



ZONING BOARD of APPEALS

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

Registry of Deeds/City Clerk Use Only:

CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:	#4413			
Request Type:	Special Permit			
Address:	22 Pope Street			
Zoning:	Residential B (RB) Zoned District			
Recorded Owner:	Deolinda Sylvia			
Owner Address:	22 Pope Street, New Bedford, MA 02740			
Applicant:	Karen Sylvia-Simmons			
Applicant Address:	15 Pope Street, New Bedford, MA 02740			
Application Submittal Date		Public Hearing Date		Decision Date
February 25, 2020		April 23, 2020		April 23, 2020
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
72	81	10683	81	

A Special Permit under Chapter 9 Comprehensive Zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2420 (nonconforming uses) and 5300-5330 & 5360-5390 (special permit); relative to property located at **22 Pope Street**, Assessors' map 72 lot 81 in a Residential B [RB] zoned district. The petitioner is proposing to change the use of the 2nd floor commercial space into a residential apartment per 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, May 4, 2020. 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.

5/4/2020

Date

Stephen Brown, Clerk of the Zoning Board of Appeals

APPLICATION SUMMARY

The petitioner is proposing to change the use of the 2nd floor commercial space into a residential apartment per plans filed, which requires a Special Permit under Chapter 9 Comprehensive Zoning Sections 2400 (non-conforming uses and structures), 2410 (applicability), 2420 (nonconforming uses) and 5300-5330 & 5360-5390 (special permit); relative to property located at 22 Pope Street, Assessors' map 72 lot 81 in a Residential B [RB] zoned district.

1.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, drawn by unnamed, plans dated November 18, 2019, date stamped February 25, 2020 by City Clerk's Office.
 - Existing & Proposed Site Plan 22 Pope Street
 - Floor Plan - Second Floor

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office February 25, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated March 27, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, dated April 6, 2020.

2.) DISCUSSION

On the evening of the April 23, 2020 meeting, board members: Leo Schick, Stephen Brown, Robert Schilling, Celeste Paleologos and Allen Decker were present for the public hearing. City of New Bedford staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Angela Goncalves (Assistant Project Manager) were present during proceedings for the subject case review.

In regards to Case #4413 Clerk Brown made a motion, seconded by Mrs. Paleologos to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated March 27, 2020; staff comments from the Department of Planning, dated April 6, 2020; the appeal packet as submitted; 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.

Chairperson Schick then declared the hearing open.

The petitioner: Karen Sylvia-Simmons, (15 Pope Street, New Bedford) presented the case at the hearing representing the proprietor her mother, Deolinda Sylvia (22 Pope Street, New Bedford). Mrs. Sylvia-Simmons began her presentation by briefly describing the property. The 3,126 SF, multistory colonial style structure is located on Pope Street in the Acushnet Heights Historic District, a predominantly residential Historic District in the central part of New Bedford. The structure was built in 1874, comprised of a wood shingle exterior; hosting a residential apartment located on the first floor

and a vacant commercial space on the second floor. Mrs. Sylvia-Simmons mentions the previous use was a two-family residential property.

The petitioner is proposing to change the use of the 2nd floor commercial space into a residential apartment per plans filed. The proposed residential dwelling on the second floor would include a kitchen, dining room, (3) three bedrooms and (1) one bathroom. There are no exterior changes proposed.

Under the zoning ordinance a change to an existing nonconforming structure for a substantially different purpose requires a Special Permit from the Zoning Board of Appeals.

Mrs. Sylvia-Simmons continued her presentation stating that the commercial space consisting of a Bridal Shop is no longer in business. The Bridal Shop known as “Bridal Seasons” was closed approximately 10 years ago.

The application notes the property was granted a Special Permit with Conditions, dated February 10, 1983, for a change of use. To allow the second floor to host a Bridal Shop and the first floor a residential dwelling (Case #2386). Mrs. Sylvia-Simmons is seeking relief to convert the property back to its original use as a two-family dwelling.

