



ZONING BOARD OF APPEALS

City Hall, Room 303
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Registry of Deeds Use Only:

CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number: #4207		CITY CLERK 2015 NOV - 11 A 9:42 CITY CLERK OFFICE NEW BEDFORD, MA		
Request Type: Special Permit				
Address: 344 Court Street				
Zoning: Residential B Zoned District				
Recorded Owner: Cape Cod Color Associates, INC.				
Owner's Address: 646 Delano Road Marion, MA 02738				
Applicant: Maurice Gomes				
Applicant's Address: 61 Robeson Street New Bedford, MA				
Application Submittal Date		Public Hearing Date		Decision Date
September 2 nd , 2015		October 22 nd , 2015		October 22 nd , 2015
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
50	402	7952	169	

Special Permit under Chapter 9 Comprehensive Zoning Sections 2400 (Nonconforming uses and structures), 2410 (Applicability), 2430-2432 (Nonconforming Structures, other than single and two-family structures), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 344 Court Street, assessor's map 50, Lot 402 in a residential-B district. To allow the petitioner to change the use from office to a single family residence to occupy the premises 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 D. Decker
Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to change the use from office to a single family residence to occupy the premises as plans filed which requires a Special Permit under Chapter 9 Comprehensive Zoning Sections 2400 (Nonconforming uses and structures), 2410 (Applicability), 2430-2432 (Nonconforming Structures, other than single and two-family structures), and 5300-5330 & 5360-5390 (Special Permit). The petition is relative to property located at 344 Court Street, assessor's map 50, Lot 402 in a residential-B district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, drawn by unknown, not dated.
- First floor plan, drawn by unknown, not dated.

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office September 2nd, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 28th, 2015.
- Staff Comments to ZBA from the Office of Planning, Housing and Community Development,, dated October 7th, 2015.
- Letter to ZBA from Cape Cod Color Associates, date stamped received by City Planning October 19th, 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; correspondence from Cape Cod Color Associated, date stamped received October 19th, 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: Mr. Maurice Gomes (61 Robeson Street New Bedford, MA 02740) presented the petition to the board. Mr. Gomes explained he wishes to convert the currently vacant office space into

a single family residential unit for himself. Mr. Gomes explained the neighborhood is residential therefore a residential use would fit in.

Board members asked a few question about the petition. Mr. Decker asked about off-street parking. Mr. Walsh confirmed it's the only commercial building on the block. Mr. Schilling asked if there would be any changes to the building. Ms. McTigue asked about the existing garage and wished to confirm it would not be used for a business. Mr. Gomes explained there is an existing driveway and a four car garage, where he will store his vehicle and personal items; it will not be for a business. Mr. Gomes explained he did not plan any additions on the property and it would remain a single level. He plans to beautify the exterior with azek columns on the front of the building.

Following the petitioner's testimony, Acting Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. Mr. Joe Castello (1815 Acushnet Avenue New Bedford, MA) spoke in favor of the petition explaining the property has been on the market for three years. It had been under contract three or four times but as a commercial use it ran into problems each time under city regulations, therefore this is the perfect fit for this property. No one else 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.

Mr. Decker commented that the proposal was a positive turn for the property from a vacant property to an active property. Mr. Mathes agreed and added also because it is a residential neighborhood.

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 parking needs are addresses by off-street parking in an existing garage.
- *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 unifies the neighborhood by converting the only commercial property on the block into a residential property.
- *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 turns a vacant property into an occupied taxpaying property.

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), 2430-2432 (Nonconforming Structures, other than single and two-family structures), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 344 Court Street, assessor's map 50, Lot 402 in a residential-B district. To allow the petitioner to change the use from office to a single family residence to occupy the premises 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:

Nov. 4, 2015

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals