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ZONING BOARD OF APPEALS

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CITY CLERK'S OFFICE
NEW BEDFORD, MA

2016 FEB 29 A 11: 26

CITY CLERK

NOTICE OF DECISION

Case Number: #4217				
Request Type: Special Permit				
Address: 20 South Sixth Street				
Zoning: Mixed Use Business (MUB) & Downtown Business Overlay District (DBOD)				
Recorded Owner: YWCA of Southeastern Massachusetts, Inc.				
Applicant: YWCA of Southeastern Massachusetts, Inc.				
Applicant's Address: 20 South Sixth Street				
Application Submittal Date	Public Hearing Date(s)			
December 18 th , 2015	January 21 st , 2016 & February 18 th , 2016			
Decision Date				
February 18 th , 2016				
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
46	69	1797	835	

Special Permit under provisions of Chapter 9 Comprehensive Zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430-2432 (nonconforming structures, other than single-and two-family structures), and 4500-4572F (Downtown Business Overlay District-DBOD); relative to property located at 20 South Sixth Street, assessor's map 46, lot 69 in a Mixed Use Business [MUB] zoned district and Downtown Business Overlay District [DBOD]. To allow the petitioner to expand the existing structure to enable it to provide social services and daycare, meeting rooms for programs services and single resident occupancy units on the upper floors as plans filed.

Action: GRANTED, WITH CONDITIONS, for the reasons set forth in the attached decision with the conditions as described in the attached decision. (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on February 29th, 2016. Any person aggrieved by this decision has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 17 of Chapter 40A of the General Laws of Massachusetts.

2/29/16

Date

J. Mitchell

Acting Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner proposes to expand the existing structure to enable it to provide social services and daycare, meeting rooms for programs services and single resident occupancy units on the upper floors as plans filed, which requires a Special Permit under provisions of Chapter 9 comprehensive zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430-2432 (nonconforming structures, other than single-and two-family structures), and 4500-4572F (Downtown Business Overlay District-DBOD); relative to property located at 20 South Sixth Street, assessor's map 46, lot 69 in a Mixed Use Business [MUB] zoned district and Downtown Business Overlay District [DBOD].

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, YWCA Southeastern Massachusetts Zoning Board of Appeals Submission, prepared by Davis Square Architects, dated 12/18/2015 and date stamped received by City Clerk's Office December 18th, 2015 including:
 - Cover Sheet - T1.01
 - Existing Conditions Site Plan, drawn by Boucher & Heureux, Inc., last revision date November 20th, 2015
 - Site Construction and Layout Plan C1.01
 - Ground Floor Plan – A100
 - First Floor Plan- A101
 - Elevations – A200
- Plan Set, YWCA Southeastern Massachusetts Planning Board Submission, prepared by Davis Square Architects, last revision date 1/15/16 and date stamped received by City Clerk's Office January 15th, 2016 including:
 - Cover Sheet - T1.01
 - Existing Conditions Site Plan, drawn by Boucher & Heureux, Inc., last revision date January 12th, 2016
 - Site Demolition & Preparation Plan - C1.00
 - Site Construction Layout Plan – C1.01
 - Site Grading & Drainage Plan - C2.01
 - Utility and Grading Plan – C3.01
 - Site Erosion Control Plan – C4.01
 - Site Legend, Notes & Details - C5.01
 - Site Details – C5.02
 - Site Details – C5.03
 - Site Details – C5.04
 - Landscaping Plan - PB – L100
 - Sign Plan – PB – L101
 - Existing/Demo Floor Plans – PB – X100
 - Ground Floor Plans – PB – A100
 - First Floor Plan – PB – A101
 - Second & Third Floor Plan – PB – A102
 - Roof Plan – PB – A103
 - Elevations PB - A200

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office December 18th, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated January 4th, 2016.
- Request for Continuance to ZBA from Attorney Marc R. Deshaies, date stamped received by City Planning January 5th, 2016.
- Staff Comments to ZBA from City Planning Division dated February 12th, 2016.
- Letter to ZBA from City Councilor Linda Morad, date stamped received by City Planning February 11th, 2016.
- Planning Board Notice of Decision for Case Number 04-16, date stamped received by City Clerk's Office February 12th, 2016.

