



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

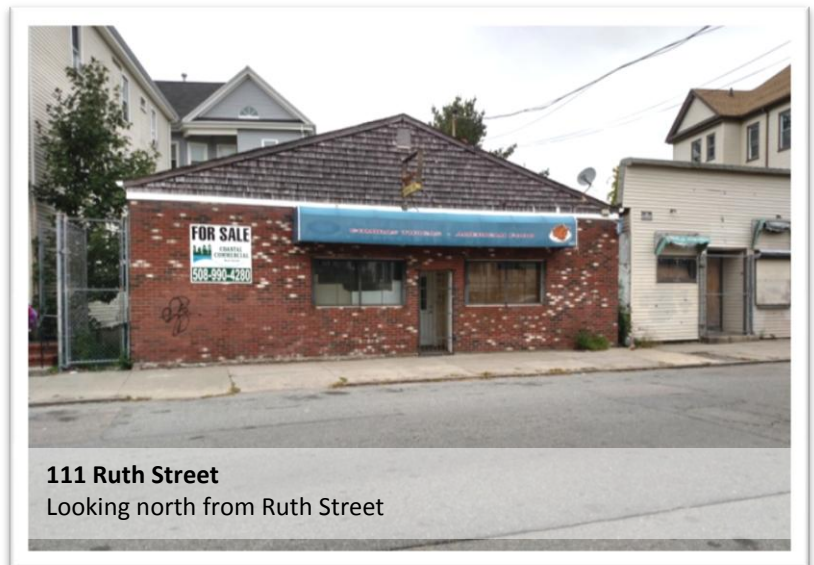
### ZONING BOARD OF APPEALS MEETING

October 20, 2016

**Case # 4248:** VARIANCE  
**Case # 4252:** SPECIAL PERMIT  
111 Ruth Street  
Map: 15, Lot: 304

**Owner:** Maria A. Marques  
362 Pleasant Street  
New Bedford, MA 02740

**Applicant:** Union Fruit Market Inc.  
c/o Birgilio Cabral  
1437 Acushnet Avenue  
New Bedford, MA 02740



**Overview of Request:** The petitioner has submitted an application requiring both a **variance** (Case #4248) and a **special permit** (Case #4252) relative to the subject property located within a Residential C [RC] zoning district. The petitioner proposes to open a small specialty grocery market in an existing nonconforming property with zero parking spaces where 12 are required. The parking relief requires a variance and a change to an existing nonconforming property requires a Special Permit under the zoning ordinance.

#### Criteria for Relief

##### SPECIAL PERMITS

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.

## VARIANCE

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 2,779 sq. ft. lot has 41'± of frontage on Ruth Street and is 78'± in depth. The property has a 2,453 sq. ft. single story commercial building comprising the majority of the “J” shaped lot. There is no parking on the site. Located off of Brock Avenue, at the beginning of the south end peninsula, the Ruth Street neighborhood is densely populated with many multifamily units including the Housing Authority property Tripp Towers. The property is less than a block away from both the Loretta Bourque Pocket Park and the Ruth Street Neighborhood Common/Playground. The building is currently vacant but staff has been informed by the petitioner a bakery business previously occupied the premises. The property is on a SRTA<sup>1</sup> bus route.

**Proposal:** The petitioner described to staff that he proposes to open a small grocery market selling deli products, fresh meat, and tropical produce popular with Caribbean and Latin American populations. The petitioner informed Staff this will be his second location in the city – he also owns and operates Union Fruit Market on Acushnet Avenue in the north end. He explained to Staff he anticipates having four to five employees at this location serving 50-75 customers daily. The store will be open 7 days a week from 8am to 8pm. The petitioner anticipates typically having four deliveries a week all made in the morning. He notes there is available on street parking for deliveries and customers. The applicant suggests that there is no other grocery store like this proposal in the area and that as such, it will serve the neighborhood and an unmet need.

