

MEMORANDUM

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

FROM: Emma Hunter
Planning Department

DATE: November 30, 2023

RE: BPDA Recommendations

Please find attached, for your information, BPDA recommendations for the December 7, 2023 Board of Appeal Zoning Hearings scheduled for 5:00pm.

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



Case	BOA1530571
ZBA Hearing Date	2023-12-07
Address	665 Boylston ST Boston 02116
Parcel ID	0501393000
Zoning District & Subdistrict	Boston Proper B-6-90a
Zoning Article	Article 6
Project Description	New restaurant replacing an existing restaurant and requesting take-out allowance.
Relief Type	Conditional Use
Violations	Other Protectional Conditions

Planning Context:

The proponent is a new restaurant owner taking over an existing restaurant space on Boylston Street. The site lies within the Back Bay neighborhood of Boston, a mixed-use area with plentiful restaurants, commercial spaces, and residential buildings. Given the former use of a restaurant with take out and several nearby restaurants that also provide take out service, the requested use is appropriate.

Zoning Analysis:

Pursuant to Article 6 Section 4 (Other Conditions Necessary as Protection), the Zoning Board of Appeal granted the previous owner a conditional use permit for take out with a proviso that "take out use granted to this petitioner only for this use only" (decision on May 20th, 2014 with respect to permit #ALT324710).

The proponent requests the removal of this "petitioner only" proviso in order to extend the conditional use permit on the property from the previous tenant to the current tenant. Since the proponent is seeking a conditional land use that has already received approval on this property, it should receive relief by way of removal of this proviso as it poses no adverse effects to the property and surrounding community pursuant to the conditional use criteria in Article 6. The removal of "petitioner only" provisos and extensions of nonconforming takeout uses is a recommended area for future zoning reform.

Plans reviewed are titled "Sugidama Sushi Izakaya 665 Boylston Street," and prepared by McMahon Architects.

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Recommendation:

In reference to BOA1530571, The Boston Planning & Development Agency recommends APPROVAL .

Reviewed,

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Director of Planning, BPDA



Case	BOA1530576
ZBA Hearing Date	2023-12-07
Address	665 Boylston ST Boston 02116
Parcel ID	0501393000
Zoning District & Subdistrict	Boston Proper B-6-90a
Zoning Article	Article 9, Article 18
Project Description	Increasing outdoor restaurant seating from 13 to 16.
Relief Type	Conditional Use
Violations	Front Yard Insufficient Extension of Non Conforming Use

Planning Context:

The site lies within the Back Bay neighborhood of Boston, a mixed-use area with plentiful restaurants, commercial spaces, and residential buildings. The sidewalk along this section of Boylston Street is 15' wide, and several other restaurants nearby provide outdoor seating. The existing restaurant already has an outdoor seating patio area for 13 seats delineated by a short fence along the property line. As this is a continuation of an existing outdoor dining area along a street with other outdoor dining, this is an appropriate use here.

Zoning Analysis:

The prior occupant of this restaurant space received a permit for outdoor seating for 13 seats, and the new occupant is proposing 16 seats without modifying or extending the patio. Pursuant to Article 9 Section 1, an extension of a nonconforming use may be allowed where the use as extended shall not exceed by more than twenty-five percent in area the building or structure. This proposal adds additional seats, not additional square footage to the outdoor dining patio area. Additionally, the existing front yard setback nonconformity is not worsened by the proposal for 3 additional seats.

Plans reviewed are titled "Sushi Sake Sakana Sugidama", prepared by McMahon Architects, and dated September 7th, 2023.

Recommendation:

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In reference to BOA1530576, The Boston Planning & Development Agency recommends
APPROVAL .

Reviewed,

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Director of Planning, BPDA



Case	BOA1267536
ZBA Hearing Date	2023-12-07
Address	26 Spring Garden ST Dorchester 02125
Parcel ID	1303179000
Zoning District & Subdistrict	Dorchester Neighborhood 2F-5000
Zoning Article	Article 10, Article 65
Project Description	Add curb cut and parking space.
Relief Type	Variance
Violations	Usable Open Space Insufficient Parking design and maneuverability Limitation of Area for accessory use (parking)

Planning Context:

The project is 0.1 miles from the MBTA's JFK/UMass T-stop and 0.3 miles from the Dorchester Avenue bus network. Consequently, this project is a transit-oriented development. Given its proximity to these transit resources and the city-wide goals of reducing dependence on private vehicles, as outlined in Go Boston 2030 (September 2018), the proposed addition of a curb cut and parking space does not support the planning context.

