



V-24-5

Variance Permit

Application (ZBA)

Status: Active

Submitted On: 5/23/2024

Primary Location

232 MASS AVE

Arlington, MA 02474

Owner

CRONIN LISA/TRUSTEE;

D'AURIA REALTY TRUST

55 WINTERBERRY DRIVE

FRANKLIN, MA 02038

Applicant

 Mayara Cordeiro

 508-543-0040

 cordeiro@mandkllp.com

 124 Washington Street
Suite 202
Foxborough,
Massachusetts 02035

Variance Permit Criteria

Describe the circumstances relating to the soil conditions, shape, or topography especially affecting such land or structures but not affecting generally the Zoning District in which it is located that would substantiate the granting of a Variance.*

By this Application, the Applicant seeks relief from the Zoning Board of the Town (the "**Board**") by way of variance to allow the Applicant to operate at the Premises an off-premises, all alcoholic retail store ("**Proposed Use**"). Per Section 2 of the Arlington Zoning Bylaw (the "**Bylaw**"), use variances are allowed. The Applicant is the proposed tenant at 232-234 Massachusetts Ave., Arlington, MA (the "**Premises**"). The owner of the Premises and the Landlord under the proposed lease with the Applicant (as tenant) is Lisa Cronin, as Trustee of The D'auria Realty Trust, of 55 Winterberry Drive, Franklin, Massachusetts 02038, Massachusetts.

Per the Town's assessors records, the Premises consists of 0.13163 acre parcel improved by a building having four commercial units built in 1930. The Applicant proposes to occupy one of the four units, identified as 232 and 234 and having 4,200 square feet of floor space on the first floor and the basement (the "**Unit**"), to operate the liquor store, and the remaining units at the Premises are occupied by the United States Postal Service, a beauty salon, and a restaurant. The Unit was previously occupied by a dry cleaner who vacated in July of 2021. The Premises has been vacant since the dry cleaner vacated.

The Premises are located in the Town's R6 (Residential) Zoning District in which retail/commercial uses are not permitted as of right or by special permit. The commercial use of the Unit was grandfathered (due to the establishment as a commercial usage prior to adoption of the Zoning Code). However, since the Unit has been abandoned for nearly three years, the Unit has lost its grandfathered status, despite the Landlord's diligent to lease the Unit.

Describe how a literal enforcement of the provisions of the Zoning Bylaw, specifically relating to the circumstances affecting the land or structure noted above, would involve substantial hardship, financial or otherwise, to the Petitioner or Appellant.*

A literal enforcement of the R6 zoning district at this location would require a residential unit on the first floor of a building that is not used as a residential building or a smaller scale office and would require that a residence be wedged between other commercial retail stores and services. Generally, residential units in buildings are not, for privacy reasons, permitted or desired on the first floor of a main street. Additionally, due to the small size of the Unit, a residence would not be a proper or appealing use of the Unit.

Absent the relief requested hereunder, the landowner would be required to use this property for residential purposes, which would be unreasonable and unsafe, put an individual at extremely high risk to their well being and safety and likely not be rentable. Absent the variance requested, the Landlord would not be able to use the Premises for any other purpose, other than a residence. Absent the economic fallout from the pandemic, the landlord would likely have been able to lease the Unit within the two year window following the prior tenant (dry cleaner's) departure and thus maintain the grandfathered status of the commercial use. The delay resulting in the abandonment is not due to the Landlord's lack of effort and to render the only practical use of the Unit as a commercial (liquor store) and denying the Landlord's and the Applicant's request to continue the commercial use of the Unit would work an extreme hardship, likely making the Unit entirely "unleasable."

By granting the relief requested hereunder, the Landlord will be able to maintain the historical use that the other units at the Premises are committed to and will allow for the Unit to add to the commercial base of the neighborhood, bringing new options for retail for the neighborhood and restoring revenue to the Town.

Describe how desirable relief may be granted without substantial detriment to the public good. *

Granting the relief requested will not impose any substantial detriment to any neighbors, the Town or the public good and will not derogate from the intent of the code. As stated above, the Premises were built and have continued to serve as a commercial building- the R6 zoning designation post-dated the construction and use of the Premises as commercial use. In fact, application of allowed R-6 limitations would require a residential home to be placed in a first-floor store front, which itself would be unsafe and damaging to the public and the community.

Granting a variance to allow the Applicant to operate a high end liquor store at this location will allow a new type of service to be offered to the community, build on to the services already offered to neighbors, bring revenue into the Town and allow the Applicant to occupy a currently vacant commercial space on the Premises. Please note that the Local Licensing Authority for the Town and the Alcoholic Beverages Control Commission approved a license beer, wine and liquor sales at the Unit on January 16, 2024.

Denying the relief requested will not serve the interest of any person – it would mean the Unit remains vacant or would contemplate a residential use wedged in between commercial uses on a first floor of a main street. Granting the relief will permit the Unit to be rentable, to generate revenue for the Landlord, the Applicant and the Town and will add to the retail mix available to the neighborhood.

The Premises is currently a vacant space offering no services to the town, its neighbors and those who attend the beauty salon, restaurant and United States Post Office. Allowing the Applicant to operate a liquor store for the sale of all alcoholic beverages for off-premise consumption will diversify the 4 unit shopping center and offer a unique and different service at the shopping center, currently not offered to its customers.

There is currently no liquor store currently offered at this commercial Premise and the closest liquor store is about .5 miles from this location, at the other end of Arlington Street. As such, the proposed development of the Parcel will properly fit within the neighborhood, in appearance, in character and in configuration while also offering patrons of the Premises an additional service currently not offered.

Describe how desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw of the Town of Arlington, Massachusetts.*

As previously mentioned, the Premises, consisting of four commercial units was built in 1930, likely before the adoption of the Zoning Bylaw. Granting a variance to allow the Applicant to operate a retail liquor store will not nullify or detract from the intent or purpose of the Bylaw because if enforced literally would require a residential unit in a first floor commercial building, wedged between other commercial units – something that would not in practical terms be desirable by an occupant or the Town (for safety reasons). Furthermore, granting the Applicant the desired relief would allow for good use of the space as a retail store due to its size, at roughly 4,200 square feet of floor space, including the basement.

State Law (MGL Chapter 40a, Section 10) requires that the Zoning Board of Appeals must find that all four (4) criteria are met in order to be authorized to grant a Variance. If any one of the standards is not met, the Board must deny the Variance.

Dimensional and Parking Information

Present Use/Occupancy *

dry cleaner (last occupied in 2021)

Proposed Use/Occupancy *

liquor/package store

Existing Number of Dwelling Units*

0

Proposed Number of Dwelling Units*

0

Existing Gross Floor Area (Sq. Ft.)*

4868

Proposed Gross Floor Area (Sq. Ft.)*

4868

Existing Lot Size (Sq. Ft.)*

5733

Proposed Lot Size (Sq. Ft.)* ?

5733

Minimum Lot Size required by Zoning*

20000

Existing Frontage (ft.)*

108

Proposed Frontage (ft.)*

108

Minimum Frontage required by Zoning*

100

Existing Floor Area Ratio*

0

Proposed Floor Area Ratio*

0

Max. Floor Area Ratio required by Zoning*

25

Existing Lot Coverage (%)*

0

Proposed Lot Coverage (%)*

0

Max. Lot Coverage required by Zoning*

0

Existing Lot Area per Dwelling Unit (Sq. Ft.)*

0

Proposed Lot Area per Dwelling Unit (Sq. Ft.)*

0

Minimum Lot Area per Dwelling Unit required by
Zoning*

20000

Existing Front Yard Depth (ft.)*

0

Proposed Front Yard Depth (ft.)*

0

Minimum Front Yard Depth required by Zoning*

20

Existing Left Side Yard Depth (ft.)*

0

Proposed Left Side Yard Depth (ft.)*

0

Minimum Left Side Yard Depth required by Zoning*

10

Existing Right Side Yard Depth (ft.)*

0

Proposed Right Side Yard Depth (ft.)*

0

Minimum Right Side Yard Depth required by Zoning*

10

Existing Rear Yard Depth (ft.)*

0

Proposed Rear Yard Depth (ft.)*

0

Minimum Rear Yard Depth required by Zoning*

20

Existing Height (stories)

0

Proposed Height (stories)*

1

Maximum Height (stories) required by Zoning*

3

Existing Height (ft.)*

0

Proposed Height (ft.)*

0

Maximum Height (ft.) required by Zoning*

35

For additional information on the Open Space requirements, please refer to Section 2 of the Zoning Bylaw.

Existing Landscaped Open Space (Sq. Ft.)*

0

Proposed Landscaped Open Space (Sq. Ft.)*

0

Existing Landscaped Open Space (% of GFA)*

0

Proposed Landscaped Open Space (% of GFA)*

0

Minimum Landscaped Open Space (% of GFA)
required by Zoning*

10

Existing Usable Open Space (Sq. Ft.)*

0

Proposed Usable Open Space (Sq. Ft.)*

0

Existing Usable Open Space (% of GFA)*

0

Proposed Usable Open Space (% of GFA)*

0

Minimum Usable Open Space required by Zoning*

24

Existing Number of Parking Spaces*

0

Proposed Number of Parking Spaces*

0

Minimum Number of Parking Spaces required by Zoning*

16

Existing Parking area setbacks

0

Proposed Parking area setbacks *

0

Minimum Parking Area Setbacks required by Zoning*

0

Existing Number of Loading Spaces

0

Proposed Number of Loading Spaces*

0

Minimum Number of Loading Spaces required by Zoning*

0

Existing Slope of proposed roof(s) (in. per ft.)*

0

Proposed Slope of proposed roof(s) (in. per ft.)*

0

Minimum Slope of Proposed Roof(s) required by Zoning*

0

Existing type of construction*

brick

Proposed type of construction*

brick

Open Space Information

Existing Total Lot Area*

9768

Proposed Total Lot Area*

9768

Existing Open Space, Usable*

0

Proposed Open Space, Usable*

0

Existing Open Space, Landscaped*

0

Proposed Open Space, Landscaped*

0

Gross Floor Area Information

Accessory Building, Existing Gross Floor Area

0

Accessory Building, Proposed Gross Floor Area

0

Basement or Cellar, Existing Gross Floor Area ?

0

Basement or Cellar, Proposed Gross Floor Area

0

1st Floor, Existing Gross Floor Area

2100

New Field

—

1st Floor, Proposed Gross Floor Area

2100

2nd Floor, Existing Gross Floor Area

0

2nd Floor, Proposed Gross Floor Area

0

3rd Floor, Existing Gross Floor Area

0

3rd Floor, Proposed Gross Floor Area

0

4th Floor, Existing Gross Floor Area

0

4th Floor, Proposed Gross Floor Area

0

5th Floor, Existing Gross Floor Area

0

5th Floor, Proposed Gross Floor Area

0

Attic, Existing Gross Floor Area 

0

Attic, Proposed Gross Floor Area

0

Parking Garages, Existing Gross Floor Area 

0

Parking Garages, Proposed Gross Floor Area

0

All weather habitable porches and balconies,
Existing Gross Floor Area

0

All weather habitable porches and balconies,
Proposed Gross Floor Area

0

Total Existing Gross Floor Area

2100



Total Proposed Gross Floor Area

2100