## Granting of a special permit...

As noted, a special permit is necessary anytime a change is made to an existing nonconforming property—as is the case with 111 Ruth Street. As such, the ZBA should consider:

- a.) **Social, economic or community needs which are served by the proposal.** The petitioner claims, and staff concurs, that this type of grocery store does not exist in the neighborhood currently. The petitioner indicates there is a demand for the products he sells in the neighborhood.
- b.) **Traffic flow and safety including parking/unloading.** The petitioner indicates that Ruth Street is wide enough to have delivery trucks deliver to this location without blocking traffic and that he anticipates most customers will walk from the neighborhood to the store.
- c.) **Adequacy of utilities and other public services.** The petitioner asserts he has the electricity, gas, water and sewer services necessary to operate the business at this location.
- d.) **Neighborhood character.** The petitioner states the types of tropical produce that he sells are popular to the existing population in the neighborhood. In conversations with staff, the petitioner described his food products

---

<sup>1</sup> Ruth Street and Brock Avenue are served by SRTA bus Route #1. This route is consistently the top route in terms of ridership for the entire SRTA regional bus system. Route #1 monthly ridership varies seasonally from 13,780-23,453. *Source: Comprehensive Service Assessment Southeastern Regional Transit Authority Final Report*, pages 209, and 225. Also, see Figure 1-3: SRTA Service Area Population Density pg.17. Accessible online as of 9/30/16: [http://www.srtabus.com/wp-content/uploads/SRTA\\_2014\\_CSA\\_Final\\_Report.pdf](http://www.srtabus.com/wp-content/uploads/SRTA_2014_CSA_Final_Report.pdf)

as being from the Caribbean and Latin America. Staff notes that census figures show a high percentage of the Hispanic individuals live near the proposed location<sup>2</sup>.

- e.) **Impacts on the natural environment/potential fiscal impact, etc.** The petitioner details that there is a two yard waste container for trash which will be picked up twice a week. He further writes that his proposal will make a now-vacant property active and employ four or more individuals thereby providing new jobs.
- f.) **Nonconforming structures.** With respect to criteria for nonconforming structures the applicant states “the neighborhood is excited about the improvement of the business on the area.”

#### **Granting of a variance...**

As noted, the petitioner must demonstrate hardship for the granting of a variance according to the three elements identified on page two of these comments.

Staff notes that the presence of an existing nonconforming structure developed at a zero lot line on the street front and encompassing the lot in such a manner as to preclude the possibility of providing onsite parking without demolition of the existing structure. Adjoining and abutting properties similarly consist of buildings that define their respective lots. In this respect, staff finds that literal enforcement of the ordinance relative to parking standards in this case would pose a substantial hardship to the petitioner as the only option would be complete building demolition, etc.

**For Board Member Consideration:** The location is limited in its ability to provide parking on site for the reasons noted in this report. The city articulates support for promoting development that supports the pedestrian experience and walkability throughout the city in its *Master Plan 2020*. As a neighborhood grocer on a small scale the store will likely derive most of its customer traffic from the immediate neighborhood. Given that this neighborhood is one of the highest population density neighborhoods in the city with high rates of transit bus use<sup>3</sup>, it is not unreasonable to suggest that clients will be walking or taking public transit to this location. Presuming the business is similar to the petitioners existing business the customer base will be walking from the surrounding densely populated neighborhood and therefore not generate a significant demand for parking. Staff notes that south of this location there are no traditional grocery stores on the south end peninsula except for a few mini-marts and convenience stores; the nearest grocers are over a quarter mile from this location north and west in the city. Lastly, the proposed market serves a unique market demand for a population of city residents.

---

<sup>2</sup> Map-City of New Bedford, Massachusetts Percent Hispanic by Census Tract. Accessible online 10/4/16: <http://3t848o30ike211t7x11nvgxi.wpengine.netdna-cdn.com/community-development/wp-content/uploads/sites/34/Hispanic-Population-Demographic-Map.pdf>

<sup>3</sup> Ruth Street and Brock Avenue are served by SRTA bus Route #1. This route is consistently the top route in terms of ridership for the entire SRTA regional bus system. Route #1 monthly ridership varies seasonally from 13,780-23,453. Source: *Comprehensive Service Assessment Southeastern Regional Transit Authority Final Report*, pages 209, and 225. Also, see Figure 1-3: SRTA Service Area Population Density pg.17. Accessible online as of 9/30/16: [http://www.srtabus.com/wp-content/uploads/SRTA\\_2014\\_CSA\\_Final\\_Report.pdf](http://www.srtabus.com/wp-content/uploads/SRTA_2014_CSA_Final_Report.pdf)





# 111 Ruth Street Map: 15, Lot: 304

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

© 2016 Google

Google Earth

1995

41°36'51.13" N 70°54'59.00" W elev 30 ft eye alt 347 ft