



City of New Bedford

Department of Planning, Housing & Community Development

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PATRICK J. SULLIVAN
DIRECTOR

STAFF COMMENTS

PLANNING BOARD MEETING

December 9, 2015 – CASE CONTINUED TO JANUARY 13, 2016-REVISED REPORT

Case # 31-15: REZONING

170 Reynolds Street
Map: 91 Lot: 45

Petitioner: City Councilor Henry Bousquet
(Ward 3)
133 William Street, Room 215
New Bedford, MA 02740

Owner: Helio Medeiros
1329 Rockdale Avenue
New Bedford, MA 02740



Overview of Request:

The Planning Board reviews rezoning petitions as a standard of practice and makes a recommendation based on their findings to the City Council Committee on Ordinances. A proposed zoning change has been submitted by New Bedford City Councilor Henry Bousquet for recommendation from the Planning Board for the rezoning of 170 Reynolds Street from Residence C (RC) to Mixed Use Business.

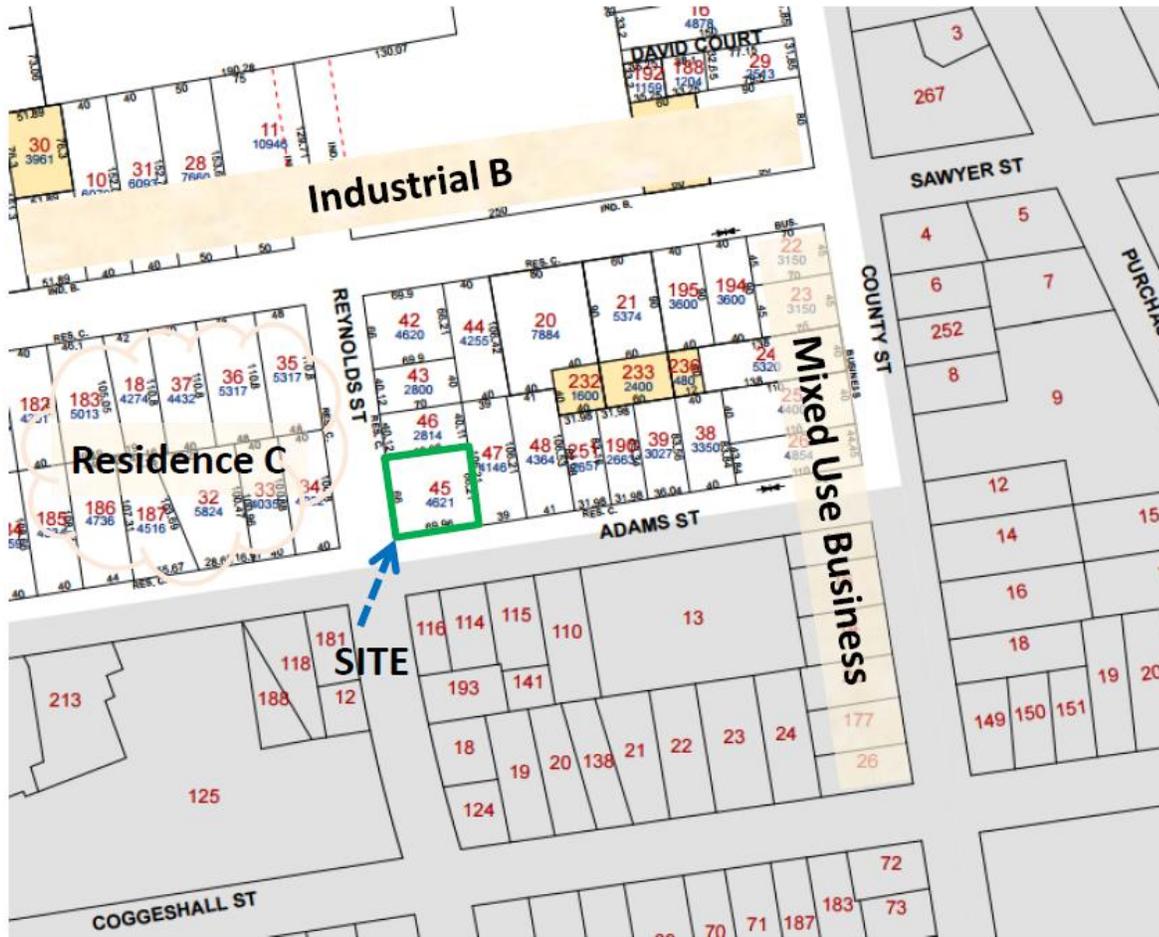
Existing Conditions:

A vernacular commercial structure built in approximately 1910, having a wood shingle exterior, is constructed on the 4,621 SF parcel located at the intersection of Reynolds and Adams Streets. This corner lot, as shown on the assessor's parcel map, has a 66 foot linear frontage along Reynolds Street and 69.96 foot frontage along Adams Street. Prior business use included a neighborhood variety store and furniture reupholstery business.

A chain link fence topped with barbed wire, which predates zoning ordinance **Section 2339** prohibiting barbed wire fence in a residential zone, or on property lines abutting residential zones below a height of eight (8) feet above grade, envelopes the site. A concrete apron and curb cut service the gated entrance to the fenced area at Reynolds Street.



The subject parcel is located in the RC zoning district. North of the site the zoning district is Industrial B; east of the site at County Street is zoned Mixed Use Business. Neighboring commercial entities include Electrical Wholesalers, Inc., at 419 Sawyer Street and Tremblay’s Bus Company at 284 Myrtle Street.



