



City of New Bedford

Department of Planning, Housing & Community Development

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DIRECTOR

STAFF COMMENTS

TO: ZONING BOARD OF APPEALS

Date: October 9th, 2015

Case # 4206A: Variance located at 1080 King's Highway (Map: 125, Lot: 29)

Applicant: McDonald's USA, LLC
c/o Bohler Engineering-Eric Dubrule
252 Turnpike Road
Southborough, MA 01772

Owner: Cedar-Kings, LLC
44 South Bayles Avenue
Port Washington, NY 11050



Overview of Request: The petitioner has submitted an application for a **VARIANCE** relative to the property listed above in a Planned Business zoned district. The petitioner proposes to demolish an existing drive-thru fast-food restaurant (McDonald's) and construct a new drive-thru fast-food restaurant (McDonald's) as shown on a new site plan submitted. The proposed site plan locates a fenced trash enclosure 18.5' from the side yard line, where 25' is required.

The location of the fenced trash enclosure requires a variance. The Board must determine that due to circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located; a literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship to the petitioner.

Existing Conditions: The subject business is a tenant leasing a portion of on an existing commercial property lot located on the southeast side of King's Highway between Mt. Pleasant Street and Tarkiln Hill road. The overall lot measures 303,630 sq. ft. in area with a 653±' frontage on Kings Highway and a 665' depth. The lot includes a strip mall style building on the premises. The existing business, for which this application is made, is a McDonald's fast food restaurant which includes a drive-thru. Its leased area provides 50 parking spaces.

The immediate vicinity is predominantly retail with another fast food restaurant with drive thru located across the street to the north. The McDonald's site is bounded by a Penn Central Co. railroad easement along its southeastern border.

Proposed Conditions: The petitioner proposes to demolish the existing fast-food restaurant and construct a new fast-food restaurant on the site. The new site plan proposes a new traffic pattern for the drive-thru, increased landscaping, and a reduction in parking spaces on the site, bringing the number of spaces from 50 to 40. The petition states the new fast-food restaurant will serve 1,100 customers per day, employ 40 individuals, be open 24 hours a day/7 days a week and will receive three deliveries per week between the hours of 7am-6pm. The proposed site plan results in the location of a fenced enclosure for a dumpster to be located 18.5' from the side property line, where 25' is required.

Criteria for Granting a Variance: The ZBA's determination shall—as prescribed under Ch. 40A Sec. 10 of the Massachusetts General Law—finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

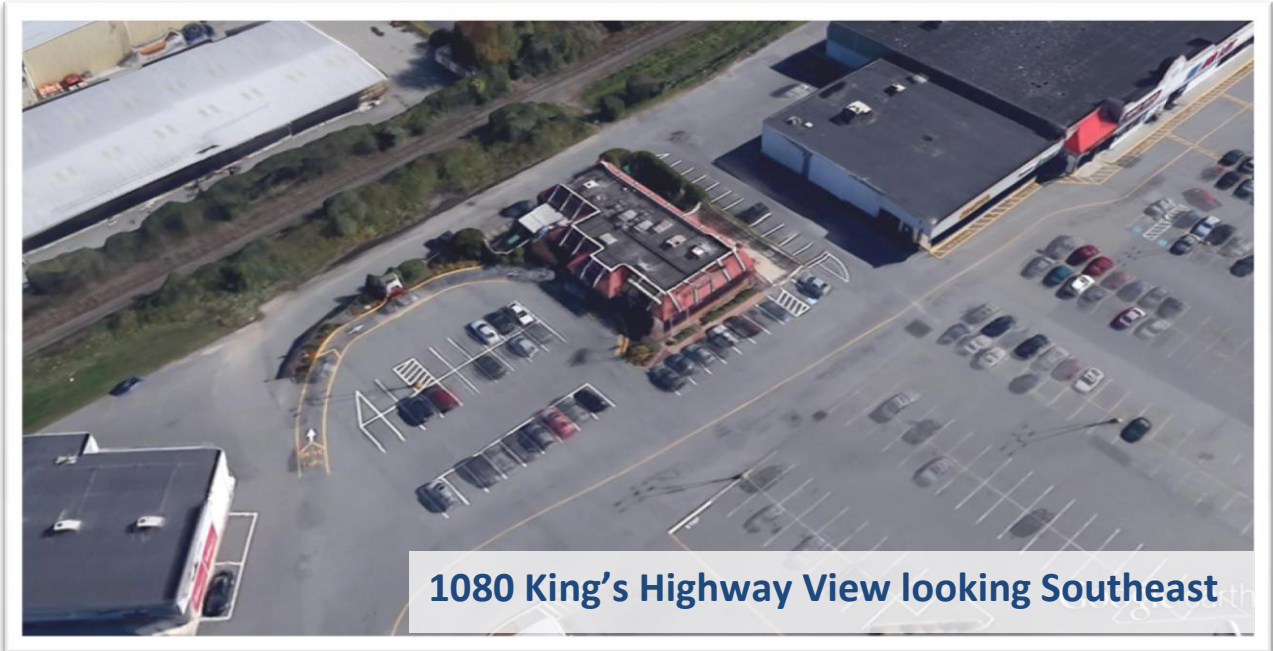
For Board Member Consideration. The petitioner states that the hardship is that due to the required wetlands buffer on the south side of the property, the dumpster is proposed to be located on the north side of the property. The dumpster enclosure is located with a reduced setback so as not to further reduce the number parking spaces on site.

The proposal requires additional approvals from the New Bedford Planning Board and Conservation Commission. If the Zoning Board of Appeals wishes to grant the variance, the decisions of the Planning Board and Conservation Commission should be made a condition of that approval.

The proposed site plan was reviewed by the New Bedford Planning Board on September 9th, 2015. The Planning Board granted, with conditions, site plan approval and a special permit for a reduction of parking requirements. The Planning Board conditioned the approval as follows:

1. Applicant agrees to donate ten street trees to the City of New Bedford to be planted at the City's discretion.
2. Applicant agrees to propose a Landscape Plan to planning staff and work together with staff in creating an acceptable landscape design.
3. The applicant will agree with the recommendations of DPI and take into accommodation all of DPI's suggested recommendations.
4. The hours of operation are to be documented as 5:00 a.m. to 12 midnight.
5. The illuminated signs shall be turned off no later than one hour after closing.
6. The applicant agrees, if possible, to pull in the flared drain ends, away from the City of New Bedford easement for an existing 36 inch sewer drain.
7. The applicant agrees to any additional erosion control measures stipulated by the City of New Bedford Conservation Commission.
8. Application and plans are to be corrected for inconsistencies, which includes the correction of the Title Box which reads New Bedford as located in Providence County.

The proposal is being reviewed by the New Bedford Conservation Commission. The Conservation Commission reviewed the proposal on September 8th, 2015, September 29th, 2015, and will again on October 10th, 2015.



1080 King's Highway View looking Southeast



1080 King's Highway looking North



Google earth

Aerial View of 1080 Kings Highway

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