



**PLANNING
DEPARTMENT**

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Town of Wareham

To: Zoning Board of Appeals
From: Planning Department
Date: July 11, 2022
Subject: Convert mixed-use building containing two dwelling units into a six-unit residential building
Location: 140 Minot Avenue

Map:	43	Case No.:	18-22
Lot:	1069	Zoning:	MR-30
Hearing Dates:	6/22/22 & 7/13/22	Lot Area:	±9,397 SF

SITE AND NEIGHBORHOOD

140 Minot Avenue is a 2.5 story mixed-use building located in East Wareham. The structure was built in 2008 and contains commercial space on the first floor, and two three-bedroom residential dwelling units on the second floor. The subject property is situated on the right side of a flat, rectangular lot which is located on the eastern end of Minot Avenue. The site is just one parcel west of the Onset Avenue, Depot Street and Great Neck Road intersection. The Wareham Fire Station 1 is the direct abutter on the right. The Mass Coastal Railroad tracks are located directly behind the subject property.

APPLICANT'S PROPOSAL

The applicants and owners, Tyrone & Jenna Cardoza, are proposing to convert the mixed-use building containing two residential dwellings into a six-unit residential dwelling. The first floor is proposed as two one-bedroom dwellings and the second floor would remain two-three bedroom dwellings. The third floor is proposed two, two bedroom apartments converted from attic space.

The proposal also includes the extension of the driveway on the left side. The extension of the driveway will accommodate 11 parking spaces; four spaces are proposed on the left side in the rear, and seven spaces are proposed in the front yard. Finally, the applicant is proposing to construct two landings and staircases over the existing stair footprints on either side of the structure. Both landings and stairways are proposed as 15.6' x 8.2' and will provide access to the second and third floor units. The existing shed on the left side will be relocated or removed.

Neither the plan set nor the site plan have changed since this case was before you on June 22, 2022. The Building Commissioner has submitted a revised denial letter on July 7, 2022 which references this proposal as a variance.

FINDINGS

Article 3, §320: Five or more family residential dwelling in an existing structure is permitted via special permit after review and approval of the Zoning Board of Appeals.

Article 3, §340.4 Residential Uses: (Use Definitions) A dwelling consisting of five or more dwelling units, with each unit more than 650sf of livable floor space. Each unit shares a common demising wall, floor or ceiling, with its neighbors.

Article 6, §620 Table of Dimensional Regulations:

Minimum Lot Area: Required 30,000sf ** for each additional unit

Minimum Frontage: Required 250'

Minimum Front Yard Setback: Required 30'

Minimum Side Yard Setback: Required 20'

Article 6, §628 Table of Dimensional Standards for Existing Small Lots: The subject property is considered a lawfully small lot, Category 2 (lot area 9,397sf), and may have a front yard setback of 20', and a side and rear yard setback at 10'. Additionally, the total allowed FAR is 0.25 (25%).

PLANNING DEPARTMENT COMMENTS

The Planning Department is generally supportive of this proposal, though would like to hear the applicant's argument for a variance. The proposed six-unit dwelling is an appropriate use in the MR-30 district and includes adding additional units to the housing stock.

If the Zoning Board of Appeals recommends approval of the site plan by JC Engineering, Inc., dated 4/20/22, and architectural plans by Austin Design, dated 3/20/22, the Planning Department recommends the following conditions:

- 1. The project shall comply with all requirements necessary for obtaining road opening permits for driveways and utilities per standards of the Municipal Maintenance Director.**
- 2. The Zoning Board of Appeals and its Staff shall have access to the project site to ensure that these conditions are complied with.**
- 3. No modification of the site plan or changes in details for construction shall be done without the applicant/owner first presenting a proposal for such modification or changes to the Zoning Board of Appeals for consideration. The Zoning Board of Appeals may determine if changes are insignificant or if such changes require a public hearing. In either case, a modified Variance is required and shall be recorded in the Plymouth County Registry of Deeds.**
- 4. During construction, debris shall be removed and disposed of properly, portable toilets shall be provided, work shall be performed between the hours of 7:00am to 5:00pm, and no work shall be done on Sundays or holidays unless**

approved by the Building Inspector. No stumps or other debris shall be disposed of on site.

5. Applicant shall comply with all bylaws of the Town of Wareham and the approvals and conditions of all Town Boards and Commissions and the Water District.
6. Changes in sewage flow and consequent changes in wastewater disposal required by the Wastewater Treatment Facility must be submitted for consideration for site plan modification.
7. Inspections for site work construction shall require a minimum of 24 hours' notice prior to the need for backfill or continuation of the work. No such work shall be backfilled or continued without inspection and approval and may require exposing uninspected work for approval if such inspection notice is not received in a timely manner, including the clearing of trees.
8. No occupancy permit shall be granted until a final site construction inspection has been made with a report to the Zoning Board of Appeals and Director of Inspectional Services that all work has been completed in accordance with the approved plan and Variance.
9. No temporary certificate of occupancy shall be granted until the final security amount has been submitted and approved by the Zoning Board of Appeals.
10. The applicant/owner shall request a final inspection in writing to the Zoning Board of Appeals indicating that all site work has been completed in accordance with the approved plans prior to the issuance of a certificate of occupancy by the Inspections Department.
11. Lighting will be limited to onsite-directed, shielded fixtures.
12. Upon completion, an "As Built" plan is to be submitted to the Building Department with a copy provided to the Zoning Board of Appeals.
13. If substantial use or construction permitted by Variance has not commenced within one year from the date of which a copy of this decision is filed with the Town Clerk, excluding the amount of time required for an appeal period to expire and the amount of time required to pursue and await the determination of any such appeal, then this Variance shall expire in so far as the foregoing statement is modified by Chapter 195 of the Acts of 1984. Any person exercising

rights under a duly appealed Variance does so at the risk that a court may reverse the permit and any construction performed under the permit may be ordered undone.

14. Any person aggrieved by this decision of the Zoning Board of Appeals may file an appeal pursuant to the provisions of M.G.L. Chapter 40A, section 17 within twenty (20) days of the filing of this decision in the office of the Town Clerk. If no appeal is taken within the allotted time, the Clerk may so certify.

15. For this decision to become effective, a copy of said decision and notice thereof must be filed at the Plymouth County Registry of Deeds and must bear the certification of the Town Clerk that twenty (20) days have elapsed and no appeals have been filed, or that if such appeal has been filed, that it has been dismissed or denied. A certified copy of said recording must be thereafter filed with the Board.

Subject Site



Neighborhood Context