Mrs. Sylvia-Simmons concluded the presentation briefly summarizing the criteria necessary to grant the special permit; noting the proposal creates an additional housing unit in a residentially-zoned neighborhood. Additionally, Mrs. Sylvia-Simmons states and that the use as a two-family dwelling requires less parking than the most recent use as a Bridal Shop thus providing some parking relief to the neighborhood.

Following the petitioner’s testimony, Chairperson Schick invited to the podium anyone wishing to speak in favor or be recorded in favor of the petition of the application. There was no response to Chairperson Schick’s invitation to speak or be recorded in favor.

Chairperson Schick invited to the podium anyone wishing to speak in opposition of the petition. There was no response to Chairperson Schick’s invitation to speak or be recorded in opposition.

Chairperson Schick asked the Board if there were any questions. With no questions, Chairperson Schick closed the hearing.

Board member Decker commended the applicant on her presentation. Additionally, Mr. Decker referred to the Commissioner of Building and Inspectional services, Danny Romanowicz in regard to the Special Permit. Mr. Romanowicz explained a change of use for a substantially different purpose requires a Special Permit from the Zoning Board of Appeals.

Chairperson Schick stated he is familiar with the neighborhood and the change of use would complement the neighborhood.

With no further Discussion, the board indicated their readiness to vote.

3.) 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 including consideration of the following: social, economic, or community needs which are served by the proposal; traffic flow and safety, including parking and loading; adequacy of utilities and other public services; neighborhood character and social structures; and impacts on the natural environment.

4.) 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.

The Board grants the applicant's request for relief from Chapter 9 Comprehensive Zoning Sections 2400 (nonconforming uses and structures), 2410 (applicability), 2420 (nonconforming uses) and 5300-5330 & 5360-5390 (special permit); relative to property located at 22 Pope Street, Assessors' map 72 lot 81 in a Residential B [RB] zoned district. The petitioner is proposing to change the use of the 2nd floor commercial space into a residential apartment per plans filed.

5.) 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.

A motion to approve was made by Mr. Brown and seconded by Mr. Schilling as follows:

In regards to Case #4413 for **Deolinda Sylvia** (22 Pope Street, New Bedford, MA 02740) and **Karen Sylvia-Simmons** (15 Pope Street, New Bedford, MA 02740) relative to property located at **22 Pope Street**, Assessors' map 72 lot 81 in a Residential B [RB] zoned district, to allow the petitioner to change the use of the 2nd floor commercial space into a residential apartment per plans filed, which requires a **Special Permit** under Chapter 9 Comprehensive Zoning Sections 2400 (nonconforming uses and structures), 2410 (applicability), 2420 (nonconforming uses) and 5300-5330 & 5360-5390 (special permit). Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9 Comprehensive Zoning sections as cited; the board finds that in respect to these sections the board finds in regard to the criteria as follows:

The board finds that in respect to these sections 5300-5330 and 5360-5390 relative to the granting of Special Permits, that 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;*
- *Traffic flow and safety, including parking and loading;*
- *Adequacy of utilities and other public services;*
- *Neighborhood character and social structures;*
- *Impacts on the natural environment;*
- *Potential fiscal impact, including impact on City services, tax base, and employment*

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

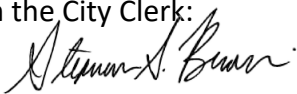
Specific Conditions on this decision shall include:

General Conditions on this decision shall include:

- That the project be set forth according to the plans submitted with the application.
- That the applicant shall ensure a copy of the Notice of Decision bearing the certification of the city of New Bedford City Clerk's Office be recorded at the Registry of Deeds.
- 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 the decision was granted, or the approval will lapse.

On a motion by S. Brown seconded by R. Schilling to grant the requested Special Permit, the vote carried 5-0-0 with members S. Brown, C. Paleologos, R. Schilling, A. Decker and L. Schick voting in the affirmative; with no members voting in the negative; and no one abstaining. (Tally 5-0-0).

Filed with the City Clerk:



Stephen Brown
Clerk of the Zoning Board of Appeals

May 4, 2020

Date