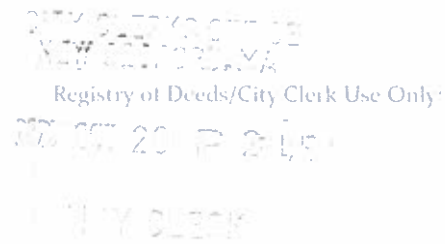




ZONING BOARD of APPEALS

City Hall, Room 303
133 William Street,
New Bedford, MA 02740
(508) 979-1488
www.newbedford-ma.gov



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:	#4425			
Request Type:	Special Permit			
Address:	4227 Acushnet Avenue			
Zoning:	Residential A (RA) Zoned District			
Recorded Owner:	4227 Acushnet Ave LLC, CO Jack Sassin			
Owner Address:	4227 Acushnet Avenue, New Bedford, MA 02745			
Applicant:	4227 Acushnet Ave LLC, CO Jack Sassin			
Applicant Address:	4227 Acushnet Avenue, New Bedford, MA 02745			
Application Submittal Date		Public Hearing Date		Decision Date
September 23, 2020		October 15, 2020		October 15, 2020
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
136A	20	8597	192	


A Special Permit under Chapter 9 Comprehensive Zoning Sections 2400 (nonconforming uses and structures), 2410 (applicability), 2420 (nonconforming uses), 2421 (change or substantial use to another, less detrimental, nonconforming use) and 5300-5330 & 5360-5390 (special permit); relative to property located at **4427 Acushnet Avenue**, Assessors' map 136A lot 20 in a Residential A [RA] zoned district. The petitioner proposes to construct a 20'x46' addition along the northly side of the existing station per 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, October 20, 2020. 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.

October 19, 2020

Date


Stephen Brown, Clerk of the Zoning Board of Appeals

APPLICATION SUMMARY

The petitioner proposes to construct a 20'x46' addition along the northly side of the existing station per plans filed, which requires a Special Permit under Chapter 9 Comprehensive Zoning Sections 2400 (nonconforming uses and structures), 2410 (applicability), 2420 (nonconforming uses), 2421 (change or substantial use to another, less detrimental, nonconforming use) and 5300-5330 & 5360-5390 (special permit); relative to property located at **4427 Acushnet Avenue**, Assessors' map 136A lot 20 in a Residential A [RA] zoned district.

MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, drawn by SITEC, Inc., plans dated September 6, 2020, date stamped September 23, 2020 by City Clerk's Office.
 - Existing Conditions
 - Proposed Addition

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office September 23, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 30, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, dated October 5, 2020.

2.) DISCUSSION

On the evening of the October 15, 2020 meeting, board members: Laura Parrish, Stephen Brown, Robert Schilling, Celeste Paleologos and Allen Decker were present for the virtual public hearing. City of New Bedford staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Angela Goncalves (Assistant Project Manager) were present during proceedings for the subject case review.

In regard to Case #4425 and Case #4426 Clerk Brown made a motion, seconded by Mr. Schilling to hold the public hearings concurrently as they both were in regard to the same project at 4227 Acushnet Avenue. With all in favor, the motion carried.

In regards to Case #4425 Clerk Brown made a motion, seconded by Mr. Schilling to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 30, 2020; staff comments from the Department of City Planning, dated October 5, 2020; Letter in support of the project from Randy Santos, dated October 6, 2020; the appeal packet as submitted; the plan 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.

Acting Chairperson Parrish then declared the hearing open.

The petitioner: Jon Connell, SITEC, Inc. (449 Faunce Corner Road, Dartmouth) presented the case at the hearing representing the proprietor of 4227 Acushnet Ave, LLC, Jack Sassin (4227 Acushnet Avenue, New Bedford). Mr. Connell began the presentation by describing the area associated with the subject property and the proposal.

The property is a 25,138 SF, L-shaped parcel of land located on the westerly side of Acushnet Avenue between Cherokee Street and Sassaquin Avenue. There is a 2,387 SF, one story, commercial building that currently hosts a gas station and auto repair service station known as "Route 18 Gas & Service".

The service station has three existing auto repair bays: performing auto repairs and state vehicle inspections, while the gas station serves gasoline and diesel fuel.

The proposal is to construct a 20'x46' addition along the northly side of the existing station per plans filed, which requires a special permit and a variance from the Zoning Board of Appeals.

Under the zoning ordinance a change to an existing nonconforming structure for a substantial extension of the use requires a Special Permit, and the extension of a nonconforming structure so as to increase an existing nonconformity, or create a new conformity, including extension of an exterior wall at or along the same non-conforming distance within a required yard, requires a Variance from the Zoning Board of Appeals.

Mr. Connell continued the presentation explaining the elevations and retaining walls depicted on the plans submitted. The topography of the site falls from a high elevation of 147 at Acushnet Avenue to a low elevation of 137 in the northwest parcel corner opposite Sassaquin Avenue and utilizes two retaining walls to keep the site high enough to be accessible from Acushnet Avenue.

Mr. Connell proceeded with the presentation explaining the necessity of the proposed addition. Mr. Connell stated the additional service bay would provide quicker repair services for existing clients' as well as fulfill the need/demand for State Inspections for Class C, D & E vehicles, which requires the 12'x12' doors in the proposed bay. Additionally, Mr. Connell indicates the proposed bay would provide covered off-street parking for 1-2 vehicles overnight rather than parking outside, thereby improving onsite parking availability, traffic flow, safety, loading and deliveries.

