

MEMORANDUM OF SUPPORT FOR ZONING RELIEF REQUESTED



APPLICANT: Joseph & Lilly Sestito
PROPERTY: 534 Beechwood Street, Cohasset, MA
BOARD: Zoning Board of Appeals
DATE: 3/1/22



VARIANCE REQUESTS:

- **Section 300-7.1 Off-Street Parking and Loading - Table of Off-Street Parking Standards**
- **Section 300-7.3.B(4) Parking and loading spaces shall not back onto any street.**
- **Section 300-7.3.C(1) No entrance or exit driveway closer than 150’ to the center line of an intersecting street**

The existing building has been historically used as a mixed retail and residential use since the 1820’s. There is a residential room on the first floor of the existing building and the second floor is used as a 5-bedroom residential area. There is no on-site parking provided.

Applicants request a variance from Section 300-7.1 to provide six (6) of the 17 required off-street parking spaces to be located partly on Beechwood Street. Applicants also request a variance from Section 300-7.3.B(4) to allow the street parking to back into the traveled way. Lastly, applicants request a variance from Section 300-7.3.C(1) for locating the driveway less than 150’ from the intersection of Doane Street and Beechwood Street. The existing mixed use is proposed to be modified to include 2,274 SF of retail space located on the first story and two one-bedroom apartments located on the second and third stories. The total parking requirement for both uses will be 26 spaces [(1 space / 100 SF of retail = 2,274/100 = 22.7 spaces) + (1.5 spaces per apartment = 1.5 x 2 = 3)]. Section 300-7.2.J allows 33% of the required parking space to remain undeveloped or set aside as a green area at the sole discretion of the Planning Board as a part of a Site Plan Review. This allowance reduces the total number of required parking spaces to be installed to 17. The proposed site is designed to have 11 parking spaces onsite, and six (6) parking spaces located within the Beechwood Street layout.

The variances requested meet the requirements of Section 300-12.5.A and of Section 10 of MGL Chapter 40A “The Zoning Act” as follows:

- (1) Conditions and circumstances are unique to the applicant's lot, structure, or building and do not apply to the neighboring lands, structures, or buildings in the same district.

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MEMORANDUM OF SUPPORT FOR ZONING RELIEF REQUESTED

534 Beechwood Street, Cohasset, MA 02025

3/1/22

Page 2 of 5



The Locus is located within the Downtown Business district in the Beechwood Neighborhood and is bordered on 3 sides by public ways, Beechwood Street, Doane Street and Church Street. Most traffic flow through this portion of the neighborhood is through Doane Street. Beechwood Street ends shortly west of the locus. The portion of Beechwood Street where the locus frontage is located serves approximately 10 dwellings and has very little daily traffic. The mixed use of the site and the building location with no setback to the street dates back to the 1820's. The locus is located in the Downtown Business District. There are only 12 properties located within this DB District which is surrounded by a Residential A District. The locus is the only property that has historically had a mixed use with retail use on the first floor. The remaining 11 properties in the DB District are used for residential purposes even though residential uses require a Special Permit in the district while retail use is allowed as of right.

- (2) Strict application of the provisions of this bylaw would deprive the applicant of reasonable use of the lot, structure, or building in a manner equivalent to the use permitted to be made by other owners of their neighborhood lands, structures or buildings in the same district.

Retail uses have greater parking requirements than residential uses. Even though the site has more than the required 5,000 SF of lot area, space is limited for parking and circulation to satisfy the retail use proposed on the first floor. An easement is required for access and parking on adjacent property also owned by the applicants at 32 Doane Street. The low volume of traffic on this section of Beechwood Street makes it conducive to on-street parking without having an adverse effect on the neighborhood. The Beechwood Ballfields and Playground located immediately across the street from the locus has on-street parking similar to that proposed at the locus site. However, even though these two properties are located across the street from one another they belong to different zoning districts.

- (3) The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this bylaw.

*The location of the site is unique, in that it borders three streets in a residential neighborhood where no other business is located even though this small section of the town belongs to the Downtown Business District. The lot and existing building date from circa 1820. The **topography** of the lot changes dramatically from front along Beechwood Street to back. The front portion of the lot where the building is located is fairly level at elevation 72±. The topography raises rapidly to elevation 82± at the rear of*

MEMORANDUM OF SUPPORT FOR ZONING RELIEF REQUESTED

534 Beechwood Street, Cohasset, MA 02025

3/1/22

Page 3 of 5



*the lot. The **soils** are shallow to bedrock with areas of exposed ledge which limits the potential location of a septic system and make development lengthy and costly. Lastly, the **shape** of the lot limits the possible location of an access driveway sufficiently separated from the intersection with Beechwood Street and a level parking area that is not cost prohibitive.*

- (4) Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this bylaw.

