



PATRICK J. SULLIVAN
DIRECTOR

City of New Bedford

Department of Planning, Housing & Community Development

608 Pleasant St, New Bedford, Massachusetts 02740
Telephone: (508) 979.1500 Facsimile: (508) 979.1575

STAFF COMMENTS

ZONING BOARD OF APPEALS MEETING

December 15th, 2016

Case # 4259: SPECIAL PERMIT
2112 Acushnet Avenue
Map: 119, Lot: 13

Owner/ CMAC Realty LLC
Applicant: c/o Lance Sylvia
83 Chershire Avenue
New Bedford, MA 02743

Overview of Request: The petitioner has submitted an application for a **Special Permit** relative to the subject property located within a Mixed Use Business [MUB] zoning district. The property is an existing nonconforming use and structure under the city's code of ordinances with a three story commercial style building. The petitioner proposes to covert the three (3) upper units into three (3) residential units. A change to an existing nonconforming property requires a Special Permit from this board.



As with all Special Permits, the ZBA must determine that the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use. To this end the board shall consider each of the following in its determination:

- a.) social, economic, or community needs which are served by the proposal;
- b.) traffic flow and safety, including parking and loading;
- c.) adequacy of utilities and other public services;
- d.) neighborhood character and social structures;
- e.) impacts on the natural environment; and potential fiscal impact, including impact on city services, tax base, and employment.

Additionally, the ZBA must determine that the proposed change to the nonconforming structure shall not be:

- f.) substantially more detrimental than the existing nonconforming structure to the neighborhood.

Existing Conditions: The 21,807 sq. ft. corner lot has 117'± frontage on Acushnet Avenue and 135'± on the adjacent Harwich Street. The property currently has a three story 62' x101' commercial-style building built into the slope of the land. The property slopes down substantially from the west (front) to east (rear). Currently, at the ground level facing Acushnet Avenue there is a laundromat and restaurant. On the lower level, there is a beauty salon facing Harwich Street and a Billiards Hall in the rear of the building. Office and storage space currently make up the third floor.

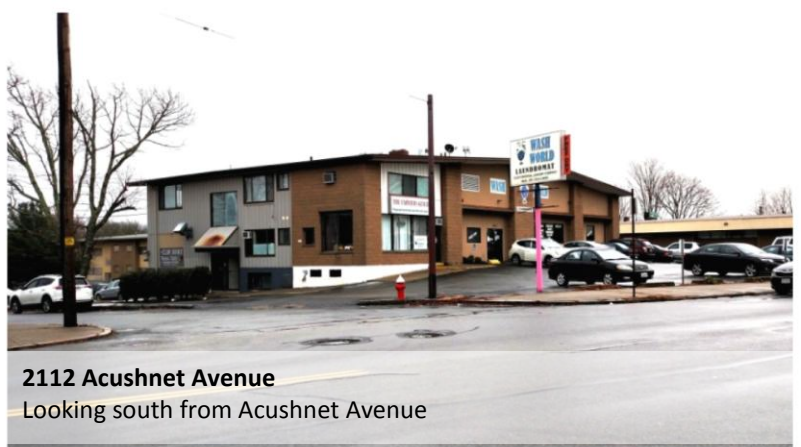
The entire site is asphalt around the building except for a planting bed approximately 30'x 2' with row of shrubbery and one tree located on the northern edge of the property along Harwich Street. The property has 31 parking spaces.

The existing businesses combined in the application are described as serving 65 customers per day, having approximately 5 employees, and hours of operation ranging from 6am-11pm with daily deliveries.

2112 Acushnet Avenue
Looking north from rear of site



2112 Acushnet Avenue
Looking south from Acushnet Avenue



Directly abutting the property to the south and east are two similar commercial buildings also surrounded by asphalt with no delineation between the lots. Directly across Harwich Street are two banking institutions and across Acushnet Avenue there is a commercial building with residential above.

Proposal: The petitioner proposes to renovate the third floor into three residential units. The petitioner indicates the upper level is currently residential and has been for some time. Despite this contention, there is no recorded permit for this change. The property with less than 1% green space does not meet the minimum of 35% green space requirement for residential in MUB zoned district. Also, it does not meet the parking and loading requirements; 53 off-street parking spaces are required for this proposal. Because of these factors, the property is considered existing nonconforming. In addition to this Special Permit from the ZBA related to the nonconformity of use, the petitioner is also required to seek a Special Permit from the Planning Board for a reduction in parking requirements. The petitioners have not yet filed an application with the Planning Board.

In regards to the criteria necessary to grant the special permit, staff offers the following:

- a.) **Social, economic or community needs which are served by the proposal.** The applicant petitions that by converting the upper level to residential “there is traffic relief to the neighborhood, creating housing and economic stimulus.” Staff is unclear as to how the proposal would provide traffic relief and economic stimulus to the neighborhood.
- b.) **Traffic flow and safety including parking/unloading.** The applicant petition notes there is traffic relief as “there is a reduction of visitors to the building” and that resident coming and going is less frequent than

business customers to the site. There is no traffic study provided by the applicant to support the contention of traffic relief nor any evidence to that effect of which staff is aware.

- c.) **Adequacy of utilities and other public services.** The petitioner's application notes "no new utilities are required, the existing utilities provide adequate service to the structure for the proposed use." As such, the continuation of residential use in this location would not further burden the city's utility systems, trash disposal, etc.
- d.) **Neighborhood character.** The application states "the existing site sits on the corner of Acushnet Avenue, Harwich Street with retail on the south side and an abandoned building in the rear and is completely covered with a bituminous concrete finish with parking. This fits into the neighborhood because of the commercial setting."

Having reviewed the area in which the subject site is located, staff confirms that along Acushnet Avenue the neighborhood is predominantly commercial, but further notes that residential uses are present directly across Acushnet Avenue in another mixed use building (one that includes both commercial and residential uses) as well as multifamily housing east of this site.

- e.) **Impacts on the natural environment/potential fiscal impact, etc.** The application notes there is no increase to the building footprint and all work will occur on the interior of the structure. While staff agrees there will be no new impacts on the natural environment as a result of this change, it would be remiss in noting the extent to which the proposal does not meet the required green space. New construction on that site would require site plan approval from the Planning Board which would most likely require less impervious area.
- f.) **Nonconforming structures.** The petitioner indicates the application does not have a more detrimental impact than the existing nonconforming structure as "all the work is occurring on the interior of the building" and the building "blends with the character of the existing buildings in the neighborhood." Staff is mindful of the argument that the three residential units are existing (though unpermitted) and that therefore, the real impact to the neighborhood would likely remain unchanged from that which is experienced today. However, this does not negate the importance of ensuring appropriate design and the mitigation of nonconformity to the extent possible.

For Board Member Consideration: The proposed conversion of the upper units is a nontraditional housing style typically seen in redevelopment of mill spaces throughout the city or buildings in the downtown commercial area. That said, staff remains concerned with the lack of green space on the site for the residential use and notes that given the size of the lot there is land area available to provide more green space closer to what is required under zoning ordinance.



2112 Acushnet Avenue Map: 119, Lot: 13

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

© 2016 Google

Brewster St Google Earth

41°40'45.93" N 70°55'19.65" W elev 28 ft eye alt 570 ft