

NEW HAVEN CITY PLAN COMMISSION ADVISORY REPORT

RE: **143 KIMBERLY AVENUE.** Special Exceptions to permit a convenience store in a residential district. Zone: RM-2. (19-75-S) (Owner: Edgar Gonzalez; Applicant: Valeria Gonzales)
REPORT: **1561-15**
ADVICE: **Special Exception: Denial**

PRINCIPAL APPLICABLE REGULATIONS

Section 63 (d) - The Board of Zoning Appeals may grant a *Special Exception* if the proposed use is in accord with the public convenience and welfare, and may attach conditions and safeguards deemed necessary to protect the neighborhood.

Section 63. (d)(6) - In the following types of special exception cases, which involve more than conventional questions of *use* and may have a significant impact on surrounding areas and a substantial relationship to the comprehensive plan of the city, the Board of Zoning Appeals shall, following its hearing, refer the case including all exhibits to the City Plan Commission, which shall submit an advisory report, on such factors as it may deem relevant, to the Board within 30 days after receiving all records and documents in the case. This report of the City Plan Commission shall be taken into account in the decision of the Board.

b) Convenience stores in residence districts, section 31, as provided for in the district regulations.

Section 31. (b) Convenience Uses: Where provided for in the District Regulations, the supplying of any of the following convenience goods and services, entirely at retail shall be considered a use which may be permitted by special exception under the conditions of this section 31:

(1) Convenience stores, groceries and related goods, including incidental seating for a maximum of six people. No additional parking shall be required for incidental seating.

BACKGROUND

The applicant is seeking relief to permit a convenience store in a residential (RM-2) zone. The existing structure has historically had a commercial space of some kind located on the ground floor with off-street parking for the residential dwelling units in the upper stories located in the rear of the lot. The applicant states that there would be 2 employees with hours of operation being 7 days a week from 7am to 6pm.

SEPTEMBER 17 PUBLIC HEARING

The applicant stated that they feel there is nothing nearby offering the services proposed and will operate daily from 8am to 6pm. Parking is in the rear of the lot for both the proposed use and the existing dwelling units located on the upper stories. 6 members of the public spoke in opposition of this application stating that there is already a convenience store located two properties down as well as other commercial sites within walkable distances. Concerns were also made about traffic patterns that this proposal would create in an area that is currently burdened with traffic and parking issues. A petition of 80 signatures of those in opposition was also provided to staff prior to the meeting.

PLANNING CONSIDERATIONS:

Special Exception Considerations

Reviewed in respect to applicable standards of Section 31(d) of the New Haven Zoning Ordinance staff offers the following:

(1) *There must be a finding by the City Plan Commission that space for such a use is not available in*

nearby areas which are zoned for business, and that such new use or expansion of an existing use is necessary to serve the immediate neighborhood adequately with convenience goods or services, giving due consideration, among other things, to the character of the neighborhood, the density of development, the shopping habits of neighborhood residents, and the availability of public and private transportation. Given that there is a convenience store located less than 100ft from the subject lot, at the corner of Kimberly Avenue and Grant Street, staff feels that this proposal is not in line with the current needs of the neighborhood. A general business zoning district is also located less than 500ft to the north where this use would be allowed by right.

(2)The net floor area used for sales or other business purposes in any establishment (excluding space used for storage and similar purposes) shall not exceed 1,500 square feet.

The overall size of the proposed store is below the required 1,500 square feet.

(5) No business shall be conducted, and no goods, materials or equipment shall be stored, except in a fully enclosed building.

No outside use of the property is proposed.

(7)The exterior presentation and design of storefront(s) shall be submitted as part of the special exception review. The following shall not be allowed on the exterior of a building or grounds: telephones; on-premises or off-premises signs, banners, or temporary advertising materials except those permitted pursuant to section 29(a)(9) [these regulations]; security gates covering window and door openings; and vending machines.

No information regarding the exterior improvements of the site were provided by the applicant.

(8)The ground-floor storefront shall consist, at a minimum, of 50% non-opaque visible windows.

The storefront windows do appear to comply with the minimum 50% non-opaque visible window standard of Section 31(d)(8)


Section 63(d) of the New Haven Zoning Ordinance states that “*Special exceptions shall be granted only where the Board of Zoning Appeals finds that the proposed use or feature or the proposed extension or substantial alteration of an existing use or feature is in accord with the public convenience and welfare after taking into account, where appropriate:*” Review of the proposal in relation to the applicable criteria of this section results in the following comments:

- Nature of the Proposed Site: The existing 4,231sf structure is situated on an 8,000sf site is located on Kimberly Avenue, just North of Grant Street.
- Resulting Traffic Patterns: The site as mentioned above has been historically used as a commercial site, however with the lack of off-street parking and with a similar use located in close proximity, staff feels this would have a negative effect on the traffic patterns of the surrounding area.
- Nature of the Surrounding Area: Most of the properties nearby consist of residential structures in a variety of densities with a convenience store already located nearby.
- The Comprehensive Plan: The portion of the Comprehensive Plan, Vision 2025, that deals with Neighborhood Development encourages an appropriate mix of uses that would facilitate a high quality of life in the city’s residential areas. The proposed use appears to conflict with this in that another business of the same type is located in such close proximity.

FINDINGS AND RECOMMENDATIONS

Based on considerations discussed above, the Commission views the Special Exception not to be in harmony with the general purpose and intent of the ordinance and that the public health, safety and general welfare will not be served, nor substantial justice done by its approval, and therefore, recommends denial.

ADOPTED: September 18, 2019
Ed Mattison
Chair

ATTEST: 
Aicha Woods
Executive Director, City Plan Department