Furthermore, the creation of a curb cut creates safety risks for pedestrians and street activity which does not support the GO Boston (September 2018) goals of improving pedestrian circulation and safety. Additionally, the curb cut removes an on-street public parking spot.

Zoning Analysis:

The addition of the parking space reduces the usable open space below the required minimum threshold outlined in Article 65.

The proposed location of the parking space does not comply with Article 10's requirement for a 5' side yard buffer or Article 65's regulation not to allow parking within the front yard. The location of the proposed parking space in the front yard and the lack of buffer from the side yard does not comply with the zoning regulations and will never be able to given the size and configuration of the lot.

Recommendation:



In reference to BOA1267536, The Boston Planning & Development Agency recommends DENIAL.

Reviewed,

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Director of Planning, BPDA



Case	BOA1524741
ZBA Hearing Date	2023-12-07
Address	6 Sunnybank RD West Roxbury 02132
Parcel ID	2006309000
Zoning District & Subdistrict	West Roxbury Neighborhood 1F-6000
Zoning Article	Article 56
Project Description	Upgrade existing attic into bedroom/bath suite using existing stair.
Relief Type	Variance
Violations	FAR Excessive

Planning Context:

The proposed project is located within the 1F-6000 of West Roxbury. The proposed renovations to the existing attic space into living space is consistent with the goal of improving existing housing stock as outlined in Housing a Changing City (September 2018)

Zoning Analysis:

The renovation of the existing attic increases the FAR (undisclosed amount) beyond the maximum FAR outlined in Article 56's 1F-6000. However, the proposed interior improvements do not have an impact on the existing massing, scale, or use of the building. This is an opportunity for zoning reform to introduce different dimensional regulations for building form at this scale instead of FAR.

Recommendation:

In reference to BOA1524741, The Boston Planning & Development Agency recommends APPROVAL.



Reviewed,

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Director of Planning, BPDA



Case	BOA1528266
ZBA Hearing Date	2023-12-07
Address	112 Temple ST West Roxbury 02132
Parcel ID	2008678000
Zoning District & Subdistrict	West Roxbury Neighborhood 1F-6000
Zoning Article	Article 56
Project Description	Confirming single family home in existence for many years. Remove an existing uninsulated three-season room from the rear of an existing Victorian home and construct a new addition including a Great Room, bath, laundry, renovations to the existing kitchen, and an expanded deck.
Relief Type	Variance
Violations	Side Yard Insufficient

Planning Context:

The project scope proposes a rear yard addition of extended living space to the home that will remove an uninsulated porch and renovate it for more usable, habitable space for the dwelling. Making necessary repairs to existing dwellings is in keeping with planning goals of preserving Boston's current housing stock, as detailed in *Housing a Changing City, Boston 2030* (September 2018).

Zoning Analysis:

The zoning code requires 10' minimum side yard setbacks on each side. The existing dwelling has a side yard setback of 36' on the left, and a 5.9.' side yard setback on the right. With the proposed addition, which will be built in the rear of the dwelling in line with the existing facade of the house, this nonconforming setback will be extended and slightly reduced to 5.4. However, this is an extension of a nonconformity and a small one. This is a case for zoning reform for not flagging existing nonconformities as zoning violations if they do not worsen said nonconformity, including allowing extension of existing side yard non-conformities.

Additionally, the uneven side yard condition (where the dwelling is not centered in the middle of the lot but is instead placed more to the right or left side in order to facilitate a driveway or other



off-street parking) is a typical condition for the immediate area of the street that the dwelling is located on, where many other dwellings have a similar placement on their lot.

The refusal letter from ISD includes a violation that states that this project requires design review per Article 80E-2.iii: "Within any Neighborhood Design Overlay District (NDOD), any of the following Proposed Projects and exterior alterations, provided that such Proposed Project or exterior alteration is visible from a public street or public open space: (2) Any Proposed Project for the erection or extension of a building with a gross floor area of three hundred (300) or more square feet."

However, although this project does propose an addition of over 300 sf, this project is not within a NDOD. This provision doesn't apply to this project, and shouldn't have been included on the zoning refusal letter. Upon discussion with the plans examiner, it was determined that this notation was made in error. As the addition is relatively simple and will be placed in the rear of the dwelling, not visible from the street, design review is not being recommended as a condition for approval at this time.

