

ZONING BOARD OF APPEALS
New Bedford City Hall
William Street
Thursday, January 22, 2015

MINUTES

PRESENT:

Ian Comerford (*Chairman*)

Allen Decker (*Clerk*)

John Walsh

Robert Schilling

Debra Trahan

Also in attendance:

Dan Romanowicz, Commissioner of Buildings and Inspectional Services

Jennifer Gonet

MEETING CALLED TO ORDER by Chairman Comerford at 6:06 pm..

Mr. Comerford then explained the process and procedures to the applicants and those in attendance.

PUBLIC HEARINGS:

CASE # 4165 – Variance

A motion was made (AD) and seconded (DT) that the following documents be received and placed on file: the communication dated 12/23/14 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 1/9/15; the appeal package; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and that the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Chairman Comerford declared the hearing open and invited the petitioner to the podium.

Jose Teixeira, 119 Acushnet Avenue, addressed the board, stating there are two reasons for what he is seeking. He stated adjacent to his property line has been an empty lot for twelve years, which has turned into a dumping area. He stated the patio area for his kids to play has wild cats and squirrels which get into his yard and destroy everything. He is looking to cover it to protect things and make it safe for his kids.

There was no response to Mr. Comerford's invitation to speak or be recorded in favor. There was no response to Mr. Comerford's invitation to be heard in opposition.

Mr. Comerford noted the required 10' setback mentioned by the planning department, with 1' proposed.

Mr. Decker confirmed with Mr. Teixeira that the property across his property line where his patio is located is unbuilt on.

Mr. Comerford asked Mr. Teixeira to point out on his documents the location of the vacant lot and the proposed addition to the patio.

Mr. Comerford inquired of Mr. Teixeira why he could not put the patio on the back of his property. Mr. Teixeira replied the door is not in back.

Ms. Trahan noted the vacant lot appeared to be city owned.

Mr. Comerford informed Mr. Teixeira that a city program existed where undeveloped parcels were being sold off to owner occupied abutters for very little money. Mr. Comerford was concerned about the setback for any future building on the vacant lot.

Mr. Comerford closed the public hearing.

There being no further comments from board members, a motion was made (AD) and seconded (JM) to grant Appeal #4165, a motion to grant a variance under the provisions of the city code of New Bedford to Jose Teixeira and Aulinda Teixeira (119 Acushnet Avenue, New Bedford, MA 02740) relative to property located at 119 Acushnet Avenue, Assessor's Map Plot 37, Lot 330 in a Residential C Zoned District to allow the petitioner to erect a 16'x20' covered patio as per plans filed, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2700, 2710, 2720, Appendix-B (Side Yards), 2750, and 2755, with the following conditions: that the project be set forth according to plans submitted with the application, and that it be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

At this time an audience member attempted to interject and Mr. Comerford explained that no further comments or questions could be taken.

With regard to the motion made, voting was as follows:

Comerford- Yes

Decker- Yes

Trahan- Yes.

Mathes- Yes

Schilling- Yes

Chairman Comerford called for a brief recess at 6:21 pm.
The meeting resumed at 6:26 pm.

CASES # 4166/4167 – Variance/Special Permit

A motion was made (AD) and seconded (JM) that the following be received and placed on file regarding Case #4166: the communication dated 12/23/14 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 1/9/15; the appeal package; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and that the action of the clerk in giving notice of the hearing as stated be and is hereby ratified. Motion passed unopposed.

A motion was made (AD) and seconded (DT) that the following be received and placed on file regarding Case #4167: the communication dated 12/23/14 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 1/9/15; the appeal package; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and that the action of the clerk in giving notice of the hearing as stated be and is hereby ratified. Motion passed unopposed.

Mr. Comerford declared the hearings on Cases #4166/4167 open. He invited the petitioner to address the board.

Joseph Moniz of J. Moniz Realty, 100 Adams Street, New Bedford addressed the board. He explained he had purchased the property some 4.5 years ago as is. He stated he had tried renting it as a business with little success, it not being a high visibility area. He is seeking to change the use to residential. He believes his neighbors would appreciate the change.

In response to an inquiry by Mr. Comerford, Mr. Moniz stated that both buildings on the property have been vacant for some 2.5 years and are currently just being used for storage.

There was no response to Mr. Comerford's invitation to speak in favor.
There was no response to Mr. Comerford's invitation to be heard in opposition.

The board members expressed no concern about the changeover in use.

Mr. Decker felt it noteworthy that the proposed use is already an allowed use in the area. He sought to confirm with Mr. Moniz whether alterations would be only interior.

Mr. Moniz stated there would be minor changes to the front with an addition of windows and a door, but no structural changes.

Mr. Comerford closed both hearings.

There being no further comments from board members, a motion was made (AD) and seconded (JM) to grant Appeal #4166, a motion to grant a variance under the provisions of the city code of New Bedford to Joseph F. Moniz, of J. Moniz Realty, LLC (100 Adams Street New Bedford, MA 02746) relative to property located at 619-621 Summer Street, Assessor's Map Plot 90, Lot 161 in a Mixed-Use-Business Zoned District to allow the petitioner to change the use to a residential use, converting the space into two (2) units with one (1) bedroom as per the plans filed, which will require a Variance under Chapter 9 Comprehensive Zoning Sections 2700, 2710, 2720 - Appendix-B, 2750, 2751, 2752, 2753, 2754 and 2755 with the following conditions: that the project be set forth according to the plans submitted with the application, and that it be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

VOTE:

