

CITY OF WALTHAM

MIDDLESEX, SS.

ZONING BOARD OF APPEALS

CASE NO. 2020-34

HEARING DATE: December 1, 2020

William L. Forte, Inspector of Buildings,
City of Waltham

v.

SILVESTRE BUSCEMI, JR.

PROPOSED DECISION

Therefore, the Board of Appeals of the City of Waltham, after due deliberation, on motion duly made and seconded, voted:

To grant relief to the Petitioner and overrules the Stop Work Order of the Inspector of Buildings as it alleges that the building permit # P202041617 was issued in error. The Board further rules that a detached garage for two motor vehicles and a principal building with garages for two motor vehicles on the locus does not violate § 4.226 of the Ordinance as neither structure allows for the garaging of more than three motor vehicles. It further rules that each dwelling unit is entitled to garage spaces for the two parking spaces it is required to provide under the parking requirements of the Zoning Ordinance. The Board further incorporates by reference the Findings of Fact filed herewith and further cites as reasons the following:

The locus property conforms to the lot area requirements for the zoning district. The proposed use at the locus, a two family dwelling with a detached garage, are permitted and by right uses in the zoning district.

The Board finds that both the principal structure and the detached garage proposed also meet all setbacks and lot coverage requirements of the Zoning Ordinance. Use of a detached garage for two motor vehicles and use of the principal structure for the garaging of two motor vehicles does not create a violation of § 4.226 of the Ordinance as neither structure shall provide a garage with more than three motor vehicles.

The Board also finds that each dwelling unit, under § 4.226 as it applies to two family dwellings, is entitled to provide garage spaces for three motor vehicles per each dwelling unit.

Alternatively the Board grants the variance requested in Case No. 2020-34 and incorporates by reference the Findings of Fact and further cites as reasons the following:

The Board finds that there are circumstances especially affecting this locus which do not generally affect other lots in the Residence C Zoning District in which it is located, in that:

The shape at the locus is also a unique circumstance. The lot is relatively very long and narrow from south to north. The length of the lot from east to west is twice the width of the locus. The long end of the locus fronts on School Street and the “front” of the dwelling fronts on Bacon Street.

The structure on the locus is also a unique circumstance. The structure has be situated over the footprint of the original residence on the locus built in 1874. The new structure and the lot it is situated on was created based on the footprint of the 1847 residence.

The proposed detached garage and new two family residence shall conform to the lot coverage restriction for the locus, the lot area requirements, and all of the required setbacks.

A literal enforcement of the Zoning Ordinance would involve substantial hardship to the Petitioners, both practically and financially, in that:

The Petitioner has proposed garage space in the two family dwelling and a detached garage to provide a combined four off street, enclosed, parking spaces for the locus. This shall comply with the parking requirements of the Ordinance and was specifically design to satisfy the parking requirements of the Ordinance. To require elimination of one enclosed parking space is a practical and financial hardship.

This Petition may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or the purpose of the Ordinance. The Petitioner has proposed off street parking in an enclosed garage space. This is a benefit to the public good as it will keep vehicles off the street and out of sight. This is a benefit to the public and the occupants of the site. The elimination of parking spaces is a detriment to the public good.

The required setbacks are provided to prevent overcrowding of the land. The requested variance will, therefore, neither nullify nor substantially derogate from the intent of the Ordinance. The structures on the locus meets all of the dimensional requirements of the Ordinance. Four garage spaces on the locus shall not result in any additional buildings or lot coverage issues.

The overruling of the Stop Work Order and/or the granting of the variance is subject to the following conditions:

1. All necessary permits and/or re-issuance of permits shall be issued and work commenced within one (1) year of the date of the filing of this decision with the City Clerk's office and work shall be completed within two (2) years of the filing of the decision with the City Clerk;
2. All construction and use of the premises shall be in substantial accordance with the plan introduced as evidence during the hearing entitled:

“ Topographic Site Plan, Waltham, Massachusetts, Showing Proposed Conditions at #63 Bacon Street”, dated February 20,2020, revised June 12, 2020, by VTP Associates Inc., Sheet 1 of 2.