



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:	#4419			
Request Type:	Special Permit			
Address:	161 Popes Island			
Zoning:	Industrial A (IA) Zoned District			
Recorded Owner:	161 Popes Island LLC			
Owner Address:	867 Middle Street, Acushnet, MA 02743			
Applicant:	Richard Rheaume, Prime Engineering			
Applicant Address:	PO Box 1088, Lakeville, MA 02347			
Application Submittal Date	Public Hearing Date	Decision Date		
May 15, 2020	July 16, 2020	July 16, 2020		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
60	26	12072/1929	166/175	


A Special Permit under Chapter 9 Comprehensive Zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430 (nonconforming structures, other than single and two family structures), 2431 (reconstructed, extended or structurally changed), 2432 (altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent) and 5300-5390 (special permit); relative to property located at **161 Popes Island**, Assessors' map 60 lot 26 in an Industrial A [IA] zoned district. The petitioner proposes to reduce the building area by 16% and renovate the existing structure into a retail/service facility 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, July 24, 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.

July 24, 2020

Date


Stephen Brown, Clerk of the Zoning Board of Appeals

Registry of Deeds/City Clerk Use Only:

2020 JUL 24 P 12:25
CITY CLERK
OFFICE
NEW BEDFORD, MA

APPLICATION SUMMARY

The petitioner proposes to reduce the building area by 16% and renovate the existing structure into a retail/service facility per plans filed, which requires a Special Permit under Chapter 9 Comprehensive Zoning Sections 2400 (non-conforming uses and structures), 2410 (applicability), 2430 (nonconforming structures, other than single and two family structures), 2431 (reconstructed, extended or structurally changed), 2432 (altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent) and 5300-5390 (special permit); relative to property located at 161 Popes Island, Assessors' map 60 lot 26 in an Industrial A [IA] zoned district.

MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, drawn by Prime Engineering, plans dated May 7, 2020, date stamped May 15, 2020 by City Clerk's Office.
 - Cover Sheet
 - Existing Conditions Plan
 - Demolition & Erosion Control Plan
 - Site Plan Layout
 - Grading, Drainage, & Utility Plan
 - Landscape Plan
 - Lighting Plan
 - Details-1
 - 161 Popes Island Illumination Plan
 - 161 Popes Island ANR Plan
- Plan Set, drawn by South Coast Associates INC., plans dated November 5, 2018, date stamped May 15, 2020 by City Clerk's Office.
 - A.1 Existing/Demolition Plan
 - A.2 Proposed Elevations
 - A.3 Proposed Floor Plan
 - A.4 Ceiling Plan/Life Safety Plan
 - A.5 Framing Plan/Building Section

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office May 15, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated May 29, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, dated June 8, 2020.

2.) DISCUSSION

On the evening of the July 16, 2020 meeting, board members: Leo Schick, Stephen Brown, Robert Schilling, Celeste Paleologos and Allen Decker were present for the virtual 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 #4419 Clerk Brown made a motion, seconded by Mr. Schilling to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated May 29, 2020; staff comments from the Department of City Planning, dated June 8, 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: Richard Rheume, Principal and Chief Engineer, Prime Engineering Inc. (PO Box 1088, Lakeville) presented the case at the hearing representing the proprietor of 161 Popes Island LLC, (867 Middle Road, Acushnet). Mr. Rheume began the presentation by describing the area associated with the subject property.

The property is located on the New Bedford-Fairhaven Bridge, the four-lane stretch carries U.S. Route 6, connecting the two communities in an Industrial A zoned district. The property is located on Popes Island, west of the Fish Island Bridge. The immediate vicinity is surrounded by community spaces, commercial, retail, restaurant, and marine uses.

The site's parcel is 28,398 SF, with $90.0' \pm$ of frontage on Popes Island, and a depth of $460.17' \pm$ SF. Situated on the parcel is a 10,121 SF single story, flat-roof, brick commercial building without windows.

Mr. Rheume continued the presentation providing a brief background of the site. Mr. Rheume stated the building previously hosted Temptations Gentleman's Club and the Foxy Lady. Mr. Rheume noted that when the property was purchased by 161 Popes Island LLC., the proprietor decided to shut down the adult entertainment establishment.

