



ZONING BOARD of APPEALS

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

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CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

| | | | | | |
|-----------------------------------|---|----------------------------|--------------------|---------------------------|--|
| Case Number: | #4430 | | | | |
| Request Type: | Special Permit | | | | |
| Address: | 4080 Acushnet Avenue | | | | |
| Zoning: | Residential A (RA) Zoned District | | | | |
| Recorded Owner: | Kalyn Andrade | | | | |
| Owner Address: | 4080 Acushnet Avenue, New Bedford, MA 02745 | | | | |
| Applicant: | Kalyn Andrade | | | | |
| Applicant Address: | 4080 Acushnet Avenue, New Bedford, MA 02745 | | | | |
| Application Submittal Date | | Public Hearing Date | | Decision Date | |
| October 21, 2020 | | November 12, 2020 | | November 12, 2020 | |
| Assessor's Plot Number | Lot Number(s) | Book Number | Page Number | Certificate Number | |
| 136 | 248 | 13278 | 66 | | |

A Special Permit under Chapter 9 Comprehensive Zoning Sections 2500 (home occupations), 2520-2528 (home occupations by special permit) and 5300-5330 & 5360-5390 (special permit); relative to property located at **4080 Acushnet Avenue**, Assessors' map 136 lot 248 in a Residential A [RA] zoned district. The petitioner proposes to change the use of the sunroom into a spa room to allow for a home occupation 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, November 19, 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.

November 19, 2020

Date

Stephen Brown, Clerk of the Zoning Board of Appeals

APPLICATION SUMMARY

The petitioner proposes to change the use of the sunroom into a spa room to allow for a home occupation per plans filed, which requires a Special Permit under Chapter 9 Comprehensive Zoning Sections 2500 (home occupations), 2520-2528 (home occupations by special permit) and 5300-5330 & 5360-5390 (special permit); relative to property located at **4080 Acushnet Avenue**, Assessors' map 136 lot 248 in a Residential A [RA] zoned district.

MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, drawn by Old Stone Plan Services, LLC, plans dated June 1, 2020, date stamped October 21, 2020 by City Clerk's Office.
 - Mortgage Inspection Plan
- Plan Set, drawn by Kalyn Andrade, plans dated October 13, 2020, date stamped October 21, 2020 by City Clerk's Office.
 - Original Layout Plan
 - Proposed Layout Plan

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office October 21, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated October 30, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, dated November 3, 2020.

2.) DISCUSSION

On the evening of the November 12, 2020 meeting, board members: Laura Parrish, Celeste Paleologos Stephen Brown, Allen Decker and Leo Choquette, Jr. 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 #4430 Clerk Brown made a motion, seconded by Mr. Decker to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated October 30, 2020; staff comments from the Department of City Planning, dated November 3, 2020; Letter is favor of the proposal from Ward 1, Councilor Brad Markey, dated November 12, 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 Parrish then declared the hearing open.

The petitioner: Kalyn Andrade, Proprietor, (4080 Acushnet Avenue, New Bedford) presented the case at the hearing. Ms. Andrade began the presentation by stating she is seeking relief for a home occupation in an existing sunroom in her residential dwelling.

The petitioner proposes to change the use of the sunroom into a spa room to allow for a home occupation per plans filed.

Under the zoning ordinance a change of use to allow for a home occupation requires a special permit from the Zoning Board of Appeals.

Ms. Andrade continued the presentation stating currently she is a licensed aesthetician at Wash House Salon. Ms. Andrade indicated the proposed number of clients would be 6 per day, with no employees, other than the applicant. The proposed establishment would be by appointment only, with no walk-in services. Ms. Andrade stated she would be offering facials, waxing and eye lash services.

Ms. Andrade concluded the presentation by stating she is seeking permission from the Board to allow for a home occupation. Ms. Andrade then welcomed questions from the board.

In response to an inquiry from Board Member Brown relative to employees and appointments, Ms. Andrade replied she would be the only employee, with no walk-ins. Ms. Andrade also indicated the site has ample off street parking and is located on a main road, hosting several commercial properties.

Chair Parrish inquired about signage; Ms. Andrade stated there is a proposed hanging sign to be located on the exterior door of the spa room on the southeast side of the property. The proposed sign dimensions are 24"X12".

Board member Decker inquired about the existing driveway, parking needs and exterior changes; Ms. Andrade replied that the existing driveway has sufficient off street parking. Additionally, Ms. Andrade indicated she only accepts one client at a time, unless an interpreter is required and there will be no exterior changes to the structure.

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

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

Chairperson Parrish asked the Board if there were any further questions. Board member Brown recommended the applicant look into forming an LLC or Corporation with her attorney, instead of a DBA.

Additionally, Board member Decker engaged with the Commissioner of Building and Inspectional Services, Danny Romanowicz regarding the proposal. Mr. Romanowicz stated the proposal could

potentially require a Variance for handicap accessibility. Mr. Romanowicz stated if the Special Permit is granted by the Zoning Board of Appeals, he will move the project forward and submit the proposal to the Architectural Access Board for review.

With no further questions, Chairperson Parrish closed the hearing. 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 2500 (home occupations), 2520-2528 (home occupations by special permit) and 5300-5330 & 5360-5390 (special permit); relative to property located at **4080 Acushnet Avenue**, Assessors' map 136 lot 248 in a Residential A [RA] zoned district. The petitioner proposes to change the use of the sunroom into a spa room to allow for a home occupation 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. Choquette as follows:

In regard to Case #4430 for **Kalyn Andrade** (4080 Acushnet Avenue, New Bedford, MA 02745) relative to property located at **4080 Acushnet Avenue**, Assessors' map 136 lot 248 in a Residential A [RA] zoned district. The petitioner proposes to change the use of the sunroom into a spa room to allow for a home occupation per plans filed, which requires a **Special Permit** under Chapter 9 Comprehensive Zoning Sections 2500 (home occupations), 2520-2528 (home occupations by special permit) 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*

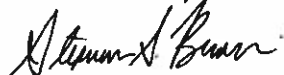
In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning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

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 L. Choquette, Jr. to grant the requested Special Permit, the vote carried 5-0-0 with members S. Brown, C. Paleologos, L. Choquette, A. Decker and L. Parrish 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

November 19, 2020

Date