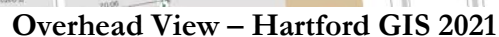




TO: Zoning Board of Appeals
PREPARED BY: Paul Ashworth, Senior Planner
paul.ashworth@hartford.gov

TYPE: Variance request from Zoning Regulation 3.2, Figure 3.2-A to allow neighborhood service uses in the NX-2 District on the ground floor of an existing Cottage Commercial type building.

OWNER: Clara Milander



BACKGROUND INFORMATION

The Applicant is requesting a use variance to allow a neighborhood service use on the ground floor of an existing cottage commercial building located at 231-235 Sisson Avenue. The subject property was previously occupied on the ground floor by a restaurant and the Applicant would like to return the ground floor to a similarly scaled commercial service use.

The subject property has a long history of neighborhood scale commercial use. The first permits for a "Store" were approved by City of Hartford Licenses & Inspections (L&I) in the early 1970's. A certificate of occupancy was issued for a restaurant with wine and beer sales in 1975. In 1998, L&I approved a first-floor façade renovation to the existing Cottage Commercial building. The renovation was to improve the look of the existing restaurant on the ground floor.

In 2005, the Zoning Board of Appeals (ZBA) approved a variance from the required side yard setback and a variance from the conditions of use for a liquor selling establishment to allow the existing restaurant to sell all alcoholic beverages and to establish an outdoor seating area at the front of the existing structure.

In 2016 shortly after the change in regulations, the then owner of the property applied for a use variance to allow a neighborhood retail use. That request was withdrawn prior to the public hearing.

STATEMENT OF HARDSHIP

The Applicant provided the following statement:

4. NARRATIVA DEL PROYECTO

Describe las acciones de su aplicación y brinde la mayor cantidad de detalles posibles. Adjunte paginas adicionales si es necesario:

nosotros tenemos un HAIR SALON EN EL 30003
MAIN St Hartford Queremos mudarlo a esta
esta dirección. Queremos usar la propiedad y
brindarle a nuestros clientes mejor comodidad.
La dirección que estamos considerando es 231-235 Sisson Ave.
E. Hartford CT 06106

nos urge cambiar el local del Rest. ya tenemos que
pagar los TAXES de la propiedad y queremos ponerlo a

**Por favor complete las siguientes secciones en relación con las acciones que está solicitando.

** Asegúrese de firmar la solicitud en la Sección 5 en la última página.

Proctor
Crown

KEY APPLICATION TIMELINES

- Application Submission Date: March 16, 2021
- Date Application Accepted as Complete: March 16, 2021
- Application Date of Receipt: April 6, 2021 (sooner of either: date of next regularly scheduled meeting, or 35 days after acceptance of complete application)
- Public Hearing is scheduled to open on Tuesday, May 4, 2021; Open Hearing Deadline: June 10, 2021.
- Close Hearing Deadline (if opens May 4, 2021): (35 days after opening) Tuesday, June 8, 2021
- CT General Statutes Sec.8-7D allow that the applicant may consent to one or more extensions of time, provided the total extension of all time periods shall not be for longer than 65 days*.

LEGAL STANDARD

Standard for Application Type:

The ZBA shall have the power under Chapter 124 of the Connecticut General Statutes to vary the application of the zoning laws, ordinances, or regulations when the conditions affecting a particular parcel but not the general district cause exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed. The board must take into consideration conserving the public health, safety, convenience, welfare, and property value solely with respect to the affected parcel. (City of Hartford Zoning Board of Appeals Bylaws, Article II, Sec. 3)

STANDARD SPECIFIC TO THE USE

Section 3.2, Figure 3.2-A Permitted Uses Table

No service uses are permitted in the NX-2 District.

Section 4.1, Figure 4.1-B Building Type Permitted by District – Neighborhood Districts

The Cottage Commercial building type is not permitted in the NX-2 District.

Section 4.6 Cottage Commercial Building Type

Ground Story: Retail, service uses permitted by district.

FINDING OF FACTS

Lot Information

- Approximately 7,250 SF
- Front Lot Width: ~49 feet
- Substantially similar to surrounding properties (see Figure 1. below).

Building Information

- Constructed Circa 1920

- Storefront added most likely in the early 1970's.
- Previously approved for one residential unit on the upper floor and commercial uses on the ground story.
- Structure is classified as a Cottage Commercial type building (see Photo 1).

