WOULD BE IN VIOLATION OF THE BOSTON ZONING CODE TO WIT: CHAPTER 665, ACTS OF 1956 AS AMENDED:

<u>Violation</u>	<u>Violation Description</u>	<u>Violation Comments</u>
Art. 09 Sec. 02	Nonconforming Use Change	
Art. 59, Section 37 **	Off-Street Parking Insufficient	Insufficient parking for existing 147 units
Notes		This application has been filed in conjunction with ERT682958 which is further subject to Art 80 approval. Any proposed ancillary parking is to be filed on a separate permit

THIS DECISION MAY BE APPEALED TO THE BOARD OF APPEAL WITHIN FORTY-FIVE (45) DAYS PURSUANT TO CHAPTER 665 OF THE ACTS OF 1956, AS AMENDED. APPLICATIONS NOT APPEALED WITHIN THAT TIME PERIOD WILL BE DEEMED ABANDONED. IF YOU HAVE INQUIRIES REGARDING THE NEIGHBORHOOD PROCESS AND PUBLIC PARTICIPATION, PLEASE CONTACT THE MAYOR'S OFFICE OF NEIGHBORHOOD SERVICES AT 617-635-3485.



Francesco D'Amato

for the Commissioner

Refusal of a permit may be appealed to the Board of Appeal within 45 days. Chapter 802, Acts of 1972, and Chapter 656, Acts of 1956, Section 19.

BLUESTONE TREMONT LLC, TRUSTEE OF 1575 TREMONT REALTY TRUST
c/o The Wingate Companies, LLC
100 Wells Avenue
Newton, MA 02459
Telephone (617) 558-4000 Facsimile (617) 558-0119

MAP
April 12, 2017

Matthew Fitzgerald, Esq.
Board of Appeal
1010 Massachusetts Avenue
Boston, MA 02118

Re: 1575 Tremont Street, Ward 10
Bluestone Tremont LLC, trustee of 1575 Tremont Realty Trust
ISD Application No. ALT 682602, March 10, 2017

Dear Mr. Fitzgerald:

Please be advised that James H. Greene of the law firm of Rubin and Rudman is hereby authorized to file on behalf of the above captioned appellant an appeal with the Board of Appeal of the City of Boston seeking relief from the denial issued by the Boston Inspectional Services Department ("ISD") as set forth in the ISD "turn-down letter" dated ~~April~~ May 11, 2017 attached to the appeal in connection with the above-referenced building permit application.

Very truly yours,
The Wingate Companies, LLC for Bluestone
Tremont LLC, trustee of 1575 Tremont Realty
Trust

By: *M. Cope*
Michael A. Cope, Vice President

cc: James H. Greene, Esq.

**EXHIBIT A to Appeal for 1575 Tremont Street
ISD Permit No. ALT 682602**

This Appeal is filed on behalf of Bluestone Tremont LLC, Trustee of 1575 Tremont Realty Trust (“Appellant”) the owner of the property at 1575 Tremont Street, Ward 10, Mission Hill, a 147 unit, 14 story rental apartment building, known as The Longwood, with a 175 space parking garage and 21 surface parking spaces, situated on a site of approximately 88,454 square feet of land area (“Site”). The Appellant proposes to subdivide the Site to establish a separate lot at 95 St. Alphonsus Street and to cause the development thereon of a new 115 unit mid-rise rental residential building, Longwood II Residences. 95 St. Alphonsus Street is now the site of the 175 space garage, which will be demolished. The Appellant has been working with the BPDA in the planning and the Article 80 permitting of the Longwood II Residences and has filed a Letter of Intent (“LOI”) under Article 80 of the Boston Zoning Code (“Code”). A separate ERT application has been filed for Longwood II Residences with ISD for 95 St. Alphonsus Street (ERT 682958). the Appellant intends to cause the submittal of an application for both The Longwood and Longwood II Residences to HUD for financing, which will require the subdivision of the Site into 2 lots.

Therefore, the Appellant has caused to be filed Application no. ALT. 682602 to subdivide the Site into: Lot 1 (1575 Tremont Street) with a lot area of 50,720 SF, and Lot 2 to become 95 St. Alphonsus Street with a lot area of 37,734 SF, all as shown on the “Proposed Subdivision Plan, prepared by R.E. Cameron & Associates, Inc., Land Surveyors, Civil Engineers, dated Nov. 9, 2016, scale 1” = 20’ (Subdivision Plan). Also filed with ISD was a copy of the Existing Conditions Plan, prepared by R.E. Cameron & Associates, Inc., Land Surveyors, Civil Engineers, dated Feb. 16, 2017 scale 1” = 20’ (“Existing Conditions Plan”), and an Open Space Area Calculations Plan, prepared by HDS Architecture, Inc., dated 11/14/16 (“Open Space Area Calculations Plan”).

This Appeal results from the issuance of a letter dated May 11, 2017 (“Turndown Letter”) from the Inspectional Services Department of the City of Boston (“ISD”) denying the Appellant’s request for the subdivision of the Site as requested in Application no. ALT. 682602 filed on March 10, 2017 (“Application no. ALT. 682602”).

The Site is located within the Mission Hill Neighborhood Zoning District, Article 59 of the Code, and specifically, the MFR-3 Subdistrict (multi-family residential subdistrict with a density factor of 3.0). The Site is located outside of both the Restricted Parking District and the Groundwater Conservation Overlay District (“GCOD”). The Site and the occupancy thereof are in compliance with Section 59-6 of the Code, which regulates residential districts, and with Section 59-7 of the Code, which requires compliance with Table A-Uses of Article 59. Table A lists the following project uses as allowed uses: multi-family dwelling and accessory parking are allowed uses. The existing post office use, day care and community center (shelter) uses are long-term existing forbidden and conditional uses and will not be modified or changed.

