



City of Waltham

COMMONWEALTH OF MASSACHUSETTS

ZONING BOARD OF APPEALS

LEGAL NOTICE

DATE FILED: July 17, 2019

THE ZONING BOARD OF APPEALS OF THE CITY OF WALTHAM WILL HOLD A PUBLIC HEARING IN THE GOVERNMENT CENTER, 119 SCHOOL STREET, WALTHAM, MA ON September 10, 2019 AT 7:00 P.M. ON THE FOLLOWING:

Case #: 2019-21. **Petitioner/ Owner:** R&A Realty Trust; Ralph P. Amelia, Trustee. **Nature of Appeal:** Application for Variance and application for Special Permit. **Subject Matter:** The Petitioner seeks to renovate the second floor of an existing two-story commercial building in a Business C district, currently underutilized as vacant, unimproved office space. The petition will convert the second floor office space into one (1) residential apartment unit. The first floor of the building will retain its current use as a commercial storefront. The petitioner is not seeking to renovate the exterior of the building or to increase the buildable space. The renovation of the property into a mixed use, transit-oriented building will provide needed quality housing and contribute to the revival of the Maple Street/Moody Street commercial corridor. The conversion of the second floor to residential use is permitted by a special permit from the Zoning Board of Appeals for a change of use of not less restricted character (in this case commercial to residential). A special permit for the setback requirements and parking requirements are also permitted under special permit. A variance is appropriate for the requirements of a separate entrance because it is impossible to create a separate entrance given the configuration of the buildings. A variance permitting two buildings on the lot with both having residential use is also appropriate as the parking would be unable to meet the parking requirements if divided. A variance permitting the pre-existing lawfully non-conforming parking spaces is also appropriate. **Location and Zoning District:** 86 Maple Street a/k/a 469-489 Moody Street; Business C Zoning District. **Provisions of Zoning Ordinance Involved:** Article III, Section 3.4(1) and Section 3.7223; Article IV, Section 4.11 and Section 4.215. Article IV, Section 5.232 and Section 5.41 **Specific Relief Sought:**

Petition for Special Permit:

Change of Use – The conversion of the 2nd floor to residential use is permitted by a special permit from the Zoning Board of Appeals for a change of use of not less restricted character, in this case from commercial to residential. See Article 3, Section 3.7223.

Setback Requirement for Rear of Structure – Article 4, Section 4.11, Table of Dimensions, requires 25-foot rear setbacks. Presently, 86 Maple has a setback of 4.41 feet, while 469-498 Moody has a setback of 4.77 feet. These are prior valid, non-conforming uses.

Petition for Variance:

Separate Entrance Requirement – Article 3, Section 3.4(1) requires separate residential entrances from commercial entrances in a Business C District. The existing commercial

building utilizes separate entrances for each floor within the interior lobby space. A variance is warranted because it is not physically possible to build a separate entrance for each floor to the exterior of the building. The physical impossibility creating the hardship of accommodating a separate entrance is supported by a letter from the architect.

Two Buildings On Single Lot – Article 4, Section 4.215 prohibits more than one building available for dwelling purposes on a single lot the Board of Survey and Planning approves and unless certain dimensional requirements are met. The Board of Survey and Planning has already approved a Special Permit allowing for two principal buildings for dwelling purposes on a single lot. A variance from the ZBA as to the dimensional requirements of Article 4, Section 4.215 is warranted because the location of the structures, which predate zoning and which are not typical of the area, create a hardship in meeting the buffer requirements. It is the policy behind the Business C District to permit the conversion of commercial to residential.

Parking – Article 5, Section 5.232 requires 1.25 spaces per unit. Article 5, Section 5.41 requires that parking meet certain design criteria, including size, orientation, landscaping, etc. There are 20 existing units and one proposed units, requiring 27 spaces. There are presently 35 spaces provided for parking on the parcel. These spaces are existing legal non-conforming parking space which included the parking spaces for the 2nd floor office space which is proposed to be remodeled into residential space. Reconfiguring these spaces would be a hardship on petitioner.

Further information and plans concerning this case may be viewed at the Zoning Board of Appeals' Office, 119 School Street, Waltham, Massachusetts 02451; Hours: Monday - Friday 8:30-4:30. **MEMBERS:** Chair Barbara Rando, Michael Cotton, Mark Hickernell, John Sergi, Glenna Gelineau. **ASSOCIATE MEMBERS:** Edward McCarthy, Oscar LeBlanc, Marc Rudnick, Michael Squillante, Sarah Hankins.