Neighborhood Context

- Residential Neighborhood Mix zoning on all immediately surrounding properties (see Figure 2).
- Property adjacent to residential uses to the north, west and east.
- Across Fales St to the south is a similar Cottage Commercial building with a neighborhood retail scale grocery store on the ground floor.
- Northeast of the subject property on Sisson Av are two more Cottage Commercial buildings with commercial uses (see Photo 4).

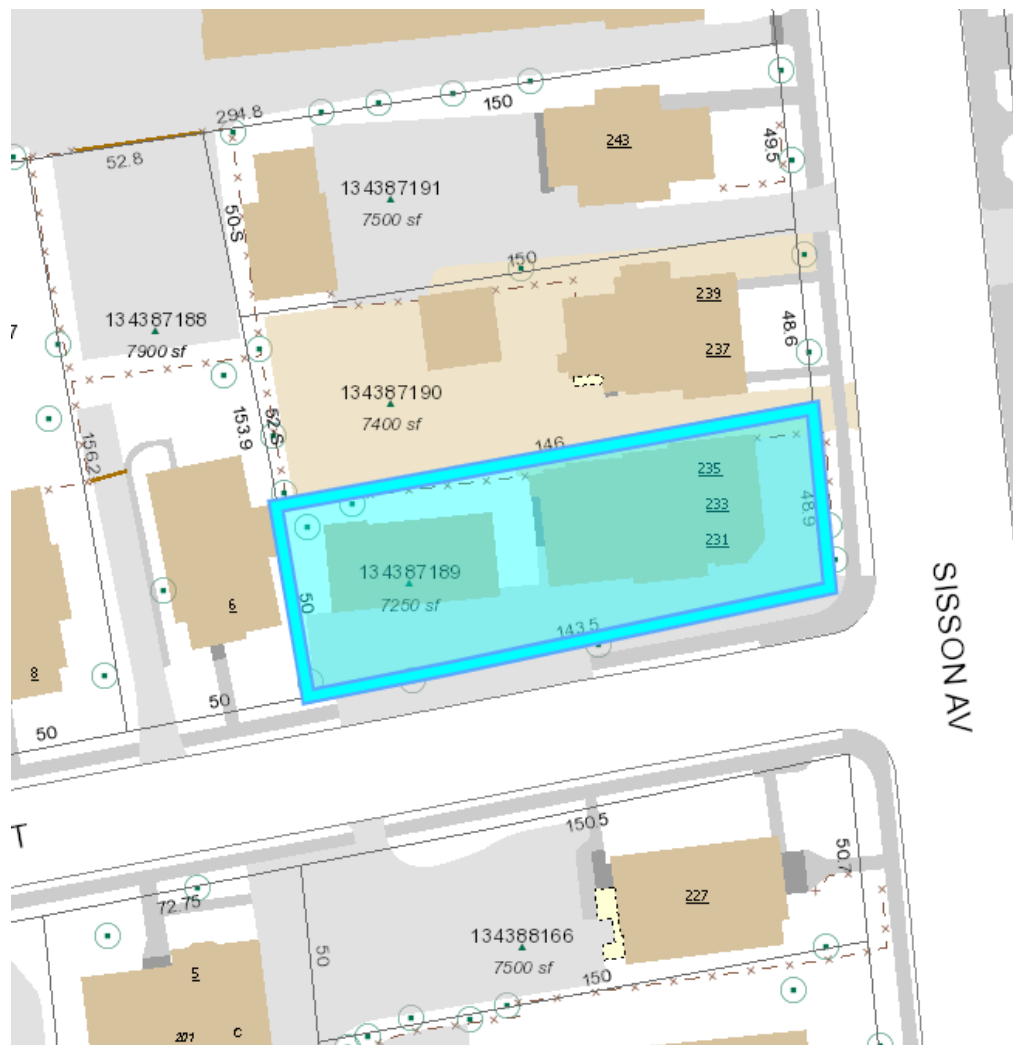


Figure 1. Property Dimensions in Area – Hartford GIS 2021



Photo 1. Subject Property facing Southwest – Google Streetview Oct. 2020



Photo 2. Looking North on Sisson from int. of Sisson and Fales St – Google Streetview Oct. 2020



Photo 3. Northwest of subject property on Sisson Ave – Google Streetview Oct. 2020