Mr. Connell concluded the presentation by briefly summarizing the proposal. The proposed addition would allow the neighborhood service station to provide additional services to existing clients, while maintaining the neighborhood character and social structures surrounding the site. Additionally, the proposed addition has been carefully designed to complement the existing structure and neighborhood. Mr. Connell then welcomed questions from the board.

In response to an inquiry from Acting Chair Parrish relative to the design of the additional bay, Mr. Connell replied it will fit in nicely and referred to the proposed site plan submitted, depicting the proposed bay.

Following the petitioner's testimony, Acting Chairperson Parrish invited anyone wishing to speak in favor or be recorded in favor of the petition of the application. Ward 1, Councilor Brad Markey (1520 Morton Avenue) spoke in favor of the proposal. Councilor Markey stated he drove by the subject site to get a visual of the proposal. Councilor Markey stated it's a top notch property and the addition would complement the neighborhood with no detriment.

Councilor Gomes (66 Clara Street) also spoke in favor of the proposal. Councilor Gomes concurs with Councilor Markey's comments and notes it's a prestigious establishment that provides needed services.

Councilor Linda Morad (4162 Acushnet Avenue) also spoke in favor of the proposal. Councilor Morad stated she lives outside the notification area, nonetheless the subject property is kept clean and well operated since the petitioner purchased it. Additionally, Mr. Morad noted the economic hardship for the expansion. Mr. Morad indicated she would like to be recorded in favor of the petition.

Acting Chairperson Parrish invited anyone else wishing to speak in favor or be recorded in favor of the petition of the application. There was no response to Acting Chairperson Parrish's invitation to speak or be recorded in favor.

Acting Chairperson Parrish invited anyone wishing to speak in opposition of the petition. There was no response to Acting Chairperson Parrish's invitation to speak or be recorded in opposition.

Acting Chairperson Parrish asked the Board if there were any further questions.

In response to an inquiry from board member Decker relative to class state inspections, Mr. Sassin replied Class C, D & E must fit in a 12'x12' bay door opening.

With no further questions, Acting Chairperson Parrish closed the hearing.

The Board had a brief discussion. Acting Chair Parrish stated she is in favor of the petition. Board member Schilling stated it's a fine project and board member Paleologos noted the proposal would be a plus for the north end neighborhood. Board member Decker engaged with the Commissioner of Building and Inspectional Services, Danny D. Romanowicz regarding the variance; Mr. Romanowicz stated the variance is for the existing nonconforming use.

With no further questions. The board indicated their readiness to vote.

3.) 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 including consideration of the following: social, economic, or community needs which are served by the proposal; traffic flow and safety, including parking and loading; adequacy of utilities and other public services; neighborhood character and social structures; and impacts on the natural environment.

4.) 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 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), 2420 (nonconforming uses), 2421 (change or substantial use to another, less detrimental, nonconforming use) and 5300-5330 & 5360-5390 (special permit); relative to property located at 4227 Acushnet Avenue, Assessors' map 136A lot 20 in a Residential A [RA] zoned district. The petitioner proposes to construct a 20'x46' addition along the northly side of the existing station per plans filed.

5.) 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.

A motion to approve was made by Mr. Brown and seconded by Mr. Schilling as follows:

In regard to Case #4425 for **4227 Acushnet Ave LLC, CO Jack Sassin** (4227 Acushnet Avenue, New Bedford, MA 02745) relative to property located at **4227 Acushnet Avenue**, Assessors' map 136A lot 20 in a Residential A [RA] zoned district, to allow the petitioner to construct a 20'x46' addition along the northly side of the existing station per plans filed, which requires a **Special Permit** under Chapter 9 Comprehensive Zoning Sections 2400 (nonconforming uses and structures), 2410 (applicability), 2420 (nonconforming uses), 2421 (change or substantial use to another, less detrimental, nonconforming use) and 5300-5330 & 5360-5390 (special permit). Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9 Comprehensive Zoning sections as cited; the board finds that in respect to these sections the board finds in regard to the criteria as follows:

The board finds that in respect to these sections 5300-5330 and 5360-5390 relative to the granting of Special Permits, that 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;*
- *Traffic flow and safety, including parking and loading;*
- *Adequacy of utilities and other public services;*
- *Neighborhood character and social structures;*
- *Impacts on the natural environment;*
- *Potential fiscal impact, including impact on City services, tax base, and employment*

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items along with all properly submitted materials and

testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

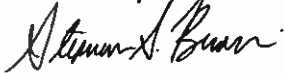
Specific Conditions on this decision shall include:

General Conditions on this decision shall include:

- That the project be set forth according to the plans submitted with the application.
- That the applicant shall ensure a copy of the Notice of Decision bearing the certification of the city of New Bedford City Clerk's Office be recorded at the Registry of Deeds.
- 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 the decision was granted, or the approval will lapse.

On a motion by S. Brown seconded by R. Schilling to grant the requested Special Permit, the vote carried 5-0-0 with members S. Brown, C. Paleologos, R. Schilling, A. Decker and L. Parrish voting in the affirmative; with no members voting in the negative; and no one abstaining. (Tally 5-0-0).

Filed with the City Clerk:



Stephen Brown
Clerk of the Zoning Board of Appeals

October 19, 2020

Date