RC uses permitted by-right are, according to the city’s zoning ordinance, (Appendix A-Table of Principal Use Regulations):

Single Family Dwelling	Y
Two Family Dwelling	Y
Multi-family Townhouse	Y
Boarding House	ZBA
Group Residence	ZBA
Assisted or Independent Living Facility	ZBA
Nursing or Convalescent Home	ZBA
Animals or Head of Poultry...	Y
Use of Land/Structures for Religious Purposes	Y
Use of Land or Structures for Educational Purposes...	Y
Child Care Facility (In an Existing Building)	Y
Child Care Facility (Not in an Existing Building)	Y
Use of Land for Agriculture...	Y
Facilities for Sale of Produce...	Y

Municipal Facilities	Y
Essential Services	ZBA
Cemeteries	Y
Hospital	Y
Nonexempt Agricultural Use	ZBA
Adult Day Care	ZBA
Family Day Care	ZBA
Large Family Day Care	ZBA
Funeral Home	ZBA
Bed & Breakfast	ZBA
Wireless Communication Facilities	Planning Board

Proposed Conditions:

Planning staff has been advised by the Commissioner of Inspectional Services that the current owner of the subject property seeks to use the lot as a place to store equipment for his landscaping business. Councilor Bousquet agreed to propose the zone change request on behalf of this owner.

Review Comments:

The motion was distributed to City Clerk, City Solicitor, Health Department, Inspectional Services, Engineering, Public Infrastructure, Conservation Commission, Fire Department and School Department.

The Planning Department awaits final comments.

Staff Findings:

This is not a clear and simple case, there being two overarching and contrasting considerations:

First...research reveals the subject parcel was historically used for business purposes but because no active business use has occurred at this site for a period of two years, the prior, lawfully existing nonconforming use is considered to have been abandoned under **Section 2450 Abandonment or Non-Use** of the zoning ordinance. According to the Commissioner of Inspectional Services, because of this abandonment, the lot has lost its protective status as a retail use and it is now subject to all of the provisions of the City of New Bedford Zoning Ordinance. In addition, the existing commercial structure, itself, developed prior to present zoning codes, does not meet current zoning requirements, and is therefore considered a nonconforming structure.

Under the existing RC zoning, multi-family housing on lots that are at least 15,000 SF are permitted by right. Traditional triple-decker multi-family housing, many of which are nonconforming structures, remains commonplace within this neighborhood. The subject parcel is itself, nonconforming and unbuildable for similar multi-family housing allowed by right in this zone under today’s zoning requirements. Any proposal for housing on this lot would require significant relief from the Zoning Board of Appeals arguably placing a hardship on the property owner.

Compounding the nonconformity of the lot is its location as a corner lot creating two frontages and two side yards. Because of this corner location, coupled with the site’s appurtenant structures such as the surrounding fencing and access driveway width and apron, the lot lends itself more to a small business/ commercial use rather than traditional housing allowed by right within the RC zone. This smaller lot size with two frontages essentially leaves an unbuildable lot, not conducive to residential development in a character consistent with the neighborhood.

Contrasting these points, is the change to the city's zoning ordinance passed by the City Council in March 2015 and recorded as approved April 8, 2015. That ordinance change amended Appendix A Table of Principal Use Regulations so as to exclude a Contractor's Yard from Mixed Use Business (MUB) and Planned Business (PB) zoning districts. Given this exclusion the owner would not be able to store his contracting materials onsite. However, according to the Commissioner of inspectional Services, if the owner operated his business out of the existing building (had an office there), the parking of trucks could be seen as "incidental" to that use and therefore allowed under the MUB zoning district. [This call is at the discretion of the Zoning Enforcement Officer/Commissioner].

For Board Member Consideration:

Courts will look to the characteristics of the land, public benefit, and compliance with the comprehensive plan of the community when rendering a decision on zoning and property rights.

Chairman Dawicki has reminded the Board of the following conditions weighed by the court in deciding a rezoning case:

- Uniformity-the extent to which the zoning change would resemble the surrounding zoning;
- Whether or not the parcel is being singled out for a zoning change;
- The size parcel affected by the zone change;
- Any neighborhood change;
- Impact on economic development; or
- Reclassification of a small parcel that allows a use beneficial to the property owner to the detriment of the neighbors or community at large.

This proposal to rezone the parcel is consistent with the master plan's goal (i.e., to establish a sound foundation for further growth that builds upon its coastal location, preserves its historic legacy, and expand cultural and workforce opportunities) of shaping the future of land use and development, as it restores blighted property, improves the neighborhood, and communicates a positive message for small business development.

Attachments:

1. Written Motion by City Councilor (Ward 3) Henry G. Bousquet



CITY OF NEW BEDFORD

Planning Board

CITY COUNCIL

November 12, 2015

WRITTEN MOTION

Requesting, on behalf of Mr. Helio Medeiros, that 170 Reynolds Street, New Bedford, Plot 91/Lot 45, be REZONED, from Residence "C" to MIXED-USE BUSINESS. (To be Referred to the Planning Board and the Committee on Ordinances.)

Henry G. Bousquet, Councillor Ward Three

IN CITY COUNCIL, November 12, 2015

Referred to the Planning Board and the Committee on Ordinances. Dennis W. Farias, City Clerk

a true copy, attest:

Dennis W. Farias

City Clerk

ATTACHMENT 1

CASE 31-16

PLANNING

NOV 17 2015

DEPARTMENT