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MAYOR
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PLANNING DIRECTOR
TABITHA HARKIN

City of New Bedford Department of City Planning

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ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS
VIRTUAL MEETING
Thursday, July 16, 2020

MINUTES

PRESENT: Leo Schick, (*Chairperson*)
Stephen Brown, (*Clerk*)
Allen Decker
Robert Schilling
Celeste Paleologos

ABSENT: None

STAFF: Angela Goncalves, *Assistant Project Manager*
Danny D. Romanowicz, *Commissioner of Building and Inspectional Services*

Petitioners were then confirmed as present by Ms. Goncalves, who provided participants with remote meeting guidelines and protocols under the governor's executive orders.

1. CALL TO ORDER

Chairperson Schick called the meeting of the City of New Bedford Zoning Board to order. Chairperson Schick then explained the meeting process and protocols.

2. PUBLIC HEARINGS:

ITEM 1 – CASE #4412

A motion was made (SB) and seconded (RS) to receive and place on file the correspondence from Steve Gioiosa on requesting a continuance to the August meeting, and stating the reasons, therefore.

Motion passed unopposed.

ITEM 2 – CASE #4394

A motion was made (SB) and seconded (RS) to receive and place on file the correspondence from Att. Russell Whynaucht dated June 17, 2020, requesting a continuance to the August meeting, and stating the reasons, therefore.

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/>

Motion passed unopposed.

ITEM 3 – CASE #4419

A motion was made (SB) and seconded (RS) to receive and place on file communication from the Commissioner of Buildings and Inspectional Services dated 5/29/20; staff comments from the Office of the Department of City Planning dated 6/8/20; 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.

Richard Rheume, Prime Engineering, displayed submissions related to the project planned for Pope's Island. He described the long narrow lot and prior uses. Mr. Rheume displayed the existing 10,000 s/f building, sitting close to the property lines. He discussed changes to be made, including a decrease in size to the building, which will provide room for the necessary parking, including handicap accessible parking spaces. He discussed the sewerage disposal plans. Mr. Rheume also described the four tenant retail spaces anticipated, as well as planned landscaping.

Mr. Rheume discussed the existing bollards, as well as an existing pylon sign to be re-used.

In response to Board Member Schilling, Mr. Rheume stated there are no current tenants assigned. He informed the board of the planning board's approval.

In response to Board Member Decker, Mr. Rheume gave details on the additional acquirement of land on the project's west side. Board Member Decker consulted Commissioner Romanowicz.

There was no response to Chairperson Schick's invitation to speak in favor or opposition.

The public hearing was closed.

After brief board discussion, a motion was made (SB) and seconded (RS) to grant a special permit under provisions of the City Code of New Bedford relative to property located at 161 Pope's Island, Assessor's Map 60, Lot 26 in an Industrial A zoned district, to allow the petitioner to reduce the building area and renovate the structure into a retail/service facility per plans filed, which requires a special permit under Chapter 9, Comprehensive Zoning Sections 2400, 2410, 2430, 2431, 2432, 5300-5390. In accordance with the City of New Bedford Code of Ordinances Chapter 9, Section 5320, the benefit to the city and the neighborhood outweighs the adverse effect 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 and 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 structure, and impact on the natural environments.

With the following specific conditions:

The proposal requires site plan review by the planning and any conditions imposed by the planning board decision shall also be conditions of this special permit.

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The following general conditions also apply: 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 certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the 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 they will lapse.

ROLL CALL VOTE:

Board Member Schick - Yes
Board Member Brown - Yes
Board Member Decker - Yes

Board Member Paleologos - Yes
Board Member Schilling - Yes

Motion passed 5-0

ITEM 4 – CASE #4420 - #4421

A motion was made (SB) and seconded (RS) to hold the above-referenced matters concurrently. Motion passed unopposed.

A motion was made (SB) and seconded (RS) to receive and place on file communication from the Commissioner of Buildings and Inspectional Services dated 1/22/20; staff comments from the Office of the Department of City Planning dated 7/6/20; a letter in support of the proposal from Milton Cardoza, Jr. dated 6/29/20; 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.

Antoinette Pacheco, owner, stated she is retiring and closing her photography business. She stated her daughter will be living in the home with her family. Ms. Pacheco stated she is looking to convert her photography studio back to residential creating an in-law apartment, and no longer uses the space as a commercial building. She noted her upcoming fixed income and 45 year length of time at the property. She invited questions.

In response to Board Member Decker, Ms. Pacheco confirmed the exterior changes, such as windows and sliders.

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

The public hearing was closed.

After brief board discussion, including consultation with Commissioner Romanowicz, a motion was made (SB) and seconded (RS) to grant a special permit on Case #4420 under provisions of the City Code of New Bedford relative to property located at 335 Rockdale Avenue, Assessor's Map 26, Lot 107 in a residential B zoned district, to allow the petitioner to convert a commercial space into an in-law apartment, which requires a special permit under provisions of Chapter 9 Comprehensive Zoning Sections 2400, 2410, 2420, 2421, 2440, and 5300-5390. In accordance with the City of New Bedford Code of Ordinances Chapter 9, Section 5320, the benefit to the city

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and the neighborhood outweighs the adverse effect 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 and 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 structure, and impact on the natural environments.

With no specific conditions, but with the following general conditions: 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 certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the 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 they will lapse.

ROLL CALL VOTE:

Board Member Schick - Yes
Board Member Brown - Yes
Board Member Decker - Yes

Board Member Paleologos - Yes
Board Member Schilling - Yes

Motion passed 5-0

A motion was made (SB) and seconded (CP) to grant a variance under provisions of the City Code of New Bedford relative to property located at 335 Rockdale Avenue, Assessor's Map 26, Lot 107 in a residential B zoned district, to allow the petitioner to convert a commercial space into an in-law apartment, which requires a variance under provisions of Chapter 9 Comprehensive Zoning Sections 3000, 3100, 3110, 3145. Having reviewed this petition, including materials submitted and testimony heard, in accordance with the City of New Bedford Code of Ordinances and M.G.L. Chapter 40A, §10, the board finds that the applicable requirements have been met. This determination includes consideration of the following: The board finds there are circumstances related to the soil conditions, shape or topography specifically effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this instance, the circumstances are that the existing parking area is located directly in front of the existing structure. Two, due to those circumstances especially effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or applicant. In this case, the hardship is that a substantial change would be necessary to comply with the parking requirements. Three, the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. Four, the desirable relief may be granted without substantial detriment to the public good.

With no specific conditions, but general conditions are as follows: 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 certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the variance 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 they will lapse.

ROLL CALL VOTE:

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Board Member Schick - Yes
Board Member Brown - Yes
Board Member Decker - Yes

Board Member Paleologos - Yes
Board Member Schilling - Yes

Motion passed 5-0

3. ACCEPTANCE OF MINUTES:

A motion was made (AD) and seconded (RS) to approve the minutes of the 6/18/20 meeting relative to Case #4418.

Motion passed unopposed.

4. ADJOURNMENT

The meeting was adjourned at 6:50p.m.

NEXT MEETING IS SCHEDULED FOR AUGUST 20, 2020.



Stephen Brown, Clerk

August 27, 2020

Date