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## STAFF COMMENTS

**ZONING BOARD OF APPEALS MEETING**

**July 20, 2016**

**Case # 4239: VARIANCE**  
791-797 Purchase Street  
Map: 52, Lot:292

**Owner:** Miller Holding, LLC  
171 Mendell Road  
Rochester, MA 02770

**Applicant:** 791 Purchase Street, LLC  
401 County Street  
New Bedford, MA 02740



791-797 Purchase Street  
Looking west from Purchase Street

**Overview of Request:** The petitioner has submitted an application for a **Variance** relative to the subject property located within a Mixed Use Business [MUB] zoning district. The petitioner proposes to operate a restaurant and bar establishment with six residential units above. The petitioners propose zero parking spaces, where 68 parking spaces and one loading space are required for the proposed uses under the zoning ordinance.

As with all variances, the board must find:

- There are circumstances relating to the soil conditions, shape or topography which especially affect the land in question, but which do not affect generally the zoning district in which the land or structure in question is located.
- If the city were to literally enforce the zoning ordinance, due to these circumstances unique to this land or structure, it would mean substantial hardship to the petitioner.
- The granting of the variance would not take away from the purpose of the zoning ordinance nor would it cause substantial detriment to the public good.

**Existing Conditions:** The existing 9,281 sq. ft. lot located in the Downtown has 85.2' frontage on Purchase Street and is 111.45' in depth. The property has a two story commercial building that's footprint occupies the entire lot. The existing building is vacant. As the building occupies the entire lot there are no parking or loading spaces on the site.

Located within the city's downtown, the surrounding neighborhood is mixed use with commercial and residential uses present. Many of the buildings along Purchase Street have commercial activities on the first floor and residential above. Sears Court, a public alleyway abuts the property on the south side. With the exception of the very narrow Sears Court

alongside the building [serving as an alley way at present] and a vacant lot caused by a building collapse and subsequent demolition, there is no open space on the entire block. Directly abutting to the south is Family Dollar, to the north Crush Wine, to the west (rear) is Our Lady's Chapel and to the south west the Downtown Police Station.

Metered street parking is located on Purchase Street and the surrounding streets. The Elm Street and Zeiterion municipal public parking garages are located within 5 minute or less walking distance of the site.

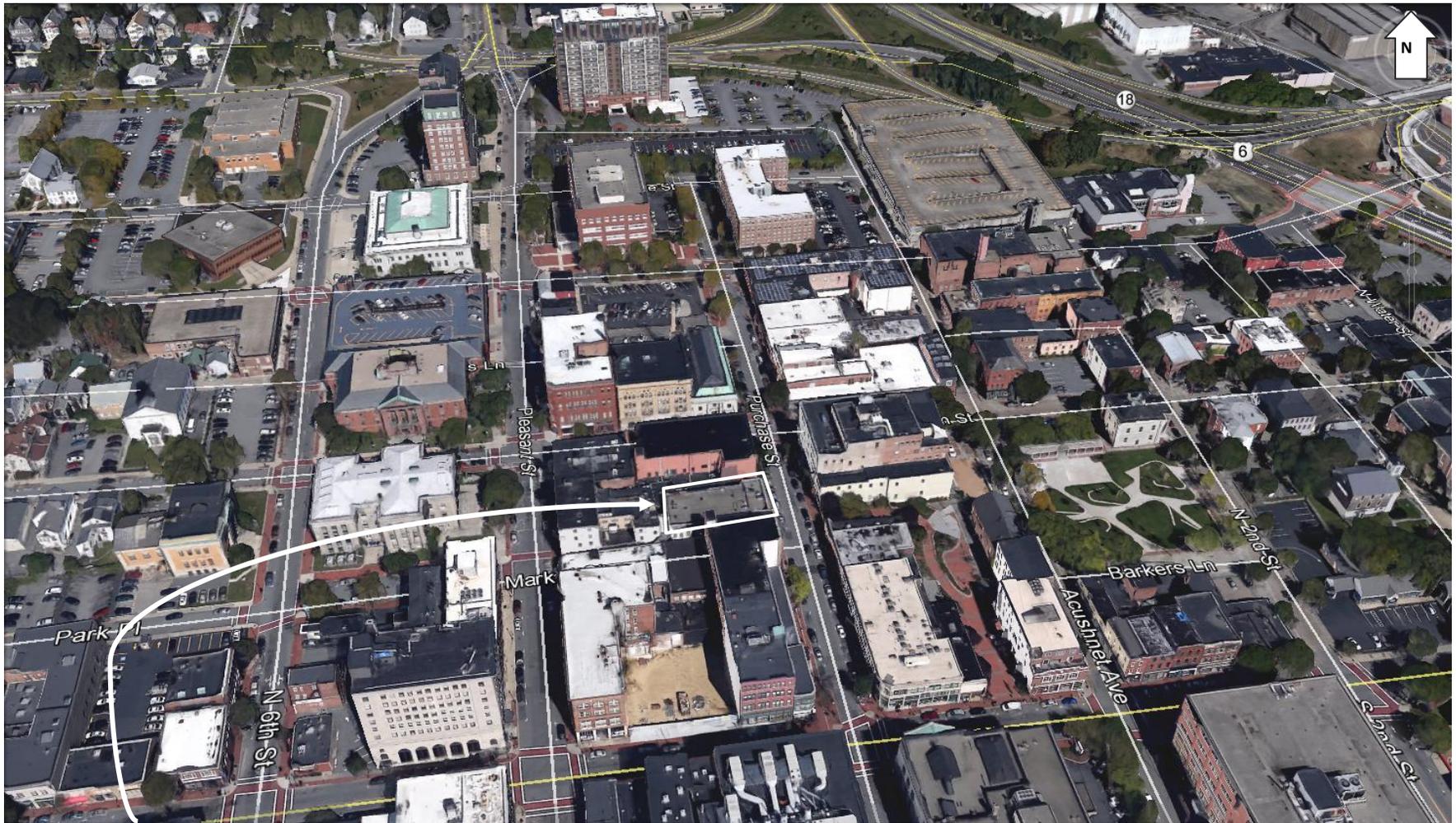
**Proposal:** The petitioners propose to operate a restaurant and bar on the first floor of the commercial building. The plans submitted also indicate the petitioner intends to have six residential units on the second floor. Planning staff were informed at this stage the plans are speculative development with no operational entity identified yet.

The application therefore estimates the restaurant will serve 75 customers per day, have 10 employees, open 7 days a week, hour of operation from 11am to 2am, and weekly deliveries between 7am-8am.

In regards to the criteria necessary to grant the variance, the petitioner states in the application "the property is located on an extremely congested block of the city that slopes from west to east, or from the back of the property to the front. Due to the close proximity of abutting building as well as there being no room for any yard (side, front, or rear) there is no feasible room for the required parking." The petitioner indicates the zoning requirements allow for zero lot lines and therefore diminishes the room for required parking. Further, they state "the downtown area thrives on consumer foot traffic, and with the options of municipal parking in close proximity, there would be no diminishing effects of the proposed project. A majority of the businesses in the immediate area flourish without having the required off-street parking, and it is apparent that they have not hurt anyone else in the area as well as the city continues to grow."

**For Board Member Consideration:** At present, this application only includes those activities planned on the first floor of the building; any future occupancy/renovation/etc. would necessitate further review and determination by the zoning enforcement officer.

The proposal as it stands reactivates an existing vacant property along a very pedestrian active, commercial area of the Downtown. The reuse aligns with the City's goals of re-activating vacant storefronts. The city seeks to promote development that supports the pedestrian experience and walkability throughout the city and particularly within the Downtown. The proposal encourages pedestrian activity in this area while municipal/public parking areas and garages are available within a reasonable distance for vehicular demand.



## 791-797 Purchase Street Map: 52, Lot: 292

NOTE: Property line is approximate; for discussion purposes, only.

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41°38'06.37" N 70°55'34.30" W elev. 91 ft eye alt 957 ft