Therefore, such uses are allowed as continued forbidden and conditional uses under Sections 4-2 and 8-6 of the Code. The continuation of multi-family residential, Post Office, Day care, Community Use, and parking use are all allowed within the MFR-3 subdistrict in accordance with Sections 4-1, 8-6 and 59-7 of the Code.

The Site and the existing building are in compliance with the dimensional requirements of Table E of Article 59 of the Code, as set forth below, except for parking:

<u>Category</u>	<u>Any Dwelling Requirement</u>	<u>The Longwood 1575 Tremont Street-Lot 1</u>	<u>Compliance</u>
Lot Area	None	N/A	N/A
Additional Lot Area	None	N/A	N/A
Lot Width	None	N/A	N/A
Lot Frontage	None	N/A	N/A
FAR	3.0	2.99 (152,158 GSF/50,720SF = 3.0)	Yes
Height	75 feet	14 Stories, 155 feet pre-existing	Pre-existing, no change
Useable Open Space	100 SF/DU: 147 DU = 14,700 SF	27,245 SF (see Open Space Area Calculations Plan)	Yes
Front Yard	15 feet	61.2 feet	Yes
Side Yard	10 feet	40.1 feet & 63.6 feet	Yes
Rear Yard	30 feet	31.9 feet	Yes
Rear Yard Occupancy	25%	None	N/A
Off-Street Parking	1 SP/DU: 147 Spaces	21 Spaces (surface-see Existing Conditions Plan)	Variance
Off-Street Loading Bay	1 loading bay for projects of 15,000 to 49,999 SF	1	Pre-existing, no change

As set forth above, after the subdivision of the Site The Longwood at 1575 Tremont Street will continue to comply with the Code, except for the provision of parking, which will be located within a shared parking facility within Longwood II Residences on the adjoining lot at 95 St. Alphonsus Street. Therefore, it is requested that the Board of Appeal (“Board”) grant relief from the Off-street parking requirements, Section 59-37 of the Code through the approval of a Variance, and a Conditional Use Permit.

The Appellant seeks a Conditional Use Permit pursuant to the provisions of Article 6, Sections 6-2, 6-3, and 6-4 of the Code pursuant to the requirements of Article 9, Section 9-2 of the Code, which allows the Board to grant Zoning Relief for a change in a Non-Conforming Use. To the extent that the subdivision of the lot will result in a diminution of parking use for the project and thus result in a “non-conformity”, the Appellant seeks Board approval of such change. As noted herein, the subdivision of the lot will allow for the development of additional housing on the garage site at 95 St. Alphonsus Street together with accessory parking, which parking will benefit both 1575 Tremont Street and 95 St. Alphonsus Street. To the extent that such parking will be an ancillary and an accessory use to 95 St. Alphonsus Street, the Appellant submits that under Article 80 of the Code, the Boston Planning and Development Agency (“BPDA”) may grant the necessary Zoning Relief for parking as provided under Article 80B.

The approval by the BPDA of the Article 80 Submission for 95 St. Alphonsus Street will also address the number, design, and use of the parking at 95 St. Alphonsus Street and 1575 Tremont Street. The Appellant submits that the reconfiguration of the lots through subdivision and the sharing of parking at the new residential Project at 95 St. Alphonsus Street will not be more objectionable or more detrimental to the neighborhood than the present operation of the garage. With the development of more housing in the neighborhood and the provision of affordable housing in accordance with BPDA requirements, the new shared parking use will be beneficial and meet the conditions under Section 6-3 of the Code with respect to compatibility with the uses in the neighborhood.

It is contemplated that upon the successful completion of the Article 80B Large Project Review process for Longwood II Residences at 95 St. Alphonsus Street, the parking and loading for both buildings (Longwood II Residences and The Longwood) will be addressed by the BPDA, as provided for under Section 59-37 and Tables J & K of Article 59 of the Code, pursuant to the Article 80, Large Project Review process.

The Appellant submits that all of the following applicable conditions are met in this appeal for the granting of the requested variance in accordance with Article 7, Section 7-3, of the Code, as follows:

- (a) 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 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;
- (b) For reasons of practical difficulty and demonstrable and substantial hardship fully described in the findings, the granting of the variances are 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
- (c) The granting of the variances 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.

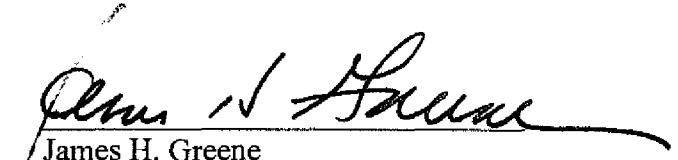
The Appellant requests that the Board take into account: (1) the number of persons residing or working upon such land or in such structure; (2) the character and use of adjoining lots and those in the neighborhood; and (3) traffic conditions in the neighborhood.

The Appellant also submits that all of the following applicable conditions are met by such use and in this appeal for the granting of a Conditional Use Permit in accordance with Article 6, Sections 6-2, 6-3 and 6-4 of the Code, as follows:

- (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;
- (e) adequate and appropriate facilities will be provided for the proper operation of the use;
- (f) the appeal relates neither to a Development Impact Project nor to a Proposed Project in a Greenbelt Protection Overlay District ("GPOD").

For these reasons and others to be submitted to the Board at a hearing on this matter, it is respectfully requested that the Board exercise its equitable powers granted under the Enabling Act and grant such relief in the form of a Variance, Conditional Use Permit, or other Zoning Relief, as necessary, from the off-street parking provisions of the Code, as described herein for the reasons herein set forth and to be presented at a hearing of this matter.

Respectfully submitted
Bluestone Tremont LLC, Trustee of 1575
Tremont Realty Trust
By its attorney:



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