



JONATHAN F. MITCHELL
MAYOR

City of New Bedford

ZONING BOARD OF APPEALS

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ZONING BOARD OF APPEALS
NEW BEDFORD CITY HALL – 3rd Floor
WILLIAM STREET
NEW BEDFORD, MA
Thursday, May 17, 2018

MINUTES

- PRESENT:** Leo Schick (*Acting Chairperson*)
Allen Decker (*Clerk*)
Robert Schilling
John Walsh
Stephen Brown
- ABSENT:** Debra Trahan-Raffa
- STAFF:** Danny Romanowicz, *Commissioner of Inspectional Services*
Kirsten Bryan, *Acting City Planner*

CITY CLERKS OFFICE
NEW BEDFORD, MA
2018 JUN 15 A 8:43
CITY CLERK

1. CALL TO ORDER

Acting Chairperson Schick called the meeting of the City of New Bedford Zoning Board to order at 6:01 p.m. Clerk Decker read the hearing procedures.

Acting Chairperson Schick notified the board that Debra Trahan-Raffa has stepped down from her post as Chairperson of the Board. In thanking Ms. Trahan, Acting Chairperson Schick highlighted her community involvements, as well as her commitment to the city. In publicly thanking Ms. Trahan, he acknowledged her dedication and service to the board.

Acting Chairperson Schick noted two continuances to be taken out of order.

2. PUBLIC HEARINGS

ITEM 1 – Case #4279: Request for Extension. Dora Atwater Millikin & Dudley L. Millikin, III request an extension of the Zoning Board of Appeals' decision approving Case #4279 for a special permit with conditions recorded August 3, 2017; relative to property located at 22 Centre Street, assessors' map 53, lot 191. The petitioner seeks an extension of the decision for a one year period due to time constraints.

Note: These are minutes only. A complete copy of the meeting audio is available on the City of New Bedford website at: <http://www.newbedford-ma.gov/cable-access/government-access-channel-18/program-schedule/>

Clerk Decker informed the board that they had received correspondence dated 3/31/18, requesting a one year extension. A motion was made (AD) and seconded (RS) to grant the request.

Motion passed unopposed.

A motion was made (AD) and seconded (JW) to take Case #4328 out of order.

Motion passed unopposed.

ITEM 2 – Case #4328: Petition of Po Yam Chan (8 Whitelock Street, New Bedford, MA) and Michael Walker (500 Horseneck Road, Dartmouth, MA) for a Special Permit under Chapter 9 Comprehensive Zoning sections 2400 (non-conforming uses and structures), 2410 (applicability), 2430 (nonconforming structures, other than single-and two family structure), 2431 (reconstructed, extended or structurally changed), 2432 (altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or too substantially greater extent), and 5300-5390 (special permit); relative to property located at 804-812 Brock Avenue, assessor's map 14, lot 232 in a Mixed Use Business District [MUB] zoned district. The petitioner proposes to convert the former restaurant and nail salon into apartments as plans filed.

Board Member Decker notified the board that they had received correspondence date 5/11/18, requesting a continuance of the matter to the 6/14/18 meeting. A motion was made (AD) and seconded (JW) to grant the continuance.

Motion passed unopposed.

ITEM 3 – Case #4327: Petition of Full Spine Realty, LLC. (30 Cornell Street, New Bedford, MA) for a Special Permit under Chapter 9 Comprehensive Zoning sections 2200 (use regulations), 2210 (general), 2230 (tables of use regulations -appendix A, commercial - #25 medical office, center, or clinic), and 5300-5330 & 5360-5390 (special permit); relative to property located at 28-32 Cornell Street, assessor's Map 55, lot 223 in a Mixed Use Business [MUB] zoned district. The petitioner proposes to establish a chiropractic and allied health profession (i.e. physical therapy, etc.)/professional office space as plans filed.

A motion was made (AD) and seconded (JW) that the following be received and placed on file: communication from the Commissioner of Buildings and Inspectional Services dated 4/23/18; communication from the Office of the City Planner dated 5/11/18; the appeal package as submitted; 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 the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Gary Curran, Dartmouth, MA, stated they are looking to change the building use to a medical office enter or clinic to be used primarily for chiropractic.

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In response to Board Member Walsh, Mr. Curran stated that there had been a community foundation at the location, but the property was currently vacant.

In response to Board Member Decker, Mr. Curran acknowledged that chiropractic services already exist in the neighborhood, but that there is no real direct competition in the field. He stated that in his opinion people choose a doctor they wish to see, and if they like them, they continue to see that doctor.

Mr. Curran responded that this business is being relocated from Rockdale Avenue.

In response to Board Member Walsh, Mr. Curran confirmed that his current Rockdale Avenue business is a chiropractic office. He stated he believes the Cornell Street building was termed behavioral/medical. In response to Board Member Decker, Mr. Curran stated there are no proposed changes to the outside.

In response to Acting Chairperson Schick, Mr. Curran stated there will be at least two doctors at the facility.

There was no response to Acting Chairperson Schick's invitation to speak or be recorded in favor.

There was no response to Acting Chairperson Schick's invitation to speak or be recorded in opposition.

The hearing was closed.

There being no further board discussion, a motion was made (AD) and seconded (JW) to grant the special permit request under provisions of the City Code of New Bedford to Full Spine Realty, LLC. (30 Cornell Street, New Bedford, MA) relative to property located at 28-32 Cornell Street, Assessor's Map 55, Lot 223 in a Mixed Use Business [MUB] zoned district, to allow the petitioner to establish a chiropractic and allied health profession/professional office space as per plans filed, which requires a Special Permit under the provisions of Chapter 9 Comprehensive Zoning sections 2400, 2410, 2430, 2431, 2432, and 5300-5390.

