



ZONING BOARD OF APPEALS
 City Hall, Room 303
 133 William Street,
 New Bedford, MA 02740
 (508)979-1488
 www.newbedford-ma.gov

CITY OF NEW BEDFORD
 JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number: #4166				
Request Type: Variance				
Address: 619-621 Summer Street				
Zoning: Mixed Use Business Zoned District				
Recorded Owner: J. Moniz Realty, LLC				
Applicant: J. Moniz Realty, LLC c/o Joseph F. Moniz				
Applicant Address: 100 Adams Street New Bedford, MA 02746				
Application Submittal Date	Public Hearing Date			
December 8 th , 2014	January 22 nd , 2015			
Decision Date				
January 23 rd , 2015				
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
90	161	9402	219	2015-3

CITY CLERK'S OFFICE
 NEW BEDFORD, MA
 2015 JAN 24 P 1:24
 CITY CLERK
 CITY CLERK'S OFFICE
 NEW BEDFORD, MA
 FEB - 3 P 1:11
 CITY CLERK'S OFFICE
 NEW BEDFORD, MA

Application:

Variance under provisions of Chapter 9 Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 Table of Dimensional Requirements Appendix-B (Lot Size, Lot Frontage, Front Yard, Side Yard, Rear Yard & Green Space), 2750 (Yards in Residence Districts), 2751 (Front Yard), 2752, 2753 (Rear Yard), 2754 and 2755 (Side Yards); relative to property located at 619-621 Summer Street, Assessor's Map Plot 90 Lot 161 in a Mixed-Use-Business Zoned District. To allow the petitioner to change the use to a residential use, converting the space into two (2) units with one (1) bedroom 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 February 3rd, 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.

February 3, 2015
 Date

Alfred Decker
 Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to change the use to a residential use, converting the space into two (2) units with one (1) bedroom as plans filed, which will require a Variance under Chapter 9 Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 Table of Dimensional Requirements Appendix-B (Lot Size, Lot Frontage, Front Yard, Side Yard, Rear Yard & Green Space), 2750 (Yards in Residence Districts), 2751 (Front Yard), 2752, 2753 (Rear Yard), 2754 and 2755 (Side Yards); relative to property located at 619-621 Summer Street, Assessor's Map Plot 90 Lot 161 in a Mixed-Use-Business Zoned District.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan drawn by unknown, not dated

Other Documents & Supporting Material

- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office December 8th, 2014.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, dated December 23rd, 2014.
- Letter to ZBA from City Planner Jill Maclean, dated January 9th, 2015.

3.) DISCUSSION

Board Members I. Comerford, J. Mathes, A. Decker, D. Trahan, and R. Schilling 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.

A .Decker read and motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated December 23rd, 2014; to have the appeal be received and placed on file; to have the plan be received and placed on file; that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the Communication from the Office of City Planner dated January 9th, 2015 be received and placed on file. Motion seconded by J. Mathes. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open (Case #4166 & Case #4167 were heard concurrently).

The Petitioner: Joseph F. Moniz, of J. Moniz Realty, LLC (100 Adams Street New Bedford, MA 02746) described the reasoning for the requested relief. Mr. Moniz explained he had bought the property four (4) years ago and from his experience it isn't a high visibility

area for a business. He stated he had a tenant in the building for a period of time but explained since he has had difficulty renting it and therefore wishes to change over the use to residential. He also stated he thinks his neighbors might like the residential use better. Chairperson I. Comerford asked how long the units have been vacant. Mr. Moniz said it has been not filled for approximately two and a half (2 ½) years.

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

Chairperson I. Comerford 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.

Chairperson I. Comerford asked if the Board members had any questions or concerns for the petitioner. Chairperson I. Comerford stated he agreed that the neighbors would appreciate it. A. Decker stated the proposed use is an allowed use in the district. A. Decker asked if there were any proposed changes to the exterior of the building. Mr. Moniz stated some windows and cosmetic upgrades but no structural changes to the property.

With no further stated questions or concerns, Chairperson I. Comerford declared the hearing closed.

4.) FINDINGS

Criteria for Approval of Dimensional Variation (Ch. 9, Sect. 2730)

The Board of Appeals may vary otherwise applicable dimensional requirements pertaining to frontage, lot area, building height and sidelines upon finding the following:

- a.) *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;*

The Board found that a literal enforcement of the dimensional requirements of the zoning district would constitute a hardship for the applicant.

- b.) *That desirable relief may be granted without substantial detriment to the public good;*

The board found that sufficient information and testimony had been given to determine that granting the required relief would not result in substantial negative

impact to the public good. The Board noted this proposal would likely benefit the mostly residential neighborhood.

- c.) *And, that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

The Board found that the impact of the dimensional relief would be minimal, and would not substantially derogate from the intent of the zoning ordinance. The Board noted no structural changes will be made to the exterior of the existing building and the residential use is an allowed use in the zoning district.

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 relief from Chapter 9 Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 Table of Dimensional Requirements Appendix-B (Lot Size, Lot Frontage, Front Yard, Side Yard, Rear Yard & Green Space), 2750 (Yards in Residence Districts), 2751 (Front Yard), 2752, 2753 (Rear Yard), 2754 and 2755 (Side Yards); relative to property located at 619-621 Summer Street, Assessor's Map Plot 90 Lot 161 in a Mixed-Use-Business Zoned District. To allow the petitioner to change the use to a residential use, converting the space into two (2) units with one (1) bedroom 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 Variances 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 Variance.

On a motion by A. Decker seconded by J. Mathes to grant the requested Variance, the vote carried 5-0 with members D. Trahan, A. Decker, R. Schilling, I. Comerford and J. Mathes voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

February 3, 2015

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals