



ZONING BOARD OF APPEALS

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CITY OF NEW BEDFORD
 JONATHAN F. MITCHELL, MAYOR

Registry of Deeds Use Only:

CITY CLERK
 2015 NOV -4 A 10 42
 CITY CLERKS OFFICE
 NEW BEDFORD, MA

NOTICE OF DECISION

Case Number: #4208				
Request Type: Special Permit				
Address: 15 Irvington Court				
Zoning: Residential B Zoned District				
Recorded Owner: Mercedes Nogueira				
Owner's Address: 15 Irvington Court New Bedford, MA 02745				
Applicant: Mercedes Nogueira c/o Christine Barbosa				
Applicant's Address: 15 Irvington Court New Bedford, MA 02745				
Application Submittal Date	Public Hearing Date	Decision Date		
September 4 th , 2015	October 22 nd , 2015	October 22 nd , 2015		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
110	370	11406	50	

Special Permit under provisions of Chapter 9, comprehensive zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430 (nonconforming structures, other than single and two-family structures), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 15 Irvington Court, assessor's map 110 Lot 370 in a residential-B zoned district. To allow the petitioner to convert a funeral home to a 2-family dwelling as 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 November 4th, 2015. 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.

Nov. 4, 2015
 Date

Allen Decker
 Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to convert a funeral home to a 2-family dwelling as plans filed, which requires a Special Permit under provisions of Chapter 9, comprehensive zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430 (nonconforming structures, other than single and two-family structures), and 5300-5330 & 5360-5390 (Special Permit). This petition is relative to property located at 15 Irvington Court, assessor's map 110 Lot 370 in a residential-B zoned district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, prepared by Mercedes Nogueira, dated stamped received by City Clerk's Office September 4th, 2015.

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office September 4th, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 28th, 2015.
- Staff Comments to ZBA from City Planning Division, dated October 7th, 2015.

3.) DISCUSSION

On the evening of the October 22nd, 2015 meeting, board members: James Mathes, John Walsh, Allen Decker, Sherry McTigue, and Robert Schilling were present for the public hearing. City of New Bedford staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Jennifer Gonet (Assistant Project Manager, Planning Division) were present during proceedings for the subject case review.

Mr. Decker made a motion, seconded by Mr. Walsh, to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated September 28th, 2015; the Communication from the Office of Planning, Housing and Community Development, dated October 7th, 2015; the appeal packet; 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 Mathes then declared the hearing open.

The petitioner: Ms. Mercedes Nogueira (15 Irvington Court New Bedford, MA) with Ms. Christine Barbosa, her daughter, (203 Ash Street New Bedford, MA) presented the petition to the board. Ms. Barbosa explained they are proposing to convert the use from a commercial to a residential use. The property used to be a funeral home. They are seeking to turn the property into a two family. The only changes proposed at the property are making two full bathrooms, as the property only has a half bath currently, and adding a kitchen.

Board members confirmed the use as a two-family, inquired about any proposed exterior changes, off-street parking, and how long the property had been vacant. Ms. Barbosa confirmed the proposed use as two family with no exterior changes proposed. Ms. Barbosa explained the property includes an existing two car garage and additional parking spaces in the rear driveway for a total of six parking spaces. Ms. Barbosa stated the property has been vacant for five years.

Following the petitioner's testimony, Acting Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. No one in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chairperson Mathes invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

With no further questions of concerns, Acting Chairperson Mathes closed the hearing, and opened the floor for discussion amongst board members.

Board members commented that the proposed use brings a vacant property back into active use. They also commented the use as residential would be a relief for parking concerns from the previous use as a funeral home.

4.) 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. This determination included consideration of each of the following:

- *Social, economic, or community needs which are served by the proposal;*
 - The Board found the proposal converts a vacant commercial property into a residential use.
- *Traffic flow and safety, including parking and loading;*
 - The Board found traffic flow and safety will be improved due to proposal and are adequately addressed.
- *Adequacy of utilities and other public services;*
 - The Board found that the adequacy of utilities and other public service were neutral as proposed.
- *Neighborhood character and social structures;*
 - The Board found that proposal fits within the character of the neighborhood and social structures.
- *Impacts on the natural environment;*
 - The Board found the proposal as neutral for impacts on the natural environment.

- *Potential fiscal impact, including impact on City services, tax base, and employment*
 - The Board found the proposed converts a vacant property into an occupied residential use.

Additionally, in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 2430, the Board of Appeals found that the proposed modifications will not be substantially more detrimental than the existing nonconforming structures to the neighborhood.

5.) 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 below in Section 6.

The Board grants the Applicant's request for a Special Permit under Chapter 9, comprehensive zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430 (nonconforming structures, other than single and two-family structures), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 15 Irvington Court, assessor's map 110 Lot 370 in a residential-B zoned district. To allow the petitioner to convert a funeral home to a 2-family dwelling as plans filed.

6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY

- a. The project shall be set forth according to plans submitted with the application;
- b. That the applicant shall ensure that a copy of this decision, bearing the certification of the City of New Bedford Clerk's Office, is recorded in the Registry of Deeds;
- c. And that 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 they were granted or they will lapse.

7.) 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.

On a motion by A. Decker, seconded by J. Walsh to grant the requested Special Permit, the vote carried 5-0 with members R. Schilling, S. McTigue, A. Decker, J. Mathes, and J. Walsh voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

Allen Decker
Allen Decker, Clerk of the Zoning Board of Appeals

Nov. 4, 2015
Date