3.) DISCUSSION

On the evening of the January 21st, 2016 meeting, board members James Mathes, Allen Decker, Debra Trahan, Leo Schick, and John Walsh were present for the public hearing. City of New Bedford staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Jennifer Gonet (Assistant Project Manager, Planning Division) were present.

Mr. Decker acknowledged the board was in receipt of correspondence from the applicant, dated January 5th, 2016 requesting a continuance of the case to the next regularly scheduled meeting. Mr. Decker made a motion, seconded by Ms. Trahan, to continue the case hearing to the February 18th, 2016 meeting. With all in favor the motion carried.

On the evening of the February 18th, 2016 meeting, board members James Mathes, John Walsh, Robert Schilling, Debra Trahan and Sherry McTigue were present for the public hearing. City of New Bedford staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Jennifer Gonet (Assistant Project Manager, Planning Division) were present during proceedings for the subject case review.

Mr. Walsh made a motion, seconded by Ms. Trahan, to receive and place on file the communications from the Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated January 4th, 2016; from the Planning Division dated February 12th, 2016; from City Councilor Linda Morad dated February 11th, 2016; the appeal packet; the plans as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the action of the Clerk in giving notice of the hearing as stated be and is hereby ratified. With all in favor, the motion carried.

Chairperson Mathes then declared the hearing open.

Representative of the petitioner: Attorney Marc R. Deshaies (115 Orchard Street New Bedford, MA) presented the petition before the board.

Attorney Deshaies explained the petition before the board had multiple parts; first the expansion of an existing nonconforming structure; secondly, the residential component on the upper floors and a request for reduction of dimensional requirements under the Downtown Business Overlay District

[DBOD] section of the zoning ordinance. Specifically, he explained, the petition seeks reductions of dimensional requirements for front yard setback, side yard setback, rear yard setback, and green space. Lastly, the petition requests a waiver of the minimum off street parking requirements.

Attorney Deshaies described the history of the property, the YWCA organization, and the development process for the project. Attorney Deshaies displayed and described the previous conceptual plans for the site. Attorney Deshaies explained the initial concept was rather large and not a good fit within the neighborhood.

Attorney Deshaies described the evolution of the YWCA organization from an organization with the goal to encourage Christian values and morals to an organization of empowerment, to fight racism, and to advance women causes. Part of the focus he explained is outreach to the community. Currently, the organization is operating out of multiple locations, he stated. The goal of the project is to have a place where they can bring under one site the program activities as well as their administrative and management operations, Attorney Deshaies explained.

A new design team was hired about a year ago, he explained. Cliff Boehmer of Davis Square Architects (240A Elm Street Somerville, MA) assisted in displaying the current design while Attorney Deshaies described it to the board for their consideration that evening. Attorney Deshaies explained the new team was brought in to make the project fit in better and be more sensitive to the surrounding neighborhood. He described the current proposal is functional for the YWCA and is still able to bring all the programs and services under one roof in a more subdued manner.

Attorney Deshaies described the design and layout of the site and building. He highlighted the use of the basement in the existing building as a creative use of space for classrooms. He also called attention to the reorientation of the proposed building and reduction in height to two levels that are ADA compliant. Attorney Deshaies explained the existing building as having offices and classrooms. He explained the existing building is connected via a passageway to the proposed building. The proposed building will have classrooms on the lower level and single resident occupancy units on the second floor.

Next, Attorney Deshaies presented how the petition met the criteria necessary to grant the proposal. In regards to the criteria that the expansion of the existing nonconforming structure not be substantially more detrimental than the existing nonconforming structure to the neighborhood, he explained the project was designed to fit in with the neighborhood. He showed on the elevations displayed that the exterior is brick, to match the existing building, and clapboards. He further explained the proposal requires approval from Massachusetts Historical Commission due to a preservation restriction on the property. He explained that in consultation with the state and local historical specialists, a mirror image of the existing building is not desired as the new part of the structure shouldn't detract from the existing historical building to which it would be connected.

The eight proposed single resident occupancy [SRO] units were described and defined by Attorney Deshaies. He described the SRO units as 150 square foot units without plumbing or a kitchen, or in other words, a bedroom with bed and bureau. The SRO units would share a community room, unisex bathroom, and kitchen, he explained. He further explained in the absence of a definition of SRO's in

the city ordinance or a bylaw, the definition comes from the state building code, under which the SRO units would be considered a residential use. Attorney Deshaies pointed out, the SRO residence area is ADA accessible via a ramp in the front of the building to the main vestibule which is then accessible to that floor. He then described the other proposed uses at the property. He explained the Levi Standish house (the existing structure) as being used for classrooms and meeting rooms on the first and second floors, and offices on the third floor. The first floor of the new structure will have classrooms and a reception area.

The request under the DBOD was then described by Attorney Deshaies. He displayed the site plan and explained the applicant organization petitions the board for the following reduction of dimensional requirements under the DBOD: the south side yard setback to 6.72 feet, the north side yard setback to 8 feet, rear setback to 6 feet, front yard setback to 14.58 feet, and green space to 23%.

He also explained the applicant organization petitions for a waiver of the required fifty (50) parking spaces to zero as currently no parking exists on-site nor could be provided. Attorney Deshaies explained the petitioner currently leases fifteen (15) parking spaces at an off-site parking lot approximately 450 feet from the property, and are looking into getting additional spaces at the leased lot. They anticipate an increase of ten (10) additional employees at the site and hours of operation of 8am-6pm, he informed the board.

He stated it is a significant project for the YWCA organization moving forward in delivering their program services to the community in general. In regards to meeting the criteria under the DBOD section of the ordinance, the project meets the purpose of the ordinance by providing commercial use on the first floor and residential use on the second floor. Attorney Deshaies explained the YWCA serves women ages 18 years or older with housing assistance anywhere from 6 months to years.

Attorney Deshaies explained the project is in the center of an urban area and the petitioners believe there will not to be any excess noise during the construction phase. He indicated the YWCA is sensitive to the neighborhood, one which has both commercial and residential uses, and that in light of this, the applicant would accept a restriction on the construction phase's hours of construction. During the operational phase, the YWCA operating hours will be 8am-6pm except the residential portion. During construction he explained the corner lot provides construction vehicles access from two streets, so no major traffic impacts are expected.

There are no wetlands or the like on the site, he stated; therefore there are no expected negative impacts on the natural resources. He acknowledged there are trees planned to be removed, but also in consultation with DPI the project will be introducing a grass ribbon with street trees along the sidewalk. He indicated this would be an enhancement to the surrounding environment. Also, he explained a condition of the Planning Board was to meet with an arborist to find out if it was possible to retain some of the existing trees on the site.

Chairperson Mathes acknowledged the board members had received the plans presented to and the decision of the Planning Board for their review, and therefore were aware of the conditions of the Planning Board on the project.

Attorney Deshaies acknowledged his understanding and continued by noting that in regard to visual impact on the neighborhood, they felt the project is “subdued.” He mentioned that at the suggestion of Planning Board member Kathryn Duff, the YWCA will consult with the Rotch-Jones-Duff House museum for historical plantings for the site. In regards to the criteria that the project not disrupt the historical character of the site, he indicated the petitioner is working with Massachusetts Historical Commission and the City Preservation Planner to make the project a viable project in this regard. He informed the board the project was submitted for review on or about January 20th, 2016 to the Massachusetts Historical Commission and are awaiting that determination.

Ms. Trahan inquired about the estimated construction time frame from beginning to end for the project. Attorney Deshaies stated twelve (12) months expected to complete the project.

Ms. Trahan asked for further explanation regarding the residential use of part of the proposed building. Ms. Gail Fortes (20 South Sixth Street New Bedford, MA), YWCA Executive Director, explained the units are intended as permanent housing, not transitional housing, for low-income women ages 18 year or older, who have been referred to the YWCA from a variety of sources.

Following the petitioner’s testimony, Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. Ms. Juli Parker (911 Wood Street Swansea, MA), Vice-President of the YWCA Board of Directors, spoke in favor. Ms. Parker explained the expansion allowed the services to combine under one roof instead of the current four locations, locations which, she noted, have been expensive to maintain. This expansion will provide the opportunity for YWCA to offer more programs and services to women, girls, and families in the Southeastern Massachusetts community, she said. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Chairperson Mathes invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

With no further questions or concerns, Chairperson Mathes closed the hearing, and opened the floor for discussion amongst board members. Board members indicated their readiness to vote.