The proposed mixed use will be in-keeping with the historic use of the site and the commercial uses allowed in the Downtown Business District. The proposed on-street parking will not have an adverse effect on the existing roadway, traffic and safety due to the existing low volume of traffic and slow speeds on this section of Beechwood Street. On the contrary, the proposed sidewalk will provide safe pedestrian access along this section of Beechwood Street where no sidewalk exists.

- (5) Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

The variances requested are a consequence of the parking requirements for retail use which is a use allowed as a matter of right in the district. All other properties located in this district do not exercise uses allowed as a matter of right. The residential use exercised by all other properties located within the district has a much less intensive parking requirement than the retail use proposed and historically exercised at the locus.

SPECIAL PERMIT REQUESTS:

- **Section 300-8.7 Extension and alteration**

The site is in the Downtown Business District within the Beechwood Street Neighborhood. The existing non-conforming structure/dwelling and historical mixed use date to circa 1820. No zoning filings have ever been filed for the site. Therefore, this is an existing non-conforming use. No on-site parking is provided on the site; thus, the lack of on-site parking is also an existing non-conforming use of the land. The building is non-conforming to front yard setback requirements along Beechwood Street and Church Street.

Applicants request such zoning relief as may be necessary or appropriate to allow the extension of the existing non-conforming residential use from one residential dwelling unit with 5-bedrooms to two residential dwelling units with one-bedroom each. The applicants also request relief to reestablish the

MEMORANDUM OF SUPPORT FOR ZONING RELIEF REQUESTED

534 Beechwood Street, Cohasset, MA 02025

3/1/22

Page 4 of 5



historic retail use on the first floor. The existing non-conforming building is proposed to be replaced with a larger structure that will maintain the existing 8' non-conforming building setback along Beechwood Street (15' are required) and to increase the building setback along Church Street from 0' to 0.5'.

Chapter 184 of the Acts of 2016 states that if a structure has been in existence without appeals for a period of 10 years then the structure shall be deemed, for zoning purposes, a legally non-conforming structure. Since the dwelling has been in existence for over 10 years without appeals within the first 10 year period, the structure is a legal non-conforming structure.

Section 300-8.7.B provides that the special permit granting authority may authorize by special permit the extension of nonconforming use of a building, structure, or land; or structural alteration or enlargement of a nonconforming building, provided that the special permit granting authority makes specific findings. The special permit request complies with the finding requirements of Section 300-8.7.B as follows:

- (1) Shall not be substantially more detrimental than the existing nonconforming use to the neighborhood;

The existing non-conforming use of the property provides no on-site parking even though the existing 5-bedroom dwelling unit has been used on occasion by more than one family. Parking for the residential use of the land and building takes place on Beechwood Street. Parking for the two proposed one-bedroom dwelling units will be provided in the new off-street parking lot to be located behind the building.

The historic retail use on the first floor proposed to be reestablished is by itself allowed as a matter of right. Using the building for the mixed retail and residential use will be more in keeping with the purpose of the Downtown Business District to promote local business while maintaining the historic second story residential use in a more subdued manner by reducing the number of bedrooms from a total of 5 to 2.

Ten (10) of the twelve (12) properties within the Downtown Business District are approximately the same size. All 12 properties have a residential use (whether one family or multifamily use).

The proposed mixed use at this particular location would serve visitors to the Beechwood Baseball Fields and Playground located

MEMORANDUM OF SUPPORT FOR ZONING RELIEF REQUESTED

534 Beechwood Street, Cohasset, MA 02025

3/1/22

Page 5 of 5



across Doane Street and provide a local general store to the immediate Beechwood Street Neighborhood.

- (2) Shall not be injurious or dangerous to the public health or hazardous because of traffic congestion or other reason.

The proposed mixed use of the property incorporates the creation of a new sidewalk that will benefit the neighborhood and visitors of the ballfields and playground. Most of the parking requirements will be satisfied off-street at the new parking lot behind the building. The six (6) on-street parking spaces are proposed along a seldom trafficked portion of Beechwood Street and will provide a buffer to pedestrian using the new sidewalk from vehicular traffic. Lastly, parking on Beechwood Street's travelled way by residents of the existing building will be safely relocated to the new parking lot.