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PLANNING DIRECTOR  
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### ZONING BOARD OF APPEALS

#### STAFF REPORT

#### ZONING BOARD OF APPEALS MEETING

MEETING DATE: February 13, 2020  
STAFF REPORT: February 3, 2020

#### Case #4410: VARIANCE

**Property:** 138-142 Arnold Street  
Map:45 Lot:212

**Zoning:** Mixed Use Business (MUB)

**Owner:** Ian Shields  
**/Applicant:** PO Box 51204  
Boston, MA 02205



**138-142 Arnold Street**  
Looking southeast from Ash Street

**Overview of Request:** Notice is given of a public hearing on the petition of: **Ian Shields**, (PO Box 51204, Boston, MA, 02205) for a **Variance** under Chapter 9, Comprehensive Zoning Sections 3100 (parking and loading), 3110 (applicability), 3130 (table of parking loading requirements-Appendix C, business engaged in retail sale of goods and services, not elsewhere enumerated herein, business engaged in the warehousing and distribution of goods and materials including building & construction contractors, equipment & supplies on premises; relative to property located at **138-142 Arnold Street**, Assessors' map 45 lot 212 in a Mixed Use Business [MUB] zoned district. The petitioner is proposing to operate a grocery store, with no parking per plans submitted.

As with all **Variances**, the board must find:

- There are circumstances relating to the soil conditions, shape or topography which especially affect the land in question, but which do not affect generally the zoning district in which the land or structure in question is located.
- If the city were to literally enforce the zoning ordinance, due to these circumstances unique to this land or structure, it would mean substantial hardship to the petitioner.

- The granting of the variance would not take away from the purpose of the zoning ordinance nor would it cause substantial detriment to the public good.

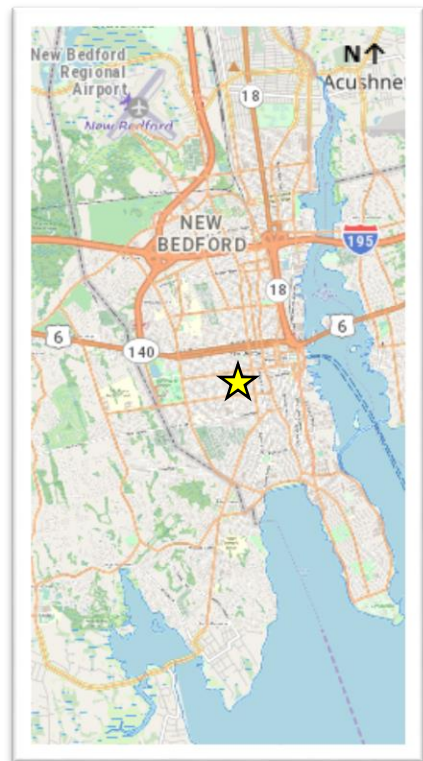
USE	PARKING REQUIREMENTS	PARKING CALCULATIONS
Business engaged in retail sales of goods and services, not elsewhere enumerated herein	One (1) spaces per each 200 SF of gross floor area, but not less than two (2) spaces for each business use intended to occupy the premises. After 20,000 SF gross floor area, one space per 400 SF.	<b>19 Parking Spaces</b>
Business engaged in the warehousing and distribution of goods and materials including building & construction contractors, equipment and supplies on premises.	One (1) space per 1500 SF of gross floor area up to 15,000 SF.	<b>2 Parking Spaces</b>

*\*No loading spaces are required for buildings under 5,000 SF*

**Existing Conditions:** The existing 2,160± SF corner lot has 60.80' of frontage on Arnold Street and 70.9' on the adjacent Ash Street. The property has a 3,346± SF two story, mixed commercial/residential structure located in the west end of the city in a Mixed Use Business zoned district. The structure occupies the majority of the lot leaving a narrow cross-maintenance-access Easement; labeled Easement "A" & "B". The easements run the length of the rear of the building southerly. The building hosts two commercial units on the first level, Raquel's Beauty Salon and a 1,062± SF vacant commercial unit. The upper level hosts three (3) one-bedroom residential units.

The immediate vicinity includes a dense mix of residential and commercial uses. Directly abutting this property is a two-family dwelling to the east and a three-family dwelling in the rear. Directly north across Arnold Street are single-family dwellings, and diagonally across the intersection is a mixed use building with a commercial unit on the first floor and residential on the upper level. Directly across Ash Street is a seven-unit apartment building.


**Proposal:** The petitioner proposes to operate a grocery store, with no parking per plans filed. The proposed grocery store "Coastal Provisions" would occupy the vacant commercial unit located west of Raquel's Beauty Salon. The application states the proposed store is an upscale grocery and provisions store selling a combination of basic necessities, unusual gourmet food items, fine wines and craft beers. The retail store front is approximately 1,100± SF composed of two rooms that would house shelving and displays of staple dry goods, provisions, wine and beer. Refrigeration units would house other beverages, cheeses and meats. Flowers, gifts and home items will also be offered. There will be a designated check out area, nonetheless the store would not provide a seating area or public restrooms.



The proposed number of customers is 90 per day, with an estimate of 3 employees. The proposed hours of operation are 7am-7pm Sunday through Saturday, with weekly deliveries. The proposal would fill a vacancy on the site within a MUB zoned area.

The proposed use requires 21 off-street parking spaces. The petitioner proposes no on-site parking. The operation of a grocery store with no parking would not comply with parking and loading requirements, therefore, requires a **variance**.

**For Consideration:** In considering each of the criteria necessary to grant the **Variance**, staff offers the following for the board's consideration:

- There are circumstances relating to the soil conditions, shape or topography which especially affect the land in question, but which do not affect generally the zoning district in which the land or structure in question is located. The petitioner states the building setbacks do not allow for off street parking; resulting in more foot traffic in the neighborhood historically. The application states the subject structure was built in 1927, and the building occupies the entire footprint of the lot. Staff acknowledges the configuration of the existing structure on the parcel hinders the availability to provide off street parking.
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**138-142 Arnold Street**  
Looking Southwest from Arnold Street
- If the city were to literally enforce the zoning ordinance, due to these circumstances unique to this land or structure, it would mean substantial hardship to the petitioner. The petitioner states without the relief the existing building would have to be altered or demolished to create on-site parking. The application points to other similar structures in New Bedford, particularly in the downtown area and the west end that also have no setbacks due to the historical layout of the city and the age of the structures, with the design intention of generating foot traffic. Staff acknowledges that there is no ability to provide parking on this site under the current conditions.
  - The granting of the variance would not take away from the purpose of the zoning ordinance nor would it cause substantial detriment to the public good. The petitioner states granting the relief would not present any substantial impact to existing zoning ordinances and would only compliment the neighborhood by reactivating a vacant historic structure with minimal alteration to the structure or site. The petitioner notes the majority of customers will be local neighbors walking to the store; anticipating occasional 1-2 vehicles of customers shopping at any given time. Additionally, the petitioner states there is adequate parking on and around Ash Street. Staff notes that Arnold and Ash Street are one-way streets with on-street parking; permitted on both curbsides. Additionally, staff acknowledges that Ash Street changes into a two way street on the corner of Ash and Arnold Street southerly.



## 138-142 Arnold Street Map:45 Lot:212

*NOTE: Property line is approximate; for discussion purposes, only.*

