

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.

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CARL TREMBLAY, JACQUELINE LEES,)
STEPHEN P. BELL, MARY REED and)
ELIZABETH BOWEN DONOVAN)
)
Plaintiffs,)
)
v.)
)
CHRISTINE ARAUJO, ANTHONY PISANI,)
MARK FORTUNE, CRAIG GALVIN, BRUCE)
BICKERSTAFF, PETER CHIN, MARK)
EHRlich, and EUGENE KELLY, as they are)
members of the CITY OF BOSTON ZONING)
BOARD OF APPEALS and)
WONDERGROUP LLC)
)
Defendants.)
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COMPLAINT

Nature of Action

This is an appeal under The Boston Zoning Enabling Act, Chapter 665 of the Acts of 1956, §11, from the following five separate Decisions (“the Decisions”) of the City of Boston Zoning Board of Appeals (the “Board”), all entered in the Office of the Commissioner of Inspectional Services for the City of Boston on March 3, 2017. Certified copies of the Decisions are attached as Exhibit A.

1. Decision of the Board in Case No. BOA606484, Permit #ALT585819
(Address listed as 64-64C Allandale Street, Ward 20);
2. Decision of the Board in Case No. BOA606486, Permit #ERT497480

(Address listed as 66-66C Allandale Street, Ward 20);

3. Decision of the Board in Case No. 606487, Permit #ERT497481

(Address listed as 68-68B Allandale Street, Ward 20);

4. Decision of the Board in Case # BOA606488, Permit #ERT49748

(Address listed as 70-70B Allandale Street, Ward 20); and

5. Decision of the Board in Case # BOA606489, Permit #ERT497483

(Address listed as 72-72B Allandale Street, Ward 20);

All five Decisions¹, while given different address numbers, involve the same 18-unit townhouse development proposed by Defendant WonderGroup, LLC to be constructed on a single lot of land, approximately two acres in size, zoned for single family residences.

The Developer's proposal, as it was configured at the time of the Decisions, provides that of the 18 townhouse units, four are proposed to be constructed in a reconfiguration of and addition to the existing single-family farmhouse building on the site, and 14 townhouses are to be within new buildings in four separate additional clusters.

By the Decisions, and without either evidentiary support or lawful authority under the Zoning Enabling Act or the Boston Zoning Bylaws, the Board collectively granted over sixty (60) variances from the City of Boston's Zoning Bylaws to the Defendant, WonderGroup LLC. The Plaintiffs, who are abutters to the proposed project, are injured by the Board's unlawful action, and seek an annulment of the Decisions.

Parties

¹ There was a sixth case originally brought by Defendant WonderGroup, LLC involving this project as originally proposed, labeled Decision of the Board in Case # BOA606490, Permit #ERT497487 (Address listed as 74-74B Allandale Street, Ward 20); after the developer reduced the project from the originally proposed 20 units. This appeal was denied as the Board associated this Case with the reduction in units from 20 to 18.

1. Plaintiff, Carl Tremblay, is an individual who owns and resides at the property located at 103 Allandale Street, Jamaica Plain, Massachusetts 02130.

2. Plaintiffs, Jacqueline Lees and Stephen P. Bell, are individuals who own and reside at the property located 100B Allandale Street, Jamaica Plain, Massachusetts 02130.

3. Plaintiff, Mary Reed, is an individual who owns and resides at the property located at 115 Allandale St., Jamaica Plain, Massachusetts 02130.

4. Plaintiff, Elizabeth Bowen Donovan, is an individual who owns and resides at the property located at 107 Allandale Street, Jamaica Plain, Massachusetts 02130.

5. Defendants, Christine Araujo, Anthony Pisani, Mark Fortune, Craig Galvin, Bruce Bickerstaff, Peter Chin, Mark Ehrich and Eugene Kelly are duly appointed members of the Board and are named in their capacity as members of the Board and not individually. All have a mailing address c/o the Zoning Board of Appeals, 1010 Massachusetts Avenue, 4th floor, Boston, MA 02118.

6. Defendant, WonderGroup LLC is the owner of 64 Allandale Street, West Roxbury, Massachusetts 02132. WonderGroup LLC has an address at 201R Savin Hill Avenue, Boston, MA 02125.

The Property

7. Defendant, WonderGroup LLC, owns property located at 64 Allandale Street, West Roxbury, Massachusetts (the "Property").

8. The property is improved with a single-family home located on about two (2) acres of land. The Zoning subdistrict under Article 56 of the City of Boston Zoning Bylaws (Bylaws) for the Property is 1F-8000 square foot lots for single-family residential use.

9. Defendant, WonderGroup LLC, proposes to convert the existing house into four townhouse units by, inter alia, making an addition to the house. Defendant also proposes the construction of fourteen (14) additional townhouses on the remaining land.

Relevant Sections of the Zoning Enabling Act and the City's Bylaws

10. Section 9 of the Zoning Enabling Act provides:

“Upon an appeal from the refusal of the building commissioner or other administrative official to issue a permit under this act or under a zoning regulation as adopted and amended under this act, said board of appeal may authorize with respect to a particular parcel of land or to an existing building thereon a variance from the terms of such zoning regulation where, owing to conditions especially affecting such parcel or such building, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of such zoning regulation would involve substantial hardship to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of such zoning regulation, but not otherwise.

11. Section 1-2 of the Bylaws sets forth their purpose, which is:

“to promote the health, safety, convenience, morals and welfare of the inhabitants of the City; to prevent overcrowding of land, to conserve the value of land and population; to provide adequate light and air, to secure safety from fire, panic and other dangers; to facilitate adequate provisions for transportation, water, sewerage, schools, parks and other public requirements; and to preserve and increase the amenities of the City”.

12. Section 7-3 of the Bylaws set forth the criteria for granting a variance:

“The Board of Appeals shall grant a variance only if it 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...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;

(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;

(c) That the granting of the variance will be 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; and

(d) That, if the variance is for a Development Impact Project, as defined in Section 80B-7(), the applicant shall have complied with the Development Impact Project Exaction Requirements set forth in Section 80B-7-3, except if such variance from said requirements.

In determining its findings, the Board of Appeals shall 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.

13. Article 56, West Roxbury Neighborhood District Zoning Regulations provides in §56-1: “the objectives of this Article are to provide adequate density controls that protect established residential areas and direct growth areas where it can be accommodated; to retain and develop affordable housing compatible with adjacent areas, particularly for elderly residents; to promote the viable neighborhood economy; to preserve, maintain and create open space; to protect the environment and improve the quality of life; to promote the most appropriate use of land; to promote public safety, health, and welfare of the people of Boston”.

14. Article 56, §6 establishes residential subdistricts. The Property is in 1F, the one family residential subdistrict which “are established to preserve, maintain and promote **low density one-family neighborhoods**, to provide for **new infill construction appropriate** to the existing fabric...the **maximum number of Dwelling Units allowed in a single Building shall be one (1)**”. [Emphasis added.]

15. Article 56, §7-1 provides, in part, that any use identified as “F” (forbidden) in Table A for the proposed location of such use is forbidden in such location. A multi-family dwelling specifically is a “F” (forbidden use) in the 1F subdistrict, as are semi-detached 1 family dwellings, two and three family dwellings, and townhouses. §7-2 states Dwelling Units in a Basement are forbidden in the West Roxbury Neighborhood District.

16. Article 56, §8-1 sets out the minimum Lot Area, Lot Width, Lot Frontage, Useable Open Space per Dwelling Unit, Front Yard, Side Yard, and Rear Yard required for any Lot in a Residential subdistrict, and the maximum allowed Building Height and Floor Area Ratio for such Lot, are set forth in Table D. §8-2 pertains to Lot Frontage in the 1F subdistrict, which reads “every Lot shall have a minimum frontage on a Street not less than the minimum Lot Width specified in Table D for such Lot[...]”.

17. Article 56, §39 pertains to Off-Street Parking. The minimum required off-street parking spaces are as set forth in Table 1.

18. Article 56, §40 pertains to Dimensional Requirements. §40-1 requires conformity with existing building alignment. §40-12 addresses the situation of Two or More Dwellings on the Same Lot. It provides, in part, “where a Dwelling designed for occupancy...is on the same Lot as, and to the side of, another Dwelling...the distance between such Dwelling and such other Dwelling shall be not less than twice the minimum Side Yard depth required by this Article for such other Dwelling..., and the requirements of this Article with respect to Lot Area, Lot Width, Lot Frontage, Useable Open Space, Front Yard, Rear Yard and Side Yards shall apply as if such Dwelling were on a separate Lot. A Dwelling shall not be built to the rear of another Dwelling....”

Variances

19. On or about July 23, 2015, WonderGroup LLC, through Merge Architects, applied to the Boston Inspectional Services Department (“ISD”) for permits to construct the project. The ISD thereafter issued six Zoning Code Refusal letters for the whole project, one for each of the five proposed townhouse clusters, issued August 7, 2015 and updated May 11, 2016, and one on May 11, 2016 for the addition to the existing house to convert it to four dwelling units, all letters issued on the basis that the proposed project was in violation of the Boston Zoning Code.

20. The WonderGroup, LLC then appealed to the Board for Variances under Article 56 §7, 8, 39, and 40. The Defendant sought 51 variances.

21. Subsequently, a hearing was scheduled for September 27, 2016 by the Board, wherein the WonderGroup LLC sought 55 variances. The meeting was continued at the request of WonderGroup LLC, rescheduled for and ultimately took place on December 13, 2016.

22. At the public hearing, some of the Plaintiffs and several other neighbors and several City Counselors spoke in opposition to the 55 variances sought by WonderGroup LLC.

23. Opponents raised concerns about the denigration of the existing zoning and the impact on the single-family nature of the Allandale Section of Boston.

24. Opponents raised concerns about the proposed intensity of use of the Property and how it would adversely impact the surrounding neighborhood.

25. Opponents raised safety concerns with the tripling of vehicular traffic entering and exiting the project's proposed single driveway, which sits on a sharp curve in Allandale Street with no sight lines.

26. Opponents raised concerns about the drainage and negative impact on the Allandale Woods which abuts the Property and has one of two remaining vernal pools left in the City of Boston.

27. The Board was informed that WonderGroup LLC had not presented one scintilla of evidence to support the granting of a single variance let alone 55 variances.

28. It was brought to the Board's attention that a single family residential subdivision consisting of five homes could be built "as of right" on the subject property.

29. Notwithstanding widespread community opposition and the total failure of the Defendant to meet the criteria for granting a variance, the Board voted to grant all the variances which the proponent still requested after reducing its project to 18 units. Only Board Member Kelly is recorded as voting against the grant of the variances.

Count I
(Chapter 665 of the Acts of 1956 §11)

30. Plaintiffs incorporate the allegations in paragraphs 1-29 as if set forth at length herein.

31. Plaintiffs are abutters to the Property and are substantially aggrieved by the Decisions.

32. The Decisions authorize a use in derogation of the zoning, without any Board finding supported by substantial evidence sufficient for approval of the variances, which is against the purpose of Article 56, and which will have significant adverse effects on the neighborhood.

33. The Project's significant adverse effects include, without limitation:

- a. changing the entire character of the neighborhood from that of single family homes to a neighborhood burdened with a cluster of multi-unit Townhouses rising as much as 45 feet from grade;
 - b. the creation of dangerous ingress and egress from the Property is on a sharp bend on Allandale Street with very poor sight lines;
 - c. a tremendous increase in daily and peak hour traffic;
 - d. the creation of drainage problems for the immediate neighborhood;
 - e. the deforesting of the Property in order to build as proposed;
 - f. the environmental damage to the wetlands which abut the Property and contain one of the last vernal pools in Boston;
 - g. the loss of view for hikers in the Allandale Woods, which abuts the Property;
- and

h. the preempting of land more suitable for a single family residential subdivision consisting of five lots.

The traffic issues described in b. & c. above are particularly dangerous considering that:

i. the entrance to the Faulkner Hospital is located on Allandale Street in close proximity to the Property's driveway; and

ii. Allandale Street is a major Metco Bus route from and to the inner city and the suburban schools.

34. The Board improperly granted zoning relief under §7-3 where there is not a scintilla of evidence to support the granting of a single variance, let alone 55 variances.

35. The Project will be substantially detrimental to the neighborhood.

36. The Decision is arbitrary, capricious, against the law, in excess of the Board's authority and in gross negligence and bad faith.

Count II
(Spot Zoning)

37. Plaintiffs incorporate the allegations in paragraphs 1-36 as if set forth at length herein.

38. The Board's decision granting the variance is unlawful in that it singles out one lot for different treatment from that accorded to similar surrounding land indistinguishable from it in character, in derogation of the purposes set forth in the Zoning Code that this one family subdistrict was established to preserve, maintain and promote: a low density one-family neighborhood, and new infill construction appropriate to the existing [one family] fabric, all for the economic benefit of the WonderGroup LLC.

39. The granting of the variances for the construction of 18 Townhouses on a single parcel of land in a single-family neighborhood requiring lots of 8000 square feet per home is spot zoning, in that it changes the density of one parcel in the subdistrict only to that of a use not permitted in the district generally, and not in conformity with the uses permitted any other parcel in that subdistrict.

40. Such treatment of the Property constitutes spot zoning in violation of the equal protection clause of the United States Constitution and the Constitution of Massachusetts.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment,

- (a) annulling the variances granted to WonderGroupLLC;
- (b) award the Plaintiffs their reasonable attorney's fee and costs against the Board because it acted in gross negligence and bad faith;
- (c) granting such further relief as the Court deems necessary or appropriate.

Respectfully submitted,

CARL TREMBLAY, JACQUELINE LEES
STEPHEN P. BELL, MARY REED and
ELIZABETH BOWEN DONOVAN

By their attorney,



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Exhibit A



**City of Boston
Board of Appeal**

Inspectional Services Department
1010 Massachusetts Avenue
Boston, MA 02118
617-635-4775

Members

Christine Araujo - *Chair*
Bruce Bickerstaff
Mark Fortune - *Secretary*
Peter Chin
Mark Erlich
Anthony Pisani, AIA
Craig Galvin

**NOTICE OF DECISION
CASE NO. BOA606484
PERMIT #ALT585819
APPEAL SUSTAINED
WITH PROVISOS**

In reference to appeal of

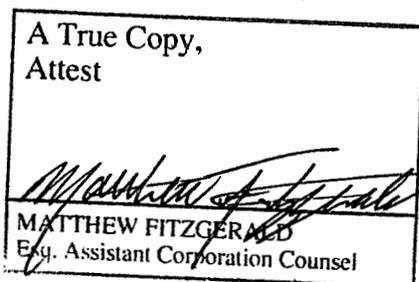
The Wonder Group LLC

concerning premises

64-64C Allandale Street, Ward 20

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 3/3/2017.



FOR THE BOARD OF APPEAL

Matthew Fitzgerald, Esq
Assistant Corporation Counsel



CITY OF BOSTON
BOARD OF APPEAL
OFFICE OF THE BOARD OF APPEAL

December 13, 2016
DATE

Decision of the Board of Appeal on the Appeal of
The Wonder Group, LLC

To vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8, at premises:

64-64C Allandale Street, Ward 20

In the following respect: Variance

Article(s): 56(56-39) 56(56-7) 56(56-8) 56(56-40.1) 56(56-40.12)

Purpose: New addition on an existing building. Change of occupancy from a single family to a four (4) family dwelling units. This is to be one of six (6) buildings on the same lot. As per plans. (Conjunction with ERT497480, ERT497481, ERT497482, ERT497483, ERT497484).

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-606484 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 August 30, 2016

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

The Boston Redevelopment Authority was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BRA 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 discussed on Tuesday September 27, 2016 and again on Tuesday December 13, 2016 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#ALT585819and May 2, 2016 plans submitted to the Board at its hearing and now on file in the Building Department.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

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This appeal concerns the proposed development by Wonder Group LLC (the “Appellant”) of a new residential community (the “Project,” as further described below) on an approximately two-acre, steeply sloping site located at 64 Allandale Street in West Roxbury (the “Site”). The Site, identified as Boston Assessing parcel no. 2003593000, is approximately 86,879 square feet in area. This property is currently occupied by an approximately 4,000 square-foot house.

Project Summary and Permitting Background:

The Appellant’s initial redevelopment proposal for the Site submitted to the Inspectional Services Department (“ISD”) was for a total of 20 units in six buildings. This submission included five new-construction townhouse dwellings, containing 16 dwelling units, plus four residential units in the existing building at the Site. In response to feedback during the development review process, the Appellant reduced the proposed redevelopment of the Site to consist of 18 total units in five buildings: four new townhouse dwellings, containing 14 dwelling units, plus four units in the existing building. The Appellant delivered to the Board, in advance of its hearing on the Project, an updated site plan depicting the revised, 18-unit redevelopment of the Site.

The new site plan reconfigured the locations of certain buildings and dwelling units within the lot, and eliminated one building entirely. Specifically, the revised plan relocated one unit from the proposed 74 Allandale Street building to the 70 Allandale Street building (resulting in a four-townhouse cluster), eliminated the remainder of the 74 Allandale Street building, moved the 68 Allandale Street building into the area previously occupied by the 74 Allandale Street building, and shifted the reconfigured 70 Allandale building towards the centerline of the Site, increasing its side-yard setbacks from neighboring properties. These changes reduced the total number of buildings proposed at the Site from 6 to 5, and reduced the number of dwelling units from 20 to 18. At the hearing, the Board acknowledged the updated site plan,¹ found that the resulting plans were adequate, and approved the revised Project.

The Boston Planning and Development Authority (“BPDA”) Board approved the Project, as reconfigured, on November 17, 2016. The Project is currently undergoing the BPDA’s design

¹ Adoption of the updated site plan may at ISD’s discretion require renumbering of the street addresses of certain buildings at the Site.



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review process, and may evolve in the course of that process, consistent with the provisions of the Boston Zoning Code (the “Code”), as the Code’s use, dimensional, and other zoning parameters have been modified by this decision.

Zoning Context:

Map 11B of the Boston Zoning Maps indicates that the Site is located within the West Roxbury Neighborhood District, which is governed by Article 56 of the Code. Map 11B further indicates that the Site is located within a 1F-8,000 subdistrict.

Zoning Code Relief:

Based on the requirements of the Code applicable to the Project and Site, the Project building known as 64-64C Allandale Street will require several variances and a conditional use permit.

Variances Granted to the Project:

1. FAR (0.51 vs. 0.30). Because the Site will remain one lot, the Project’s floor area ratio (“FAR”) will be determined on a Site-wide basis. The applicable FAR limit for the lot is 0.30. The Project will result in an FAR at the Site of up to and including 0.51.
2. Building Height (45 feet vs. 35 feet). Per Article 2A, building height is measured from “grade,” which Article 2A defines as follows:

The average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building.



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Article 2A further defines “street” as a “public way, alley, lane, court, sidewalk, and such parts of public squares and public places as form traveled parts of highways.” Thus, the right-of-way adjacent to the Site that qualifies as a street under the Code is Allandale Street. Because the buildings in the Project will not be “abutting on a street,” the Code directs that the height calculation is to be based on “the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer.” This decision accordingly grants a building height variance for 64-64C Allandale Street of up to and including 45 feet.

3. Number of Stories (3.5 stories vs. 2.5 stories). Article 56, Table D, sets a maximum of 2.5 stories for any building at the Site. This decision grants a variance for the number of stories of 64-64C Allandale Street of up to and including 3.5 stories.
4. Usable Open Space. This decision grants a variance to permit the Project to supply a total of not less than 45,000 square feet of usable open space at the Site.
5. Frontage. Section 56-8.2 states that each “each Detached Dwelling, Semi-Attached Dwelling, Row House Building, and Town House Building on a Lot shall have a minimum frontage on a Street not less than such minimum Lot Width.” This decision grants a variance from the applicable frontage requirements.
6. Front Yard. This decision grants a variance to set the minimum front yard depth at the Site at zero feet.
7. Off-Street Parking in Front Yard. Section 56-39.4(a) provides in pertinent part that “[o]ff-street parking and loading spaces shall not be located in any part of a landscaped area required by this Article or in any part of a Front Yard.” This decision grants a variance to permit off-street parking to be located in the front yard required on the lot.



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8. Multifamily Use. The proposed multifamily use for the renovated and expanded existing building at the Site is forbidden within the 1F-8000 subdistrict. This decision grants a variance to permit a multifamily use in the existing building.
9. Dwelling Unit in Basement. Section 56-7.2 prohibits the creation of dwelling units in a basement. Because 64-64C Allandale Street will include a dwelling unit located entirely in its basement, this decision grants a variance for this element of its design.
10. Main Entrance Not Facing Front Lot Line. Section 56-8.3, Location of Main Entrance, provides that, within the residential subdistricts, "the main entrance of a Dwelling shall face the Front Lot Line." Article 2A defines the "front lot line" as the "line separating the lot from the street." Because 64-64C Allandale Street's front door will not face Allandale Street, this decision grants a variance for this element of its design.
11. Existing Building Alignment. ISD cited the existing building for violating Section 56-40.1, Conformity with Existing Building Alignment. This decision grants a variance from this requirement, to the extent necessary.
12. Side Yard. ISD cited the existing building for violating the side yard requirement identified in Article 56, Table D. This decision grants a variance from this requirement, to the extent necessary.

It was presented to the Board that the existing building's best, as well as its most viable, use is for multi-family residential housing serving the neighborhood. The Site is located in the geographic center of Boston, near major employers such as Faulkner Hospital and the hospitals of the Longwood Medical Area. It is therefore an ideal residential setting. The zoning variances sought by the Appellant are necessary in light of lot constraints to create a feasible reuse of the existing building at the Site, as well as the Site as a whole. The Project will further the overall planning goals for the area as expressed in the Code and will result in a model for adaptive reuse, urban infill redevelopment, and design quality.



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The use variance requested is required to enable the highest and best use of the existing building on this residentially-zoned parcel, while ensuring that the Site's landscape is preserved and enhanced as much as possible. This residential use is consistent with and will strengthen a neighborhood greatly in need of additional, high-quality housing units.

The development of new homes on a steeply-angled, single lot requires the proposed dimensional relief, which is no greater than necessary. The existing building's height and story violations are minor and unavoidable given the significant grade change (>40') on the lot. The Project buildings will be largely shielded from Allandale Street due to the Site's terrain and landscaping, and the existing building will be screened by mature trees. The steep grade change at the Site necessitates locating a dwelling unit in a basement (in which all rooms will have natural light), as well as locating the main entrance to the existing building where it does not face the front lot line. A portion of the Project's parking is situated in the front yard in order to preserve existing trees at the Site.

The proposed Project is consistent with existing levels of density in the surrounding neighborhoods. The Project's FAR relief enables a design that comports with the residential scale in these areas, and represents a far more environmentally-friendly use of land than does a standard subdivision or the large institutional structures nearby. The Project will not comply strictly with the usable open space requirement at the Site, but will provide an overall amount of open space that will result in extensive green space for residents. Because the access road serving the Project buildings is intended to remain a private way, the Project will not, as a technical matter, meet the Code's requirement of certain minimum frontage on a "street." The unusual topography of the property limits the options for siting this road; in light of constraints at the Site, the Project's building alignment, front yard, side yard, and rear yard relief ensure that the Appellant can move forward with a feasible, environmentally-friendly redevelopment.

Conditional Relief Granted to the Project:

The Project will result in the creation of dwellings that do not comply with the requirement of Section 56-40.12 that each such dwelling satisfy the Code's dimensional limitations as if it were on a separate lot. The existing building at the Site is located to the side of other dwellings, and it fails to meet certain internal setbacks and other dimensional



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requirements imposed by Section 56-40.12. Accordingly, this decision grants a conditional use permit for 64-64C Allandale Street pursuant to Code Section 56-40.12.

It was further presented to the Board that the location of the existing building at the Site to the side of other Project buildings is appropriate given the character of the existing residential fabric of the surrounding neighborhoods, and necessary in light of lot constraints, including limited frontage and complicated topography. The slope and landscaping of the Site will largely shield the Project from view. Creating 18 new housing units will generate a *de minimus* amount of traffic, and the Project's entry/exit point will comply with regulations regarding vehicular sight lines and stopping distances. The Project will comport with all applicable environmental laws and will manage all potential impacts, including stormwater runoff, so that there will be no inappropriate impacts on other parcels. All required facilities for the proper operation of the Project will be provided. Finally, the Project design will ensure an appropriate spacing between the Project buildings to ensure ample light and air for all occupants.

The Board finds that all of the following conditions for the granting of the requested variances in accordance with Article 7, Section 7-3, of the Code have been met, 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 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;
- 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



CITY OF BOSTON
BOARD OF APPEAL
OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 64-64C Allandale Street, Ward 20
BOA-606484
Date of Hearing: December 13, 2016
Permit: # ALT585819
Page: # 8

- 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.

In determining its findings, the Board 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.

The Board further finds that all of the conditions for the granting of the requested conditional relief in accordance with Article 6, Section 6-3, of the Code have been met, 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; and
- e) adequate and appropriate facilities will be provided for the proper operation of the use.

The Board is of the opinion that all conditions required for the granting of variances under Article 7, Section 7-3, and the granting of conditional use permits under Article 6, Section 6-3, have been met, and that the varying of the terms of the Code as outlined above will not conflict with the intent and spirit of the Code.



CITY OF BOSTON BOARD OF APPEAL

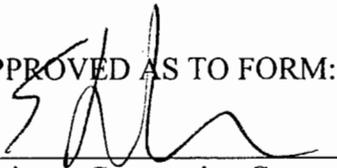
OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 64-64C Allandale Street, Ward 20
BOA-606484
Date of Hearing: December 13, 2016
Permit: # ALT585819
Page: # 9

Therefore, acting under its discretionary power, the Board (the members and/or substitute members sitting on this appeal) voted to grant the requested variances and conditional use permit described above, annuls the refusal of the Building Commissioner, and orders him to grant a permit in accordance with this decision.

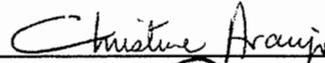
APPROVED AS TO FORM:

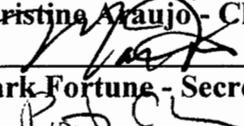

Assistant Corporation Counsel

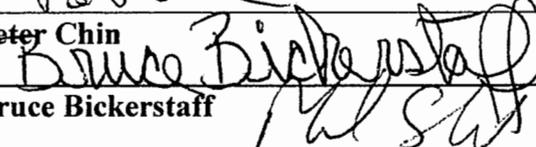
PROVISO

1. Subject to design review by BRA.

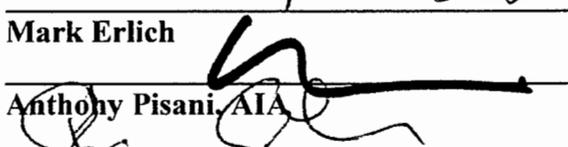
Signed, February 28, 2017


Christina Araujo - Chairperson


Mark Fortune - Secretary


Bruce Bickerstaff

Mark Erlich


Anthony Pisani, AIA


Craig Galvin



**City of Boston
Board of Appeal**

Inspectional Services Department
1010 Massachusetts Avenue
Boston, MA 02118
617-635-4775

Members

Christine Araujo - *Chair*
Bruce Bickerstaff
Mark Fortune - *Secretary*
Peter Chin
Mark Erlich
Anthony Pisani, AIA
Craig Galvin

**NOTICE OF DECISION
CASE NO. BOA606486
PERMIT #ERT497480
APPEAL SUSTAINED
WITH PROVISOS**

In reference to appeal of

The Wonder Group LLC

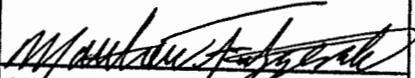
concerning premises

66-66C Allandale Street, Ward 20

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 3/3/2017.

A True Copy,
Attest


MATTHEW FITZGERALD
Esq. Assistant Corporation Counsel

FOR THE BOARD OF APPEAL



Matthew Fitzgerald, Esq
Assistant Corporation Counsel



CITY OF BOSTON
BOARD OF APPEAL
OFFICE OF THE BOARD OF APPEAL

December 13, 2016
DATE

Decision of the Board of Appeal on the Appeal of
The Wonder Group, LLC

To vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8, at premises:

66-66C Allandale Street, Ward 20

In the following respect: Variance

Article(s): 56(56-7) 56(56-8) 56(56-40.1) 56(56-40.12)

Purpose: Erect four (4) unit townhouse building. This is to be one (6) buildings on the same lot. (Conjunction with ALT585519, ERT497481, ERT497482, ERT497483, ERT497484).

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-606486 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 August 30, 2016

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

The Boston Redevelopment Authority was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BRA 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 discussed on Tuesday September 27, 2016 and again on Tuesday December 13, 2016 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#ERT497480 and July 23, 2016 plans submitted to the Board at its hearing and now on file in the Building Department.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 66-66C Allandale Street, Ward 20
BOA-606486

Date of Hearing: December 13, 2016

Permit: # ERT497480

Page: # 2

This appeal concerns the proposed development by Wonder Group LLC (the “Appellant”) of a new residential community (the “Project,” as further described below) on an approximately two-acre, steeply sloping site located at 64 Allandale Street in West Roxbury (the “Site”). The Site, identified as Boston Assessing parcel no. 2003593000, is approximately 86,879 square feet in area. This property is currently occupied by an approximately 4,000 square-foot house.

Project Summary and Permitting Background:

The Appellant’s initial redevelopment proposal for the Site submitted to the Inspectional Services Department (“ISD”) was for a total of 20 units in six buildings. This submission included five new-construction townhouse dwellings, containing 16 dwelling units, plus four residential units in the existing building at the Site. In response to feedback during the development review process, the Appellant reduced the proposed redevelopment of the Site to consist of 18 total units in five buildings: four new townhouse dwellings, containing 14 dwelling units, plus four units in the existing building. The Appellant delivered to the Board, in advance of its hearing on the Project, an updated site plan depicting the revised, 18-unit redevelopment of the Site.

The new site plan reconfigured the locations of certain buildings and dwelling units within the lot, and eliminated one building entirely. Specifically, the revised plan relocated one unit from the proposed 74 Allandale Street building to the 70 Allandale Street building (resulting in a four-townhouse cluster), eliminated the remainder of the 74 Allandale Street building, moved the 68 Allandale Street building into the area previously occupied by the 74 Allandale Street building, and shifted the reconfigured 70 Allandale building towards the centerline of the Site, increasing its side-yard setbacks from neighboring properties. These changes reduced the total number of buildings proposed at the Site from 6 to 5, and reduced the number of dwelling units from 20 to 18. At the hearing, the Board acknowledged the updated site plan,¹ found that the resulting plans were adequate, and approved the revised Project.

The Boston Planning and Development Authority (“BPDA”) Board approved the Project, as reconfigured, on November 17, 2016. The Project is currently undergoing the BPDA’s design

¹ Adoption of the updated site plan may at ISD’s discretion require renumbering of the street addresses of certain buildings at the Site.



CITY OF BOSTON
BOARD OF APPEAL
 OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 66-66C Allandale Street, Ward 20
 BOA-606486
 Date of Hearing: December 13, 2016
 Permit: # ERT497480
 Page: # 3

review process, and may evolve in the course of that process, consistent with the provisions of the Boston Zoning Code (the “Code”), as the Code’s use, dimensional, and other zoning parameters have been modified by this decision.

Zoning Context:

Map 11B of the Boston Zoning Maps indicates that the Site is located within the West Roxbury Neighborhood District, which is governed by Article 56 of the Code. Map 11B further indicates that the Site is located within a 1F-8,000 subdistrict.

Zoning Code Relief:

Based on the requirements of the Code applicable to the Project and Site, the Project building known as 66-66C Allandale Street will require several variances and a conditional use permit.

Variances Granted to the Project:

1. FAR (0.51 vs. 0.30). Because the Site will remain one lot, the Project’s floor area ratio (“FAR”) will be determined on a Site-wide basis. The applicable FAR limit for the lot is 0.30. The Project will result in an FAR at the Site of up to and including 0.51.
2. Building Height (45 feet vs. 35 feet). Per Article 2A, building height is measured from “grade,” which Article 2A defines as follows:

The average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 66-66C Allandale Street, Ward 20
BOA-606486
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Article 2A further defines “street” as a “public way, alley, lane, court, sidewalk, and such parts of public squares and public places as form traveled parts of highways.” Thus, the right-of-way adjacent to the Site that qualifies as a street under the Code is Allandale Street. Because the buildings in the Project will not be “abutting on a street,” the Code directs that the height calculation is to be based on “the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer.” This decision accordingly grants a building height variance for 66-66C Allandale Street of up to and including 45 feet.

3. Number of Stories (3.5 stories vs. 2.5 stories). Article 56, Table D, sets a maximum of 2.5 stories for any building at the Site. This decision grants a variance for the number of stories of 66-66C Allandale Street of up to and including 3.5 stories.
4. Usable Open Space. This decision grants a variance to permit the Project to supply a total of not less than 45,000 square feet of usable open space at the Site.
5. Frontage. Section 56-8.2 states that each “each Detached Dwelling, Semi-Attached Dwelling, Row House Building, and Town House Building on a Lot shall have a minimum frontage on a Street not less than such minimum Lot Width.” This decision grants a variance from the applicable frontage requirements.
6. Front Yard. This decision grants a variance to set the minimum front yard depth at the Site at zero feet.
7. Townhouse Use. The proposed townhouse use is forbidden within the 1F-8000 subdistrict. This decision grants a variance to permit a townhouse use at 66-66C Allandale Street.
8. Main Entrance Not Facing Front Lot Line. Section 56-8.3, Location of Main Entrance, provides that, within the residential subdistricts, “the main entrance of a Dwelling shall face the Front Lot Line.” Article 2A defines the “front lot line” as



CITY OF BOSTON
BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

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 BOA-606486
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the “line separating the lot from the street.” Because 66-66C Allandale Street’s front door will not face Allandale Street, this decision grants a variance for this element of its design.

9. Existing Building Alignment. ISD cited 66-66C Allandale Street for violating Section 56-40.1, Conformity with Existing Building Alignment. This decision grants a variance from this requirement, to the extent necessary.
10. Side Yard. ISD cited 66-66C Allandale Street for violating the side yard requirement identified in Article 56, Table D. This decision grants a variance from this requirement, to the extent necessary.
11. Rear Yard. ISD has cited 66-66C Allandale Street for violating the rear yard requirement identified in Article 56, Table D. This decision grants a variance from this requirement to the extent necessary.

It was presented to the Board that the Site’s best, as well as its most viable, use is for multi-family residential housing serving the neighborhood. The Site is located in the geographic center of Boston, near major employers such as Faulkner Hospital and the hospitals of the Longwood Medical Area. It is therefore an ideal residential setting. The zoning variances sought by the Appellant are necessary in light of lot constraints to create a feasible reuse of the Site. The Project will further the overall planning goals for the area as expressed in the Code and will result in a model for adaptive reuse, urban infill redevelopment, and design quality.

The use variance requested is required to enable the highest and best use of this residentially-zoned parcel, while ensuring that the Site’s landscape is preserved and enhanced as much as possible. This residential use is consistent with and will strengthen a neighborhood greatly in need of additional, high-quality housing units.

The development of new homes on a steeply-angled, single lot requires the proposed dimensional relief, which is no greater than necessary. 66-66C Allandale Street’s height and story violations are minor and unavoidable given the significant grade change (>40’) on the lot. The Project buildings will be largely shielded from Allandale Street due to the Site’s terrain and landscaping, and the existing building will be screened by mature trees. The steep grade change



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at the Site necessitates locating the main entrance to 66-66C Allandale Street where it does not face the front lot line.

The proposed Project is consistent with existing levels of density in the surrounding neighborhoods. The Project's FAR relief enables a design that comports with the residential scale in these areas, and represents a far more environmentally-friendly use of land than does a standard subdivision or the large institutional structures nearby. The Project will not comply strictly with the usable open space requirement at the Site, but will provide an overall amount of open space that will result in extensive green space for residents. Because the access road serving the Project buildings is intended to remain a private way, the Project will not, as a technical matter, meet the Code's requirement of certain minimum frontage on a "street." The unusual topography of the property limits the options for siting this road; in light of constraints at the Site, the Project's building alignment, front yard, side yard, and rear yard relief ensure that the Appellant can move forward with a feasible, environmentally-friendly redevelopment.

Conditional Relief Granted to the Project:

The Project will result in the creation of dwellings that do not comply with the requirement of Section 56-40.12 that each such dwelling satisfy the Code's dimensional limitations as if it were on a separate lot. 66-66C Allandale Street is located to the side of other dwellings, and it fails to meet certain internal setbacks and other dimensional requirements imposed by Section 56-40.12. Accordingly, this decision grants a conditional use permit for 66-66C Allandale Street pursuant to Code Section 56-40.12.

It was further presented to the Board that the location of 66-66C Allandale Street to the side of other Project buildings is appropriate given the character of the existing residential fabric of the surrounding neighborhoods, and necessary in light of lot constraints, including limited frontage and complicated topography. The slope and landscaping of the Site will largely shield the Project from view. Creating 18 new housing units will generate a *de minimus* amount of traffic, and the Project's entry/exit point will comply with regulations regarding vehicular sight lines and stopping distances. The Project will comport with all applicable environmental laws and will manage all potential impacts, including stormwater runoff, so that there will be no inappropriate impacts on other parcels. All required facilities for the proper operation of the



CITY OF BOSTON BOARD OF APPEAL

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BOA-606486

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Project will be provided. Finally, the Project design will ensure an appropriate spacing between the Project buildings to ensure ample light and air for all occupants.