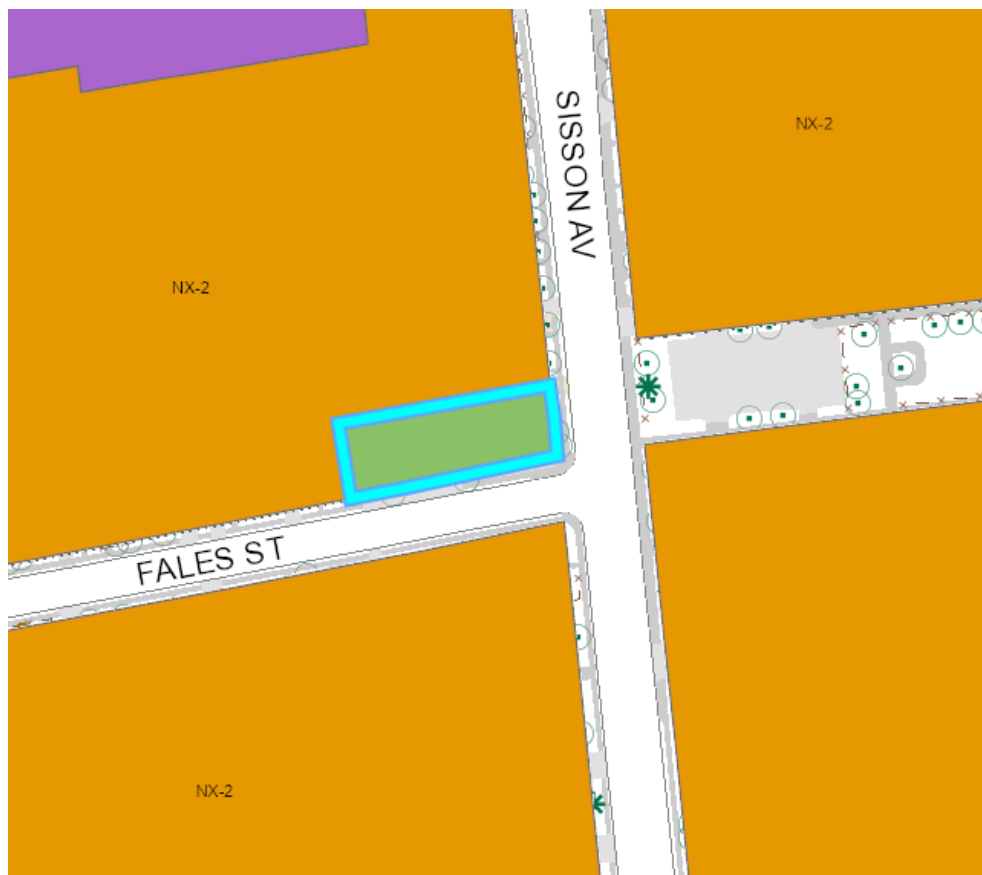


Figure 2. Zoning Map of Neighborhood – Hartford GIS 2021

COMMENTS RECEIVED (DEPARTMENTS, AGENCIES, NRZs, PUBLIC)

The West End Civic Association (NRZ) was notified of this request via email on April 14, 2021. As of this writing no comments have been received by Staff.

ANALYSIS

The subject request, to allow neighborhood service uses on the ground floor of an existing Cottage Commercial building is in conflict with the Zoning Regulations in terms of the current zoning district. The NX-2 District prohibits both the Cottage Commercial building type and commercial uses generally, while allowing for some civic and institutional uses subject to Special Permit review. The history of the building and the surrounding context however would support the request, and indicate that the area may not be suitably zoned as is. The building has historically been used as a mixed-use facility with commercial on the bottom floor and one residential unit above. Zoning approvals prior to the 2016 change in regulations and even a variance allowing encroachment into the side setback and alcohol sales in conjunction with a restaurant verify the historical uses on this site.

Today, the property is still distinctly identifiable as a Cottage Commercial building. Permitting records from the late 1990's and early 2000's show investment in the first-floor commercial space. The first-floor façade is still in keeping with the previous restaurant/eating place use. The approval of a variance for exception to certain use regulations regarding the sale of alcoholic beverages in

conjunction with a restaurant is an existing property right that will run with the land. The rights conferred by that variance and the existing layout of the building and façade, when considered together represent a unique characteristic of the property.

According to permitting documents submitted later, by 2016 the use had changed from a restaurant to a retail establishment. The voluntary change in use at that time established a new use on the site, but does not eliminate the rights conferred by the variance for a restaurant use.