The plans reviewed for this case are titled "112 Temple Street" and are dated 5/23/23. They were prepared by Zephyr Architects.

Recommendation:

In reference to BOA1528266, The Boston Planning & Development Agency recommends APPROVAL.

Reviewed,

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Director of Planning, BPDA



Case	BOA1516206
ZBA Hearing Date	2023-12-07
Address	41 Coolidge RD Allston 02134
Parcel ID	2201425000
Zoning District & Subdistrict	Allston/Brighton Neighborhood 2F-5000
Zoning Article	Article 10, Article 51
Project Description	Build new driveway with two tandem spaces in the side yard of existing two-family house.
Relief Type	Variance
Violations	Limitation of Area for accessory use (parking) Usable Open Space Insufficient Parking design and maneuverability

Planning Context:

The Boston Transportation Department's Guidelines for use by the Zoning Board of Appeal state that "New driveways added at residential dwellings need to accommodate a minimum of two (2) vehicular spaces for every one (1) public on-street parking space that will be removed as a result of the new driveway. A new driveway accommodating three (3) vehicular spaces for every one (1) public on-street parking space is the preferred ratio." The new 12 foot curb cut would mean the removal of 1 on-street space, which means the project meets the minimum BTM recommendation of 2 off-street spaces, but not the preferred ratio of 3 off-street spaces.

Building this driveway would also require cutting down a mature tree on the property. This is not in line with the City's goals to maintain mature tree canopy, as identified in the Urban Forestry Plan. In addition, the Urban Forestry Plan identified the location of this property as one of the areas in the City exposed to the most heat impact (using data produced by the City of Boston's Heat Resilience Study), and so maintaining tree cover should be prioritized at this location.

Zoning Analysis:

Article 10 Section 1 states that, in any residential district, no accessory use shall occupy any part of the front or side yards required by this code, except that such a side yard may be used for off-street parking located more than 5 feet from the side lot line. The proposed parking area is 0 feet from the side lot line. It therefore occupies part of the side yard required by this code

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(which is 10 feet, per Article 51 Table D) and is less than 5 feet from the side lot line. This does not allow for an adequate buffer between the proposed driveway and the abutting residential property.

This project also required a variance for insufficient usable open space. Because usable open space must be free of automotive traffic and parking (Article 2), the driveway causes the property to lose about 400 square feet of usable open space and therefore not comply with the required usable open space of 1600 sq ft.

Recommendation:

In reference to BOA1516206, The Boston Planning & Development Agency recommends DENIAL .

Reviewed,

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Director of Planning, BPDA



Case	BOA1462924
ZBA Hearing Date	2023-12-07
Address	25 Burr St Jamaica Plain 02130
Parcel ID	1900699000
Zoning District & Subdistrict	Jamaica Plain Neighborhood 3F-5000
Zoning Article	Article 55
Project Description	Widening existing curb cut from 20' to 37.9'.
Relief Type	Variance
Violations	Side Yard Insufficient Front Yard Insufficient

Planning Context:

The existing 20' curb cut is wider than most others along this street and the neighboring blocks. The proposed width of the curb cut is also wider than the abutting Burr Street. Increasing the width of the curb cut negatively impacts the safety of sidewalk users. Per Boston Complete Streets guidelines, published in 2013, residential driveways should be no more than 12' wide and situated at least 20' from an unsignalized intersection; the existing and proposed curb cut here would not be compliant with these guidelines. Per the Boston Public Works "Guidelines for the Issuance of a Curb Cut Permit" published on February 1st, 2013, driveways serving three or more parking spaces should have a maximum 24' curb cut; anything greater than that would require approval by the Public Improvement Commission. Further, minimizing the width of curb cuts advances pedestrian safety goals through Vision Zero and Boston Complete Streets.

Zoning Analysis:

The side yard and front yard violations are existing nonconformities, which are not worsened by widening the curb cut here.

However, City policy and guidance from Boston Public Works indicates that widening the curb cut here would be inappropriate and there is no indication from the Public Improvement Commission that this proposal would be approved.

Plans reviewed are titled "Certified Plot Plan Located at 25 Burr Street Jamaica Plain, MA" and dated June 6th, 2022.

Recommendation:

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1 Boston Planning & Development Agency



In reference to BOA1462924, The Boston Planning & Development Agency recommends DENIAL.

Reviewed,

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Director of Planning, BPDA