4.) FINDINGS

The Board found that in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 5320, the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination included consideration of each of the following:

- *Social, economic, or community needs which are served by the proposal;*
The Board found the proposal will provide an afterschool daycare and learning facilities within the immediate downtown area of the City where none exist currently. There is a need for child care services in the area of the subject property.
- *Traffic flow and safety, including parking and loading;*
The Board found the property is located adjacent to School Street on the south and South Sixth Street on the west, there will be no change in traffic flow on said streets. The

property currently houses the administrative office of the petitioner and there is no off-street parking. There is no ability to generate off-street parking on the property. There is adequate on-street parking for the petitioner's proposed use of the property.

- *Adequacy of utilities and other public services;*
The Board found the property is services by all required utilities both private and public including water and sewer.
- *Neighborhood character and social structures;*
The Board found the property is located in an area of nineteenth and twentieth century homes that have been converted to either professional offices or used multifamily properties. The petitioner's proposal is to expand the existing structure to enable it to provide needed social services and daycare to the community, in general, and the downtown area, in particular.
- *Impacts on the natural environment;*
The Board found the proposal to be neutral in regards to impacts on the natural environment.
- *Potential fiscal impact, including impact on City services, tax base, and employment*
The Board found the petitioner is a 501(c) (e) tax-exempt entity and thus the project is revenue-neutral. All municipal services exist at the property and will be sized to adequately service the needs of the property including a fire and sprinkler system; as such there will be no detrimental impact on city services. The number of employees will increase, because new programs services will be delivered at the property by the petitioners.

Also, in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 4500-4572F, the Board found that the proposed project complies with the requirements of this section. The board found the proposed project does not cause substantial detriment to the neighborhood after considering the following potential consequences:

- a. Noise, during the construction and operational phases;
- b. Pedestrian and vehicular traffic;
- c. Environmental harm;
- d. Visual impact caused by the character and scale of the proposed structure(s);
- e. Where relief to parking requirement has been sought, applicant has demonstrated that reasonable efforts have been made to comply with parking requirements;
- f. For the conversions of the existing structure, the Zoning Board of Appeals found that the proposed project protects the City's heritage by minimizing removal or disruption of historic, traditional or significant uses, structures or architectural elements, whether these exist on the site or on adjacent properties.

5.) RELIEF

With respect to the relief requested by the Applicant, the Board has been presented with sufficient information at the hearing to justify the relief described below, subject to the conditions set forth below in Section 6.

The Board grants the Applicant's request for relief from Chapter 9 comprehensive zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430-2432 (nonconforming structures, other than single-and two-family structures), and 4500-4572F (Downtown Business Overlay District-DBOD); relative to property located at 20 South Sixth Street, assessor's map 46, lot 69 in a Mixed Use Business [MUB] zoned district and Downtown Business Overlay District [DBOD]. To allow the petitioner to expand the existing structure to enable it to provide needed social services and daycare, meeting rooms for programs services and single resident occupancy units on the upper floors as plans filed.

6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY

- a. The project shall be set forth according to plans, submitted with the application, with conditions;
- b. The applicant shall ensure that a copy of this decision, bearing the certification of the City of New Bedford Clerk's Office, is recorded in the Registry of Deeds;
- c. The rights authorized by the granted Special Permit must be exercised, by issuance of a Building Permit by the Department of Inspectional Services and acted upon within one year from the date they were granted or they will lapse.

7.) DECISION

Based on a review of the application documents, testimony given at the public hearing and the findings described above, the Zoning Board of Appeals hereby **GRANTS, WITH CONDITIONS**, the requested Special Permit.

On a motion J. Walsh seconded by D. Trahan to grant the requested Special Permit, the vote carried 5-0 with members D. Trahan, S. McTigue, J. Walsh, R. Schilling, and J. Mathes voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

2/29/2016

Date



John Walsh, Acting Clerk of the Zoning Board of Appeals