I. Comerford - Yes

A. Decker- Yes

D. Trahan- Yes.

J. Mathes - Yes

R. Schilling- Yes

A motion was then made (JM) and seconded (DT) to grant Appeal #4167, a motion to grant a special permit under the provisions of the city code of New Bedford to Joseph F. Moniz, of J. Moniz Realty, LLC (100 Adams Street New Bedford, MA 02746) relative to property located at 619-621 Summer Street, Assessor's Map Plot 90, Lot 161 in a Mixed-Use-Business Zoned District to allow the petitioner to change the use to a residential use, converting the space into two (2) units with one (1) bedroom as per the plans filed, which will require a special permit under Chapter 9 Comprehensive Zoning Sections 2300, 2301, 2325, 5300-5330, and 5360-5390 with the following conditions: that the project be set forth according to plans submitted with the application, and that it be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

VOTE:

I. Comerford - Yes

A. Decker- Yes

D. Trahan- Yes

J. Mathes - Yes

R. Schilling- Yes

Ms. Trahan noted for this evening's applicants that though their appeals were granted, they ought not start work until the 20 day appeal period of the board's decision had run.

CASES # 4168 – Variance

A motion was made (AD) and seconded (JM) that the following be received and placed on file regarding Case #4168: the correspondence 12/23/14 from the Commissioner of Buildings & Inspectional Services; correspondence from the Office of the City Planner dated 1/9/15; the appeal package; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and that the action of the clerk in giving notice of a hearing as stated be and is hereby ratified. Motion passed unopposed.

Mr. Comerford invited the petitioner to the podium.

Bruce Duarte, a property owner of 377 Cedar Street, addressed the board. He stated they had purchased the property six years ago, which at the time was a store. He stated the store closed some 5-6 years later and has remained so for some 1.5 - 2 years. He stated neighbors ask him daily if he is going to open the store. He stated he has been hesitant to do so because of the neighborhood, and he wants to make sure he gets a good store owner who will care for the property.

Mr. Duarte stated he has visited Mr. Ballito and his associates' store (Costa's) at Sawyer, County and Purchase Streets. He stated he had spoken to the gentlemen and he was pleased with their handling of their business, and as such, has chosen them to open a store at this location.

Mr. Duarte stated that some work had been started at the location, including painting of the exterior of the building. He noted they had spent a considerable amount of money at the site renovating the inside. He stated they had run into the issue of a variance for parking, though never having had a problem before. He noted other similar area stores did not require a variance. Mr. Duarte stated this is the hold up in opening the store at Austin and Cedar Street where there are many potential customers in walking distance of the location, which won't require any parking. He stated neighbors are eager for a positive decision so they can utilize the store.

Derick Yates, a building contractor at 7 Blackberry Court, Dartmouth, introduced himself to the board.

Ms. Trahan confirmed that no permits had been pulled.

Mr. Comerford inquired of Mr. Romanowicz as to why there is a variance required for parking now, but not previously.

Mr. Romanowicz explained that, if closed, they inquire of the city clerks to find out the last business certificate issued and the board of health for the last license. The clerk's office indicated a business certificate was filed for Cedars Convenience Plus, Manzur Allam, having previously been JC Variety which expired in 2008. Additionally, the health department indicated the store had been out of business since 2010-2011. Under

zoning, this was previously non-conforming with the use was being allowed, but it expires after two years.

There was no response to Mr. Comerford's invitation to speak in favor.
There was no response to Mr. Comerford's invitation to be heard in opposition.

Mr. Comerford closed the public hearing. He noted he felt the application was pretty straightforward.

Mr. Decker and Ms. Trahan questioned the applicant's proposed hours of operation.

The applicant indicated hours would be 7:00 am to 10:00 pm.

Mr. Mathes noted for the applicant that the specific hours of 7:00 am to 10:00 pm would be a condition of approval.

Mr. Comerford further explained that any change in hours of operation extending beyond those times would require the applicant to reappear before the board.

A motion was then made (AD) and seconded (JM) to grant Appeal #4168, a motion to grant a variance under the provisions of the city code of New Bedford, to P6 Management Group, LLC c/o Bruce Duarte (14 Parker Street New Bedford, MA 02740) and Basalam Alum (397 Sawyer Street, New Bedford, MA 02746) relative to property located at 377 Cedar Street, Assessor's Map Plot 77, Lot 122 in a Mixed-Use Business Zoned District to allow the petitioner to open a convenience store per the plans filed, which will require a variance under Chapter 9, Comprehensive Zoning Sections 3100, 3116, and 3130, Appendix-C, with the following conditions: that the hours of operation for the business not begin before 7:00 am and not extend past 10:00 pm, and that the project be set forth according to plans submitted with the application, and that it be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

VOTE:

I. Comerford - Yes

A. Decker- Yes

D. Trahan- Yes

J. Mathes - Yes

R. Schilling- Yes

Ms. Trahan noted that people not recording at the registry of deeds has been one of the biggest problems over the years.

OLD BUSINESS:

Fees

Ms. Trahan asked to table the discussion on fees to the next meeting

Election of Officers.

Mr. Mathes nominated Ian Comerford as Chairperson, seconded by Debra Trahan
Mr. Comerford accepted the nomination. There was an unopposed vote in favor.

After brief discussion for the vice-chair position Mr. Schilling indicated he felt he was still learning. Mr. Decker indicated he was happy in the clerk position.

Ms. Trahan nominated James Mathes as vice-chair, which Mr. Schilling seconded. The nomination was voted in favor and was unopposed.

Ms. Trahan nominated Allen Decker for clerk, which Mr. Mathes seconded. The nomination was voted in favor and was unopposed.

NEW BUSINESS:

A motion was made (AD) and seconded (DT) to accept the meeting minutes of December 18, 2014 related to cases #4164 and #4109.

Motion passed unopposed.

There being no further business to come before the board, Chairman Comerford adjourned the meeting at 6:51 pm.