

5. In 2011 when Buscemi purchased the property it consisted of one lot of approximately 16,198 square feet of land with a six family residence thereon and a single family residence thereon.
6. Buscemi sought certain zoning relief in 2019 and thereafter divided the prior lot into two lots, one lot for each structure.
7. The locus lot was created by an Approval Not Require Plan endorsed by the City of Waltham Board of Survey and Planning in May of 2019.
8. The locus lot was assigned the property address of 63 Bacon Street by the City Engineering Office in April of 2020 as part of the permitting process.
9. Buscemi applied for and received a building permit to construct a new two family dwelling, with a detached garage, on the lot at 63 Bacon Street on June 19, 2020.
10. By letter dated September 18, 2020, William L. Forte as the Building Inspector issued a Stop Work Order to the Petitioner for alleged “error” in the issuance of the permit by the department.
11. Forte has stated to the Petitioner that the alleged violation is that he has proposed a detached garage for two motor vehicles and a principal building with garages for two motor vehicles for a total of garages for four motor vehicles which violates § 4.226 which states “not more than three motor vehicles”.
12. The Petitioner has timely appealed Forte’s Stop Work Order for the reasons stated herein to this Zoning Board of Appeals.
13. As to the facts concerning the Stop Work Order and this appeal of alleged “violation of any ordinance” from the Inspector of Buildings and the variance requested, the Board takes note of the following:

- a. The “locus” consists of one parcel being known as Lot 1 on the plan entitled “Plan of Land of 257 School & Bacon Streets in Waltham, MA.”, d 4/26/2019, and recorded at the Middlesex South registry of Deeds as Plan No. 953 of 2019.
- b. Lot 1 consists of 7,449 square feet and is now known and numbered as 63 Bacon Street, Waltham, Massachusetts. It was formerly known as 257 School Street.
- c. The locus is situated in the Residence C Zoning District which permits two family dwellings as a by right use.
- d. The lot area of 7,449 square feet at the locus exceeds the minimum lot area requirement of 6,000 square feet for the district.
- e. The proposed two family dwelling on the locus meets all the required setback requirements of the locus as following: a 10 foot front yard setback is required and 11.6 feet is provided; a side yard setback of 10 feet is required and 10.3 feet and 11.4 feet are provided; a rear yard setback of 10 feet is required and a 64 foot setback is provided; a maximum lot coverage of 30% is allowed and a lot coverage of 29.9% is provided; and a height of 40 feet is allowed and a height of 39.56 feet is proposed.
- f. The proposed detached garage on the lot meets the dimensional requirements of the Zoning Ordinance as follows: § 4.221 requires accessory buildings to be at least five feet from the side lot line and the rear lot line and § 4.226, applicable to private garages for single and two family residences, requires a three foot side and rear yard setback, and we propose side yard setbacks of

and 13.3 feet to the north and 20.1 feet to the south side and a rear yard setback of 8.5 feet;

- g. § 4.221, applicable to accessory buildings, provides that no more than 25% of the required rear yard shall be so occupied. Here, the detached garage shall occupy 24.7 % of the required rear yard;
- h. The detached garage shall provide parking spaces for two motor vehicles.
The principal building shall provide parking spaces for two motor vehicles.
No more than two parking spaces are proposed for each structure;
- i. Two dwelling units are proposed for the locus and § 5.2 of the Ordinance, Off Street Parking requirements , requires two parking spaces for each dwelling unit;
- j. The Petitioner is providing two parking spaces in garages for each dwelling unit;
- k. A dwelling unit is defined under the Ordinance as “one or more rooms designed for or occupied as a place of abode by one person or by one family with cooking, sleeping and toilet facilities”;
- l. The Petitioner has identified over twelve (12) two family dwellings permitted and constructed within the City in the last several years where garages are provided for four motor vehicles therein;
- m. The shape of the lot is unique as it is twice as long from east to west than it is from north to south;
- n. The locus lot was created around the footprint of the original structure, a single family residence, constructed on the locus on about 1874;

- o. The prior structure on the locus was demolished as it was collapsing and structurally unsound;
- p. The prior family structure is being replaced with a two family dwelling which is a by right use for the zoning district.