The rights to a restaurant with alcohol as granted by the 2005 variance is a far more intense use of the site than the proposed neighborhood service use. As such, this variance if granted could decrease the intensity of the non-conforming use allowed on site. Staff has included a condition that the property owner agree to release the 2005 variance, voluntarily giving up the right to the restaurant with alcohol use.

It has been established that the property may have a unique characteristic due to its layout as a cottage commercial building type and its use history. As a building type that is not allowed in the zoning district assigned in 2016, the building would need to be converted back to a residential building type through significant renovations to the first floor façade as well as the significant interior remodeling that would be necessary to convert the space to a residential first floor use could be established.

STAFF RECOMMENDATION

Staff recommends approval of this application.

A draft resolution follows.

ATTACHMENTS

1. Site Photos Provided by Applicant
2. 2005 Variance

REVIEWED AND EDITED BY,

Aimee Chambers, Director



**CITY OF HARTFORD
ZONING BOARD OF APPEALS RESOLUTION
231-235 SISSON AVENUE
USE VARIANCE TO ALLOW A NEIGHBORHOOD SERVICE**

- Whereas,** The City of Hartford Zoning Board of Appeals reviewed the application and attached documents regarding the request for a variance from Zoning Regulation 3.2, Figure 3.2-A to allow neighborhood service uses in the NX-2 District on the ground floor of an existing Cottage Commercial building; and
- Whereas,** The subject property is a lot similar in size and shape to others in the district; and
- Whereas,** The subject property is occupied by a Cottage Commercial Building Type; and
- Whereas,** The nonconforming building type would require significant alteration to both the façade and interior to allow for a conforming building type and residential use; and
- Whereas,** Sisson Ave has multiple active nonconforming Cottage Commercial buildings within a one (1) block radius; and
- Whereas,** The site has rights for a restaurant vested through a variance approved in 2005; and

Now therefore Be It

- Resolved,** The City of Hartford Zoning Board of Appeals (ZBA) hereby finds that a hardship exists due to the following circumstances: **XXXXXXXXXX**;
- Resolved,** The City of Hartford Zoning Board of Appeals hereby approves the request for a variance from Zoning Regulation 3.2, Figure 3.2-A to allow neighborhood service uses in the NX-2 District on the ground floor of an existing Cottage Commercial building, subject to the following conditions:

1. Because the variance granted in 2005 regarding a restaurant with alcohol is in conflict with the objectives of the present Zoning Regulations, the applicant shall sign a release voluntarily surrendering the rights conveyed to them. Such surrender shall be made to run with the land and apply to the current and any future owner of the property.

Be It Further,

- Resolved,** This 4th day of May, 2021.

Attachment 1 – Photos Provided by Applicant







Attachment 2 – 2005 Variance

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CITY OF HARTFORD

Zoning Board of Appeals
550 Main Street, Hartford, Conn. 06103



COUNCIL – MANAGER GOVERNMENT

NOTICE OF GRANT OF VARIANCE, SPECIAL PERMIT OR SPECIAL EXCEPTION

In accordance with the provisions of Section 4 of Public Act 77-509, effective October 1, 1977, CERTIFICATION is made that the following variance, special permit or special exception was granted by the zoning board of appeals of the City of Hartford:

1. Owner of Record: Nexida & Cristobal Jiminian
2. Location and Description: 233 Sisson Avenue
R0-2 Residential Office District
Parcel Area 7,144 square feet
Developed with recently renovated two story wood frame mixed use structure with a restaurant on the ground floor and a residential unit on the second floor.
3. Date of Hearing: June 21, 2005
4. Zoning Ordinance Section which is Varied or Excepted:
35-472, 35-878(c)(1), 35-878(c)(1)(a), 35-878(f)(1-9) under 35-124(a)(2)

5. Nature of Variance, Special Permit or Special Exception:

Granted variances from minimum side yard requirements and conditions of use for liquor selling establishments to allow the change of use from an existing non-conforming restaurant serving wine and beer to a restaurant serving full liquor and to create outdoor cafe seating in an existing building that cannot meet minimum side yard or 1,000 foot radius from other restaurants serving full liquor and conditions to allow outdoor cafes based on testimony and site plan submitted at hearing subject to requirements of State of Connecticut Basic Building Code.

Michael D. Brown
233 Sisson Ave.
DBA - Vegas Blvd.
Hartford, CT 06105

Daniel E. Lilly, Chairman
Zoning Board of Appeals