

ZONING BOARD OF APPEALS

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NEW BEDFORD, MA

2015 SEP 23 A 9:00

CITY CLERK

CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:		#4199		
Request Type:		Special Permit		
Address:		231-233 Hillman Street		
Zoning:		Residential A Zoned District		
Applicant:		Christopher R. Grinnell		
Owner:		Kevin Alves and Catherine R. Alves		
Applicant Address:		1678 E. Main Road #3 Portsmouth, RI 02871		
Owner Address:		975 Oakley Street New Bedford, MA		
Application Submittal Date		Public Hearing Date		Decision Date
July 24 th , 2015		September 10 th , 2015		September 10 th , 2015
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
57	20	2249	0110	

Special Permit under Chapter 9, Comprehensive Zoning Sections 2400 (Nonconforming Uses and Structures), 2410 (Applicability), 2420 (Nonconforming Uses), 2422 (Change from one nonconforming use to another, less detrimental, nonconforming use), 2430 (Nonconforming structures, other than single and two-family structure), 2432 (Altered to provide for a substantially different purpose or for the same purpose in a substantially greater extent), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 231-233 Hillman St., Assessor's Map 57 Lot 20 in a Residential-A Zoned District. To allow the petitioner to remove special permit (variance) status-retail in a Residential-A zone and designate as residence in a Residential-A zone, create a Carriage House in Appearance with sliding doors covering a 10 feet x 10 feet opening on left middle front, mullion (insert) windows, domestic passage door and horizontal sheathing as plan 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 September 23rd, 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.

Sept. 23, 2015
Date

Alan Decker
Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to remove special permit (variance) status-retail in a residential A zone and designate as residence in a residential A zone, create a Carriage House in Appearance with sliding doors covering 10 feet x 10 feet opening on left middle front, mullion (insert) windows, domestic passage door and horizontal sheathing as plan filed, which requires a Special Permit under Chapter 9, Comprehensive Zoning Sections 2400 (Nonconforming Uses and Structures), 2410 (Applicability), 2420 (Nonconforming Uses), 2422 (Change from one nonconforming use to another, less detrimental, nonconforming use), 2430 (Nonconforming structures, other than single and two-family structure), 2432 (Altered to provide for a substantially different purpose or for the same purpose in a substantially greater extent), and 5300-5330 & 5360-5390 (Special Permit). The petition is relative to property located at 231-233 Hillman St., Assessor's Map 57 Lot 20 in a Residential-A Zoned District.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, drawn by unknown, not dated
- Exterior elevation titled "*New Exterior Drawing*", drawn by unknown, not dated
- Interior layout, drawn by unknown, date stamped received by City Planning Department August 24th, 2015

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, Stamped Received by City Clerk's Office July 24th, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated August 6th, 2015
- Staff Comments to ZBA from City Planner, Jill Maclean, dated September 9th, 2015.

3.) DISCUSSION

Board Members J. Mathes, A. Decker, R. Schilling, J. Walsh, and L. Schick were present on the evening of the public hearing.

City of New Bedford Staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

Mr. Decker motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated August 6th, 2015; the Communication from the Office of City Planner dated September 9th, 2015; 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. Motion seconded by J. Walsh. With all in favor, the motion carried.

Acting Chairperson Mathes then declared the hearing open.

Petitioner: Mr. Christopher Grinnell (1678 E. Main Road #3 Portsmouth, RI) addressed the board stating he is asking for the building to be turned into a residence in a residential A zoned district. He stated it was built as a commercial purpose before zoning went into effect. He expressed that its best use is to be returned to a residential use. Mr. Grinnell noted that the building across the street is of the same style.

He further explained that he is retired and wishes to do artwork. He is used to doing artwork outdoors so the side of the building with the proposed sliding door will be open with this as the intent. The other side will be for his residential home area.

Mr. Mathes confirmed with the petitioner that the property referenced across the street was Diman Landry.

Mr. Decker asked the petitioner if he intended to sell his artwork at the property. Mr. Grinnell stated no his artwork is not good enough. He further explained he makes plywood bicycles. Brief comments were made and questions asked about the plywood bicycles by the Board members.

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 stated questions or concerns, Acting Chairperson Mathes declared the hearing closed.

The Board members discussed amongst themselves the criteria necessary to grant the special permit. Mr. Decker stated this proposal brings the property more into conformance with the applicable zoning. Mr. Grinnell interjected that he forgot to mention he also plans to take out the tar and gravel in the rear of the property and replace with grass. Mr. Decker thanked Mr. Grinnell for bringing that to the attention of the Board. The remainder of the criteria necessary to grant were discussed and a motion to grant was made, as outlined in the succeeding sections.

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 creates an additional residential property where one was not before.
- *Traffic flow and safety, including parking and loading;*
 - The Board found the proposal provides for a reduction in traffic flow due to removal of a commercial use.
- *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 the proposed use brings the property into conformance with applicable zoning.
- *Impacts on the natural environment;*
 - The Board found the removal of gravel and tar in the rear will increase the lot's green space.
- *Potential fiscal impact, including impact on City services, tax base, and employment*
 - The Board found that the proposal will have a minimal impact on City services, a potential increase in tax revenue based on property renovations and enhancements.

Additionally, the Board found that in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 2420 and 2430, the proposed use and modifications will not be substantially more detrimental than the existing nonconforming use and structure 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 in Section 6 of this Decision.

The Board grants the Applicant's request for a Special Permit under Chapter 9, Comprehensive Zoning Sections 2400 (Nonconforming Uses and Structures), 2410 (Applicability), 2420 (Nonconforming Uses), 2422 (Change from one nonconforming use to another, less detrimental, nonconforming use), 2430 (Nonconforming structures, other than single and two-family structure), 2432 (Altered to provide for a substantially different purpose or for the same purpose in a substantially greater extent), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 231-233 Hillman St., Assessor's Map 57 Lot 20 in a Residential-A Zoned District. To allow the petitioner to remove special permit (variance) status-retail in a Residential-A zone and designate as residence in a Residential-A zone, create a Carriage House

in Appearance with sliding doors covering a 10 feet x 10 feet opening on left middle front, mullion (insert) windows, domestic passage door and horizontal sheathing as plan 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 J. Mathes, A. Decker, J. Walsh, R. Schilling, and L. Schick, voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

Sept. 23, 2015
Date



Allen Decker, Clerk of the Zoning Board of Appeals