The Board finds that all of the following conditions for the granting of the requested variances in accordance with Article 7, Section 7-3, of the Code have been met, 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 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;
- 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.

In determining its findings, the Board 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.

The Board further finds that all of the conditions for the granting of the requested conditional relief in accordance with Article 6, Section 6-3, of the Code have been met, 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;



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 66-66C Allandale Street, Ward 20
BOA-606486

Date of Hearing: December 13, 2016

Permit: # ERT497480

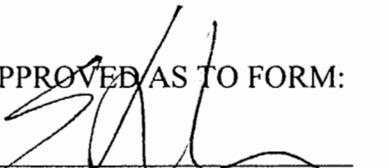
Page: # 8

- 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.

The Board is of the opinion that all conditions required for the granting of variances under Article 7, Section 7-3, and the granting of conditional use permits under Article 6, Section 6-3, have been met, and that the varying of the terms of the Code as outlined above will not conflict with the intent and spirit of the Code.

Therefore, acting under its discretionary power, the Board (the members and/or substitute members sitting on this appeal) voted to grant the requested variances and conditional use permit described above, annuls the refusal of the Building Commissioner, and orders him to grant a permit in accordance with this decision.

APPROVED AS TO FORM:


Assistant Corporation Counsel

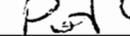
PROVISO

- 1. Subject to design review by BRA.

Signed, February 28, 2017


Christine Araujo - Chairperson

Mark Fortune - Secretary


Peter Chin

Bruce Bickerstaff

Mark Erlich

Anthony Pisani, AIA

Craig Galvin



**City of Boston
Board of Appeal**

Inspectional Services Department
1010 Massachusetts Avenue
Boston, MA 02118
617-635-4775

Members

Christine Araujo - *Chair*
Bruce Bickerstaff
Mark Fortune - *Secretary*
Peter Chin
Mark Erlich
Anthony Pisani, AIA
Craig Galvin

**NOTICE OF DECISION
CASE NO. BOA606487
PERMIT #ERT497481
APPEAL SUSTAINED
WITH PROVISOS**

In reference to appeal of

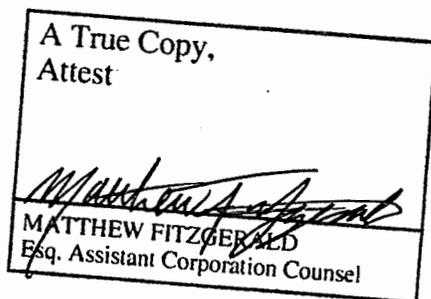
The Wonder Group LLC

concerning premises

68-68B Allandale Street, Ward 20

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 3/3/2017.



FOR THE BOARD OF APPEAL

Matthew Fitzgerald, Esq
Assistant Corporation Counsel



CITY OF BOSTON
BOARD OF APPEAL
OFFICE OF THE BOARD OF APPEAL

December 13, 2016
DATE

Decision of the Board of Appeal on the Appeal of
The Wonder Group, LLC

To vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8, at premises:

68-68B Allandale Street, Ward 20

In the following respect: Variance

Article(s): 56(56-7) 56(56-8) 56(56-40.1) 56(56-40.12)

Purpose: Erect three (3) unit townhouse building. This is to be one (6) buildings on the same lot. (Conjunction with ALT585519, ERT497480, ERT497482, ERT497483, ERT497484).

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-606487 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 August 30, 2016

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

The Boston Redevelopment Authority was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BRA 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 discussed on Tuesday September 27, 2016 and again on Tuesday December 13, 2016 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#ERT497481 and July 23, 2015 plans submitted to the Board at its hearing and now on file in the Building Department.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 68-68B Allandale Street, Ward 20
BOA-606487

Date of Hearing: December 13, 2016

Permit: # ERT497481

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This appeal concerns the proposed development by Wonder Group LLC (the “Appellant”) of a new residential community (the “Project,” as further described below) on an approximately two-acre, steeply sloping site located at 64 Allandale Street in West Roxbury (the “Site”). The Site, identified as Boston Assessing parcel no. 2003593000, is approximately 86,879 square feet in area. This property is currently occupied by an approximately 4,000 square-foot house.

Project Summary and Permitting Background:

The Appellant’s initial redevelopment proposal for the Site submitted to the Inspectional Services Department (“ISD”) was for a total of 20 units in six buildings. This submission included five new-construction townhouse dwellings, containing 16 dwelling units, plus four residential units in the existing building at the Site. In response to feedback during the development review process, the Appellant reduced the proposed redevelopment of the Site to consist of 18 total units in five buildings: four new townhouse dwellings, containing 14 dwelling units, plus four units in the existing building. The Appellant delivered to the Board, in advance of its hearing on the Project, an updated site plan depicting the revised, 18-unit redevelopment of the Site.

The new site plan reconfigured the locations of certain buildings and dwelling units within the lot, and eliminated one building entirely. Specifically, the revised plan relocated one unit from the proposed 74 Allandale Street building to the 70 Allandale Street building (resulting in a four-townhouse cluster), eliminated the remainder of the 74 Allandale Street building, moved the 68 Allandale Street building into the area previously occupied by the 74 Allandale Street building, and shifted the reconfigured 70 Allandale building towards the centerline of the Site, increasing its side-yard setbacks from neighboring properties. These changes reduced the total number of buildings proposed at the Site from 6 to 5, and reduced the number of dwelling units from 20 to 18. At the hearing, the Board acknowledged the updated site plan,¹ found that the resulting plans were adequate, and approved the revised Project.

The Boston Planning and Development Authority (“BPDA”) Board approved the Project, as reconfigured, on November 17, 2016. The Project is currently undergoing the BPDA’s design

¹ Adoption of the updated site plan may at ISD’s discretion require renumbering of the street addresses of certain buildings at the Site.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 68-68B Allandale Street, Ward 20
BOA-606487
Date of Hearing: December 13, 2016
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review process, and may evolve in the course of that process, consistent with the provisions of the Boston Zoning Code (the “Code”), as the Code’s use, dimensional, and other zoning parameters have been modified by this decision.

Zoning Context:

Map 11B of the Boston Zoning Maps indicates that the Site is located within the West Roxbury Neighborhood District, which is governed by Article 56 of the Code. Map 11B further indicates that the Site is located within a 1F-8,000 subdistrict.

Zoning Code Relief:

Based on the requirements of the Code applicable to the Project and Site, the Project building known as 68-68B Allandale Street will require several variances and conditional use permits.

Variances Granted to the Project:

1. FAR (0.51 vs. 0.30). Because the Site will remain one lot, the Project’s floor area ratio (“FAR”) will be determined on a Site-wide basis. The applicable FAR limit for the lot is 0.30. The Project will result in an FAR at the Site of up to and including 0.51.
2. Building Height (45 feet vs. 35 feet). Per Article 2A, building height is measured from “grade,” which Article 2A defines as follows:

The average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 68-68B Allandale Street, Ward 20
BOA-606487

Date of Hearing: December 13, 2016

Permit: # ERT497481

Page: # 4

Article 2A further defines “street” as a “public way, alley, lane, court, sidewalk, and such parts of public squares and public places as form traveled parts of highways.” Thus, the right-of-way adjacent to the Site that qualifies as a street under the Code is Allandale Street. Because the buildings in the Project will not be “abutting on a street,” the Code directs that the height calculation is to be based on “the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer.” This decision accordingly grants a building height variance for 68-68B Allandale Street of up to and including 45 feet.

3. Number of Stories (3.5 stories vs. 2.5 stories). Article 56, Table D, sets a maximum of 2.5 stories for any building at the Site. This decision grants a variance for the number of stories of 68-68B Allandale Street of up to and including 3.5 stories.
4. Usable Open Space. This decision grants a variance to permit the Project to supply a total of not less than 45,000 square feet of usable open space at the Site.
5. Frontage. Section 56-8.2 states that each “each Detached Dwelling, Semi-Attached Dwelling, Row House Building, and Town House Building on a Lot shall have a minimum frontage on a Street not less than such minimum Lot Width.” This decision grants a variance from the applicable frontage requirements.
6. Townhouse Use. The proposed townhouse use is forbidden within the 1F-8000 subdistrict. This decision grants a variance to permit a townhouse use at 68-68B Allandale Street.
7. Side Yard. ISD cited 68-68B Allandale Street for violating the side yard requirement identified in Article 56, Table D. This decision grants a variance from this requirement, to the extent necessary.
8. Front Yard. This decision grants a variance to set the minimum front yard depth at the Site at zero feet.



CITY OF BOSTON
BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 68-68B Allandale Street, Ward 20
 BOA-606487

Date of Hearing: December 13, 2016

Permit: # ERT497481

Page: # 5

It was presented to the Board that the Site's best, as well as its most viable, use is for multi-family residential housing serving the neighborhood. The Site is located in the geographic center of Boston, near major employers such as Faulkner Hospital and the hospitals of the Longwood Medical Area. It is therefore an ideal residential setting. The zoning variances sought by the Appellant are necessary in light of lot constraints to create a feasible reuse of the Site. The Project will further the overall planning goals for the area as expressed in the Code and will result in a model for adaptive reuse, urban infill redevelopment, and design quality.

The use variance requested is required to enable the highest and best use of this residentially-zoned parcel, while ensuring that the Site's landscape is preserved and enhanced as much as possible. This residential use is consistent with and will strengthen a neighborhood greatly in need of additional, high-quality housing units.

The development of new homes on a steeply-angled, single lot requires the proposed dimensional relief, which is no greater than necessary. 68-68B Allandale Street's height and story violations are minor and unavoidable given the significant grade change (>40') on the lot. The Project buildings will be largely shielded from Allandale Street due to the Site's terrain and landscaping, and the existing building will be screened by mature trees. The steep grade change at the Site necessitates locating the main entrance to 68-68B Allandale Street where it does not face the front lot line.

The proposed Project is consistent with existing levels of density in the surrounding neighborhoods. The Project's FAR relief enables a design that comports with the residential scale in these areas, and represents a far more environmentally-friendly use of land than does a standard subdivision or the large institutional structures nearby. The Project will not comply strictly with the usable open space requirement at the Site, but will provide an overall amount of open space that will result in extensive green space for residents. Because the access road serving the Project buildings is intended to remain a private way, the Project will not, as a technical matter, meet the Code's requirement of certain minimum frontage on a "street." The unusual topography of the property limits the options for siting this road; in light of constraints at the Site, the Project's building alignment, front yard, side yard, and rear yard relief ensure that the Appellant can move forward with a feasible, environmentally-friendly redevelopment.



CITY OF BOSTON
BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 68-68B Allandale Street, Ward 20
 BOA-606487

Date of Hearing: December 13, 2016

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Page: # 6

Conditional Relief Granted to the Project:

The Project will result in the creation of dwellings that do not comply with the requirement of Section 56-40.12 that each such dwelling satisfy the Code's dimensional limitations as if it were on a separate lot. 68-68B Allandale Street is located to the side of other dwellings, and it fails to meet certain internal setbacks and other dimensional requirements. Accordingly, this decision grants a conditional use permit for 68-68B Allandale Street pursuant to Code Section 56-40.12.

This decision grants an additional conditional use permit to allow 68-68B Allandale Street to be located to the rear of other dwellings on the Site, in violation of Code Section 56-40.12.

It was further presented to the Board that the location of 68-68B Allandale Street to the side and rear of other Project buildings is appropriate given the character of the existing residential fabric of the surrounding neighborhoods, and necessary in light of lot constraints, including limited frontage and complicated topography. The slope and landscaping of the Site will largely shield the Project from view. Creating 18 new housing units will generate a *de minimus* amount of traffic, and the Project's entry/exit point will comply with regulations regarding vehicular sight lines and stopping distances. The Project will comport with all applicable environmental laws and will manage all potential impacts, including stormwater runoff, so that there will be no inappropriate impacts on other parcels. All required facilities for the proper operation of the Project will be provided. Finally, the Project design will ensure an appropriate spacing between the Project buildings to ensure ample light and air for all occupants.

The Board finds that all of the following conditions for the granting of the requested variances in accordance with Article 7, Section 7-3, of the Code have been met, 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 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;



CITY OF BOSTON
BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 68-68B Allandale Street, Ward 20
 BOA-606487
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 Permit: # ERT497481
 Page: # 7

- 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.

In determining its findings, the Board 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.

The Board further finds that all of the conditions for the granting of the requested conditional relief in accordance with Article 6, Section 6-3, of the Code have been met, 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; and
- e) adequate and appropriate facilities will be provided for the proper operation of the use.

The Board is of the opinion that all conditions required for the granting of variances under Article 7, Section 7-3, and the granting of conditional use permits under Article 6, Section 6-3, have been met, and that the varying of the terms of the Code as outlined above will not conflict with the intent and spirit of the Code.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 68-68B Allandale Street, Ward 20
BOA-606487

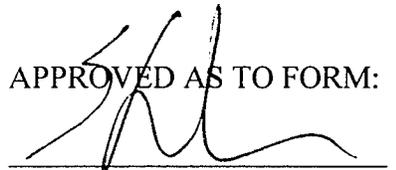
Date of Hearing: December 13, 2016

Permit: # ERT497481

Page: # 8

Therefore, acting under its discretionary power, the Board (the members and/or substitute members sitting on this appeal) voted to grant the requested variances and conditional use permit described above, annuls the refusal of the Building Commissioner, and orders him to grant a permit in accordance with this decision.

APPROVED AS TO FORM:


Assistant Corporation Counsel

PROVISO

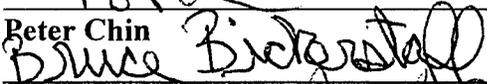
- 1. Subject to design review by BRA.

Signed, February 28, 2017

Christine Araujo - Chairperson

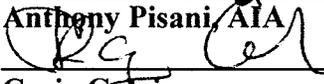
Mark Fortune - Secretary


Peter Chin


Bruce Bickerstaff

Mark Erlich


Anthony Pisani, AIA


Craig Calvin



**City of Boston
Board of Appeal**

Inspectional Services Department
1010 Massachusetts Avenue
Boston, MA 02118
617-635-4775

Members

Christine Araujo - *Chair*
Bruce Bickerstaff
Mark Fortune - *Secretary*
Peter Chin
Mark Erlich
Anthony Pisani, AIA
Craig Galvin

**NOTICE OF DECISION
CASE NO. BOA606488
PERMIT #ERT497482
APPEAL SUSTAINED
WITH PROVISOS**

In reference to appeal of

The Wonder Group LLC

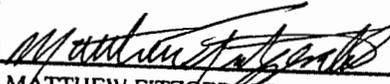
concerning premises

70-70B Allandale Street, Ward 20

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 3/3/2017.

A True Copy,
Attest



MATTHEW FITZGERALD
Esq. Assistant Corporation Counsel

FOR THE BOARD OF APPEAL



Matthew Fitzgerald, Esq
Assistant Corporation Counsel



CITY OF BOSTON
BOARD OF APPEAL
OFFICE OF THE BOARD OF APPEAL

December 13, 2016
DATE

Decision of the Board of Appeal on the Appeal of
The Wonder Group, LLC

To vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8, at premises:

70-70B Allandale Street, Ward 20

In the following respect: Variance

Article(s): 56(56-7) 56(56-8) 56(56-40.12)

Purpose: Erect three (3) unit townhouse building. This is to be one (6) buildings on the same lot. (Conjunction with ALT585519, ERT497480, ERT497481, ERT497483, ERT497484).

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-60648 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 August 30, 2016

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

The Boston Redevelopment Authority was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BRA 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 discussed on Tuesday September 27, 2016 and again on Tuesday December 13, 2016 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#ERT497482 and July 23, 2015 plans submitted to the Board at its hearing and now on file in the Building Department.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 70-70B Allandale Street, Ward 20
BOA-606488

Date of Hearing: December 13, 2016

Permit: # ERT497482

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This appeal concerns the proposed development by Wonder Group LLC (the “Appellant”) of a new residential community (the “Project,” as further described below) on an approximately two-acre, steeply sloping site located at 64 Allandale Street in West Roxbury (the “Site”). The Site, identified as Boston Assessing parcel no. 2003593000, is approximately 86,879 square feet in area. This property is currently occupied by an approximately 4,000 square-foot house.

Project Summary and Permitting Background:

The Appellant’s initial redevelopment proposal for the Site submitted to the Inspectional Services Department (“ISD”) was for a total of 20 units in six buildings. This submission included five new-construction townhouse dwellings, containing 16 dwelling units, plus four residential units in the existing building at the Site. In response to feedback during the development review process, the Appellant reduced the proposed redevelopment of the Site to consist of 18 total units in five buildings: four new townhouse dwellings, containing 14 dwelling units, plus four units in the existing building. The Appellant delivered to the Board, in advance of its hearing on the Project, an updated site plan depicting the revised, 18-unit redevelopment of the Site.

The new site plan reconfigured the locations of certain buildings and dwelling units within the lot, and eliminated one building entirely. Specifically, the revised plan relocated one unit from the proposed 74 Allandale Street building to the 70 Allandale Street building (resulting in a four-townhouse cluster), eliminated the remainder of the 74 Allandale Street building, moved the 68 Allandale Street building into the area previously occupied by the 74 Allandale Street building, and shifted the reconfigured 70 Allandale building towards the centerline of the Site, increasing its side-yard setbacks from neighboring properties. These changes reduced the total number of buildings proposed at the Site from 6 to 5, and reduced the number of dwelling units from 20 to 18. At the hearing, the Board acknowledged the updated site plan,¹ found that the resulting plans were adequate, and approved the revised Project.

The Boston Planning and Development Authority (“BPDA”) Board approved the Project, as reconfigured, on November 17, 2016. The Project is currently undergoing the BPDA’s design

¹ Adoption of the updated site plan may at ISD’s discretion require renumbering of the street addresses of certain buildings at the Site.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 70-70B Allandale Street, Ward 20
BOA-606488

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Permit: # ERT497482

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review process, and may evolve in the course of that process, consistent with the provisions of the Boston Zoning Code (the “Code”), as the Code’s use, dimensional, and other zoning parameters have been modified by this decision.

Zoning Context:

Map 11B of the Boston Zoning Maps indicates that the Site is located within the West Roxbury Neighborhood District, which is governed by Article 56 of the Code. Map 11B further indicates that the Site is located within a 1F-8,000 subdistrict.

Zoning Code Relief:

Based on the requirements of the Code applicable to the Project and Site, the Project building known as 70-70C Allandale Street will require several variances and conditional use permits.

Variances Granted to the Project:

1. FAR (0.51 vs. 0.30). Because the Site will remain one lot, the Project’s floor area ratio (“FAR”) will be determined on a Site-wide basis. The applicable FAR limit for the lot is 0.30. The Project will result in an FAR at the Site of up to and including 0.51.
2. Building Height (45 feet vs. 35 feet). Per Article 2A, building height is measured from “grade,” which Article 2A defines as follows:

The average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building.



CITY OF BOSTON BOARD OF APPEAL

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Decision of the Board of Appeal on the Appeal of

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BOA-606488

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Article 2A further defines “street” as a “public way, alley, lane, court, sidewalk, and such parts of public squares and public places as form traveled parts of highways.” Thus, the right-of-way adjacent to the Site that qualifies as a street under the Code is Allandale Street. Because the buildings in the Project will not be “abutting on a street,” the Code directs that the height calculation is to be based on “the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer.” This decision accordingly grants a building height variance for 70-70C Allandale Street of up to and including 45 feet.

3. Number of Stories (3.5 stories vs. 2.5 stories). Article 56, Table D, sets a maximum of 2.5 stories for any building at the Site. This decision grants a variance for the number of stories of 70-70C Allandale Street of up to and including 3.5 stories.
4. Usable Open Space. This decision grants a variance to permit the Project to supply a total of not less than 45,000 square feet of usable open space at the Site.
5. Frontage. Section 56-8.2 states that each “each Detached Dwelling, Semi-Attached Dwelling, Row House Building, and Town House Building on a Lot shall have a minimum frontage on a Street not less than such minimum Lot Width.” This decision grants a variance from the applicable frontage requirements.
6. Front Yard. This decision grants a variance to set the minimum front yard depth at the Site at zero feet.
7. Townhouse Use. The proposed townhouse use is forbidden within the 1F-8000 subdistrict. This decision grants a variance to permit a townhouse use at 70-70C Allandale Street.

It was presented to the Board that the Site’s best, as well as its most viable, use is for multi-family residential housing serving the neighborhood. The Site is located in the geographic center of Boston, near major employers such as Faulkner Hospital and the hospitals of the



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 70-70B Allandale Street, Ward 20
BOA-606488

Date of Hearing: December 13, 2016

Permit: # ERT497482

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Longwood Medical Area. It is therefore an ideal residential setting. The zoning variances sought by the Appellant are necessary in light of lot constraints to create a feasible reuse of the Site. The Project will further the overall planning goals for the area as expressed in the Code and will result in a model for adaptive reuse, urban infill redevelopment, and design quality.

The use variance requested is required to enable the highest and best use of this residentially-zoned parcel, while ensuring that the Site's landscape is preserved and enhanced as much as possible. This residential use is consistent with and will strengthen a neighborhood greatly in need of additional, high-quality housing units.

The development of new homes on a steeply-angled, single lot requires the proposed dimensional relief, which is no greater than necessary. 70-70C Allandale Street's height and story violations are minor and unavoidable given the significant grade change (>40') on the lot. The Project buildings will be largely shielded from Allandale Street due to the Site's terrain and landscaping, and the existing building will be screened by mature trees. The steep grade change at the Site necessitates locating the main entrance to 70-70C Allandale Street where it does not face the front lot line.

The proposed Project is consistent with existing levels of density in the surrounding neighborhoods. The Project's FAR relief enables a design that comports with the residential scale in these areas, and represents a far more environmentally-friendly use of land than does a standard subdivision or the large institutional structures nearby. The Project will not comply strictly with the usable open space requirement at the Site, but will provide an overall amount of open space that will result in extensive green space for residents. Because the access road serving the Project buildings is intended to remain a private way, the Project will not, as a technical matter, meet the Code's requirement of certain minimum frontage on a "street." The unusual topography of the property limits the options for siting this road; in light of constraints at the Site, the Project's building alignment, front yard, side yard, and rear yard relief ensure that the Appellant can move forward with a feasible, environmentally-friendly redevelopment.

Conditional Relief Granted to the Project:

The Project will result in the creation of dwellings that do not comply with the requirement of Section 56-40.12 that each such dwelling satisfy the Code's dimensional limitations as if it were on a separate lot. 70-70C Allandale Street is located to the side of other



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

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Permit: # ERT497482

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dwelling, and it fails to meet certain internal setbacks and other dimensional requirements. Accordingly, this decision grants a conditional use permit for 70-70C Allandale Street pursuant to Code Section 56-40.12.

This decision grants an additional conditional use permit to allow 70-70B Allandale Street to be located to the rear of other dwellings on the Site, in violation of Code Section 56-40.12.

It was further presented to the Board that the location of 70-70C Allandale Street to the side and rear of other Project buildings is appropriate given the character of the existing residential fabric of the surrounding neighborhoods, and necessary in light of lot constraints, including limited frontage and complicated topography. The slope and landscaping of the Site will largely shield the Project from view. Creating 18 new housing units will generate a *de minimus* amount of traffic, and the Project's entry/exit point will comply with regulations regarding vehicular sight lines and stopping distances. The Project will comport with all applicable environmental laws and will manage all potential impacts, including stormwater runoff, so that there will be no inappropriate impacts on other parcels. All required facilities for the proper operation of the Project will be provided. Finally, the Project design will ensure an appropriate spacing between the Project buildings to ensure ample light and air for all occupants.

The Board finds that all of the following conditions for the granting of the requested variances in accordance with Article 7, Section 7-3, of the Code have been met, 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 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;
- 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



CITY OF BOSTON
BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 70-70B Allandale Street, Ward 20
BOA-606488

Date of Hearing: December 13, 2016

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- 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.

In determining its findings, the Board 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.

The Board further finds that all of the conditions for the granting of the requested conditional relief in accordance with Article 6, Section 6-3, of the Code have been met, 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; and
- e) adequate and appropriate facilities will be provided for the proper operation of the use.

The Board is of the opinion that all conditions required for the granting of variances under Article 7, Section 7-3, and the granting of conditional use permits under Article 6, Section 6-3, have been met, and that the varying of the terms of the Code as outlined above will not conflict with the intent and spirit of the Code.



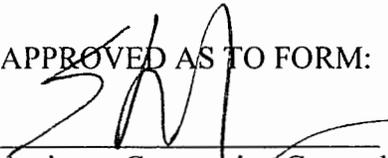
CITY OF BOSTON
BOARD OF APPEAL
OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 70-70B Allandale Street, Ward 20
BOA-606488
Date of Hearing: December 13, 2016
Permit: # ERT497482
Page: # 8

Therefore, acting under its discretionary power, the Board (the members and/or substitute members sitting on this appeal) voted to grant the requested variances and conditional use permit described above, annuls the refusal of the Building Commissioner, and orders him to grant a permit in accordance with this decision.

APPROVED AS TO FORM:

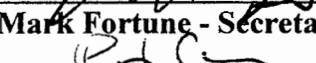

Assistant Corporation Counsel

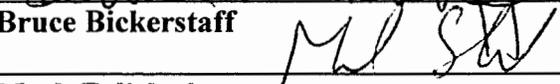
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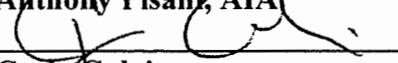
- 1. Subject to design review by BRA.

Signed, February 28, 2017


Christine Araujo - Chairperson

Mark Fortune - Secretary

Peter Chin

Bruce Bickerstaff

Mark Erlich

Anthony Pisani, AIA

Craig Galvin



**City of Boston
Board of Appeal**

Inspectional Services Department
1010 Massachusetts Avenue
Boston, MA 02118
617-635-4775

Members

Christine Araujo - *Chair*
Bruce Bickerstaff
Mark Fortune - *Secretary*
Peter Chin
Mark Erlich
Anthony Pisani, AIA
Craig Galvin

**NOTICE OF DECISION
CASE NO. BOA606489
PERMIT #ERT497483
APPEAL SUSTAINED
WITH PROVISOS**

In reference to appeal of

The Wonder Group LLC

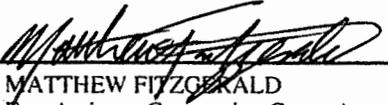
concerning premises

72-72B Allandale Street, Ward 20

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 3/3/2017.

A True Copy,
Attest


MATTHEW FITZGERALD
Esq. Assistant Corporation Counsel

FOR THE BOARD OF APPEAL



Matthew Fitzgerald, Esq.
Assistant Corporation Counsel



CITY OF BOSTON
BOARD OF APPEAL
OFFICE OF THE BOARD OF APPEAL

December 13, 2016
DATE

Decision of the Board of Appeal on the Appeal of
The Wonder Group, LLC

To vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8, at premises:

72-72B Allandale Street, Ward 20

In the following respect: Variance

Article(s): 56(56-7) 56(56-8) 56(56-40.12)

Purpose: Erect three (3) unit townhouse building. This is to be one (6) buildings on the same lot. (Conjunction with ALT585519, ERT497480, ERT497481, ERT497482, ERT497484).

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-606489 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 August 30, 2016

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

The Boston Redevelopment Authority was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BRA 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 discussed on Tuesday September 27, 2016 and again on Tuesday December 13, 2016 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#ERT497483 and July 23, 2015 plans submitted to the Board at its hearing and now on file in the Building Department.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

Address: 72-72B Allandale Street, Ward 20
BOA-606489

Date of Hearing: December 13, 2016

Permit: # ERT497483

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This appeal concerns the proposed development by Wonder Group LLC (the “Appellant”) of a new residential community (the “Project,” as further described below) on an approximately two-acre, steeply sloping site located at 64 Allandale Street in West Roxbury (the “Site”). The Site, identified as Boston Assessing parcel no. 2003593000, is approximately 86,879 square feet in area. This property is currently occupied by an approximately 4,000 square-foot house.

Project Summary and Permitting Background:

The Appellant’s initial redevelopment proposal for the Site submitted to the Inspectional Services Department (“ISD”) was for a total of 20 units in six buildings. This submission included five new-construction townhouse dwellings, containing 16 dwelling units, plus four residential units in the existing building at the Site. In response to feedback during the development review process, the Appellant reduced the proposed redevelopment of the Site to consist of 18 total units in five buildings: four new townhouse dwellings, containing 14 dwelling units, plus four units in the existing building. The Appellant delivered to the Board, in advance of its hearing on the Project, an updated site plan depicting the revised, 18-unit redevelopment of the Site.

The new site plan reconfigured the locations of certain buildings and dwelling units within the lot, and eliminated one building entirely. Specifically, the revised plan relocated one unit from the proposed 74 Allandale Street building to the 70 Allandale Street building (resulting in a four-townhouse cluster), eliminated the remainder of the 74 Allandale Street building, moved the 68 Allandale Street building into the area previously occupied by the 74 Allandale Street building, and shifted the reconfigured 70 Allandale building towards the centerline of the Site, increasing its side-yard setbacks from neighboring properties. These changes reduced the total number of buildings proposed at the Site from 6 to 5, and reduced the number of dwelling units from 20 to 18. At the hearing, the Board acknowledged the updated site plan,¹ found that the resulting plans were adequate, and approved the revised Project.

The Boston Planning and Development Authority (“BPDA”) Board approved the Project, as reconfigured, on November 17, 2016. The Project is currently undergoing the BPDA’s design

¹ Adoption of the updated site plan may at ISD’s discretion require renumbering of the street addresses of certain buildings at the Site.



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review process, and may evolve in the course of that process, consistent with the provisions of the Boston Zoning Code (the “Code”), as the Code’s use, dimensional, and other zoning parameters have been modified by this decision.

Zoning Context:

Map 11B of the Boston Zoning Maps indicates that the Site is located within the West Roxbury Neighborhood District, which is governed by Article 56 of the Code. Map 11B further indicates that the Site is located within a 1F-8,000 subdistrict.

Zoning Code Relief:

Based on the requirements of the Code applicable to the Project and Site, the Project building known as 72-72B Allandale Street will require several variances and conditional use permits.

Variances Granted to the Project:

1. FAR (0.51 vs. 0.30). Because the Site will remain one lot, the Project’s floor area ratio (“FAR”) will be determined on a Site-wide basis. The applicable FAR limit for the lot is 0.30. The Project will result in an FAR at the Site of up to and including 0.51.
2. Building Height (45 feet vs. 35 feet). Per Article 2A, building height is measured from “grade,” which Article 2A defines as follows:

The average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts, except in the case of a building not abutting on a street, the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer; but in no event shall the average elevation of such ground be taken to be more than five (5) feet above or below the average elevation of the ground immediately contiguous to the building.



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Article 2A further defines “street” as a “public way, alley, lane, court, sidewalk, and such parts of public squares and public places as form traveled parts of highways.” Thus, the right-of-way adjacent to the Site that qualifies as a street under the Code is Allandale Street. Because the buildings in the Project will not be “abutting on a street,” the Code directs that the height calculation is to be based on “the average elevation of the ground between the building and the lot line or a line twenty (20) feet from the building, whichever is nearer.” This decision accordingly grants a building height variance for 72-72B Allandale Street of up to and including 45 feet.

3. Number of Stories (3.5 stories vs. 2.5 stories). Article 56, Table D, sets a maximum of 2.5 stories for any building at the Site. This decision grants a variance for the number of stories of 72-72B Allandale Street of up to and including 3.5 stories.
4. Usable Open Space. This decision grants a variance to permit the Project to supply a total of not less than 45,000 square feet of usable open space at the Site.
5. Frontage. Section 56-8.2 states that each “each Detached Dwelling, Semi-Attached Dwelling, Row House Building, and Town House Building on a Lot shall have a minimum frontage on a Street not less than such minimum Lot Width.” This decision grants a variance from the applicable frontage requirements.
6. Front Yard. This decision grants a variance to set the minimum front yard depth at the Site at zero feet.
7. Townhouse Use. The proposed townhouse use is forbidden within the 1F-8000 subdistrict. This decision grants a variance to permit a townhouse use at 72-72B Allandale Street.
8. Main Entrance Not Facing Front Lot Line. Section 56-8.3, Location of Main Entrance, provides that, within the residential subdistricts, “the main entrance of a Dwelling shall face the Front Lot Line.” Article 2A defines the “front lot line” as



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the “line separating the lot from the street.” Because 72-72B Allandale Street’s front door will not face Allandale Street, this decision grants a variance for this element of its design.

9. Side Yard. ISD cited 72-72B Allandale Street for violating the side yard requirement identified in Article 56, Table D. This decision grants a variance from this requirement, to the extent necessary.
10. Rear Yard. ISD has cited 72-72B Allandale Street for violating the rear yard requirement identified in Article 56, Table D. This decision grants a variance from this requirement to the extent necessary.

It was presented to the Board that the Site’s best, as well as its most viable, use is for multi-family residential housing serving the neighborhood. The Site is located in the geographic center of Boston, near major employers such as Faulkner Hospital and the hospitals of the Longwood Medical Area. It is therefore an ideal residential setting. The zoning variances sought by the Appellant are necessary in light of lot constraints to create a feasible reuse of the Site. The Project will further the overall planning goals for the area as expressed in the Code and will result in a model for adaptive reuse, urban infill redevelopment, and design quality.

The use variance requested is required to enable the highest and best use of this residentially-zoned parcel, while ensuring that the Site’s landscape is preserved and enhanced as much as possible. This residential use is consistent with and will strengthen a neighborhood greatly in need of additional, high-quality housing units.

The development of new homes on a steeply-angled, single lot requires the proposed dimensional relief, which is no greater than necessary. 72-72B Allandale Street’s height and story violations are minor and unavoidable given the significant grade change (>40’) on the lot. The Project buildings will be largely shielded from Allandale Street due to the Site’s terrain and landscaping, and the existing building will be screened by mature trees. The steep grade change at the Site necessitates locating the main entrance to 72-72B Allandale Street where it does not face the front lot line.



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The proposed Project is consistent with existing levels of density in the surrounding neighborhoods. The Project's FAR relief enables a design that comports with the residential scale in these areas, and represents a far more environmentally-friendly use of land than does a standard subdivision or the large institutional structures nearby. The Project will not comply strictly with the usable open space requirement at the Site, but will provide an overall amount of open space that will result in extensive green space for residents. Because the access road serving the Project buildings is intended to remain a private way, the Project will not, as a technical matter, meet the Code's requirement of certain minimum frontage on a "street." The unusual topography of the property limits the options for siting this road; in light of constraints at the Site, the Project's building alignment, front yard, side yard, and rear yard relief ensure that the Appellant can move forward with a feasible, environmentally-friendly redevelopment.

Conditional Relief Granted to the Project:

The Project will result in the creation of dwellings that do not comply with the requirement of Section 56-40.12 that each such dwelling satisfy the Code's dimensional limitations as if it were on a separate lot. 72-72B Allandale Street is located to the side of other dwellings, and it fails to meet certain internal setbacks and other dimensional requirements. Accordingly, this decision grants a conditional use permit for 72-72B Allandale Street pursuant to Code Section 56-40.12.

This decision grants an additional conditional use permit to allow 72-72B Allandale Street to be located to the rear of other dwellings on the Site, in violation of Code Section 56-40.12.

It was further presented to the Board that the location of 72-72B Allandale Street to the side and rear of other Project buildings is appropriate given the character of the existing residential fabric of the surrounding neighborhoods, and necessary in light of lot constraints, including limited frontage and complicated topography. The slope and landscaping of the Site will largely shield the Project from view. Creating 18 new housing units will generate a *de minimus* amount of traffic, and the Project's entry/exit point will comply with regulations regarding vehicular sight lines and stopping distances. The Project will comport with all applicable environmental laws and will manage all potential impacts, including stormwater runoff, so that there will be no inappropriate impacts on other parcels. All required facilities for



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the proper operation of the Project will be provided. Finally, the Project design will ensure an appropriate spacing between the Project buildings to ensure ample light and air for all occupants.

The Board finds that all of the following conditions for the granting of the requested variances in accordance with Article 7, Section 7-3, of the Code have been met, 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 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;
- 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.

In determining its findings, the Board 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.

The Board further finds that all of the conditions for the granting of the requested conditional relief in accordance with Article 6, Section 6-3, of the Code have been met, 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;



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- 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.

The Board is of the opinion that all conditions required for the granting of variances under Article 7, Section 7-3, and the granting of conditional use permits under Article 6, Section 6-3, have been met, and that the varying of the terms of the Code as outlined above will not conflict with the intent and spirit of the Code.

Therefore, acting under its discretionary power, the Board (the members and/or substitute members sitting on this appeal) voted to grant the requested variances and conditional use permit described above, annuls the refusal of the Building Commissioner, and orders him to grant a permit in accordance with this decision.

APPROVED AS TO FORM:

Assistant Corporation Counsel

PROVISO

- 1. Subject to design review by BRA.

Signed, February 28, 2017

Christine Araujo - Chairperson

Mark Fortune - Secretary

Peter Chin

Bruce Bickerstaff

Mark Erlich

Anthony Pisani, AIA

Craig Galvin