In accordance with the City Code 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 includes consideration of the each of the following:

- As concerns the social, economic or community needs served by the proposal, this proposed use helps to meet the community's needs for sufficient chiropractic and allowed medical services;
- As concerns traffic flow and safety, including parking and loading, existing conditions of the site are sufficient for parking and loading, and the proposed use will not overburden the traffic flow and safety thereof;
- As concerns the adequacy of utilities and other public services, this proposal is neutral, utilities are currently on-site and sufficient in nature to support the use;
- As concerns the neighborhood character and social structure; the proposed use fits within the neighborhood's character;

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- As concerns impacts on the natural environment, this proposal is neutral, in that the only changes are internal as opposed to external in nature;
- As concerns the potential fiscal impact, this proposal returns a property that was non-taxable to the city tax rolls, and puts a vacant space back into use, in this case as a commercial entity.

There are no specific conditions, but the following conditions are that the project be set forth according to the plans submitted with the application; and that 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 from the date the decision was granted or this special permit will lapse.

Roll-call vote as follows:

Acting Chairperson Schick – Yes

Board Member Walsh – Yes

Clerk Decker - Yes

Board Member Schilling - Yes

Board Member Brown – Yes

Motion passes 5-0

ITEM 4 - Case #4329: Petition of Hari LLC. (330 Hathaway Blvd., New Bedford, MA) and Rahmanz, Inc. Crown Fried Chicken (CFC)/Quality Construction (120 Lewin Street #29, Fall River, MA 02720) for a Special Permit under Chapter 9 Comprehensive Zoning sections 2200 (use regulations), 2210 (general), 2230 (table of use regulations - appendix-A - commercial, #24 restaurant/fast food), 5300-5330 & 5360-5390 (special permits); relative to property located at 330-332 Hathaway Blvd , assessor's map 82, lot 225 in a Mixed Use Business District [MUB] zoned district. The petitioner proposes to open a takeout food establishment (Crown Fried Chicken) as plans filed.

A motion was made (AD) and seconded (JW) that the following be received and placed on file: communication from the Commissioner of Buildings and Inspectional Services dated 4/23/18; communication from the Office of the City Planner dated 5/11/18; the appeal package as submitted; 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 the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Hosam Mahmoud of Quality Construction, the project's general contractor, representing both the building owner and the tenant Crown Fried Chicken was present for the hearing. He stated that the applicant is seeking another Crown Fried Chicken location in addition to their two other locations in the city.

Board Member Decker confirmed the applicant is seeking to downsize one tenant space, and this application relates to the center of the existing building. Mr. Mahmoud stated the applicant already has the hoods and grease traps which are currently functioning in the convenience store. Mr. Mahmoud confirmed that parking is not an issue, noting the planning board had issued a reduction of parking.

Board Member Walsh confirmed that a lot of the business is foot traffic as well.

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In response to Board Member Brown, Mr. Mahmoud confirmed this business is a local franchise that has been in operation for ten years in the area. Mr. Mahmoud clarified that the Hari-Mart owners are not the same owners of Crown Fried Chicken, that Hari-Mart owner is the building owner.

There was no response to Acting Chairperson Schick's invitation to speak or be recorded in favor.

There was no response to Acting Chairperson Schick's invitation to speak or be recorded in opposition.

The hearing was closed.

After brief board discussion related to the positive aspects of the planned development, a motion was made (AD) and seconded (JW) to grant a special permit request under provisions of the City Code of New Bedford to Hari LLC. (330 Hathaway Blvd., New Bedford, MA) and Rahmanz, Inc. Crown Fried Chicken (CFC)/Quality Construction (120 Lewin Street #29, Fall River, MA), relative to property located at 330-332 Hathaway Blvd, Assessor's Map 82, Lot 225 in a Mixed Use Business District [MUB] zoned district, to allow the petitioner to open a takeout food establishment (Crown Fried Chicken) as per plans filed, which requires a special permit under Chapter 9 Comprehensive Zoning sections 2200, 2210, 2230 - appendix-A commercial use and #24 restaurant/fast food), as well as sections 5300-5330 and 5360- 5390.

In accordance with the City Code 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 includes consideration of the each of the following:

- As concerns the social, economic or community needs served by the proposal, this proposal provides a food service establishment not currently available in the immediate neighborhood;
- As concerns traffic flow and safety, including parking and loading, existing parking and loading is sufficient for the proposed use and will not overburden the traffic flow;
- As concerns the adequacy of utilities and other public services, this proposal is neutral, as the existing utilities are currently on-site and sufficient in nature for the proposed use;
- As concerns the neighborhood character and social structure; the proposed use fits within the neighborhood's character as a small business coming into a building already containing existing small businesses;
- As concerns impacts on the natural environment, this proposal is neutral, in that there are no external changes proposed and only internal changes are planned;
- As concerns the potential fiscal impact, including impact on city services, the tax base, and employment, this proposed use adds an additional commercial business to the property and adds additional jobs that need to be filled to run that business.

There are no specific conditions, but the following conditions are that the project be set forth according to the plans submitted with the application; and that it be recorded at the Registry of

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Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year or the rights granted under the special permit will lapse.

Roll-call vote as follows:

Acting Chairperson Schick – Yes

Board Member Walsh – Yes

Clerk Decker - Yes

Board Member Schilling - Yes

Board Member Brown – Yes

Motion passes 5-0

Board Member Decker personally expressed his appreciation for Ms. Trahan's longstanding service on the zoning board, and hoped she could continue to be involved as an alternate.

3. ADJOURNMENT:

The meeting was declared closed at 6:37 p.m.

ATTEST.



Allen Decker, Clerk



Date

NEXT MEETING SCHEDULED FOR JUNE 14, 2018