The proposal is to reduce the building area by 16% and renovate the existing structure into a retail/service facility per plans filed.

The proposal to reduce the building area by 16% and renovate the existing structure into a retail/service facility per plans filed, **requires a Special Permit from the Zoning Board of Appeals for a reconstructed, altered change of use to an existing nonconforming building**

The proposal would demolish 1,723 SF of the southwest corner of the building and construct a glass and masonry façade on the north, south and west sides. The building would be divided into (4) four retail/service rental spaces, ranging in size from 1,700 SF - 2,255 SF, for a total retail rental of 7,714 SF. Additionally, there would be 692 SF of common area bringing the total gross building area to 8,354 SF.

Mr. Rheume proceeded with his presentation referencing the site plan presentation. Depicted on the plan; Mr. Rheume provided details relative to setbacks, the size and shape of the proposed structural alterations and the new property line shifted westerly. Mr. Rheume noted Route 6 is on the right-

hand side of the structure with a 2' SF set back, a setback of 20' SF to the south, with the western property line very close to the property sideline. Mr. Rheume states the western portion of the existing structure would be removed and transformed into a rectangular shaped building; decreasing the size of the building and increasing the size of the parcel.

Mr. Rheume noted at this time there is not sufficient land area to provide for the required number of parking spaces. It is proposed to acquire additional land area from the abutting parcel. This will allow the left side yard setback to be brought into conformance with the parking zoning requirement. An Approval Not Required Plan (ANR) has been submitted in order to acquire the additional land. **The ANR has since been approved by the Department of City Planning, dated July 8, 2020.**

The proposal also required Site Plan Review (Case 20-22) by the Planning Board. The relief was granted, with conditions by the Planning Board on July 8, 2020.

Mr. Rheume concluded the presentation by briefly summarizing the exterior changes proposed, including the building design, landscaping, and bollard removal. Mr. Rheume stated the bollards would be removed and replaced with a granite wall setback. Mr. Rheume then welcomed questions from the board.

In response to an inquiry from Board Member Schilling relative to prospective tenants, Mr. Rheume replied at this time they are solely focusing on the permitting process.

Board member Decker inquired about the acquisition of land (westerly); Mr. Rheume replied that the proprietor, Mark White, previously submitted and received approval of an Approval Not Required (ANR) plan.

Additionally, Board member Decker engaged with the Commissioner of Building and Inspectional Services, Danny Romanowicz regarding the proposal. Mr. Romanowicz stated the proposal is a straightforward project that could potentially add four new store fronts, therefore increasing the city's tax base.

Following the petitioner's testimony, Chairperson Schick invited 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 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 further questions. With no further questions, Chairperson Schick closed the hearing.

The Board had a brief discussion. Board member Decker noted the proposal would be a great use of a vacant property. Mr. Schilling concurred with Mr. Decker's statement.

With no further questions. 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), 2430 (nonconforming structures, other than single and two family structures), 2431 (reconstructed, extended or structurally changed), 2432 (altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent) and 5300-5390 (special permit); relative to property located at 161 Popes Island, Assessors' map 60 lot 26 in an Industrial A [IA] zoned district. The petitioner proposes to reduce the building area by 16% and renovate the existing structure into a retail/service facility 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 #4419 for **161 Popes Island LLC**, (867 Middle Road, Acushnet, MA 02743) relative to property located at **161 Popes Island**, Assessors' map 60 lot 26 in an Industrial A [IA] zoned district, to allow the petitioner to reduce the building area by 16% and renovate the existing structure into a retail/service facility per plans filed, which requires a **Special Permit** under Chapter 9 Comprehensive Zoning Sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430 (nonconforming structures, other than single and two family structures), 2431 (reconstructed, extended or structurally changed), 2432 (altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent) and 5300-5390 (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:

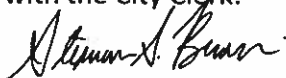
- This proposal required Site Plan Review by the Planning Board. Any conditions imposed by the Planning Board decisions shall also be conditions of this special permit.

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

July 24, 2020

Date