

LAW OFFICE OF  
**JAMES S. TIMMINS**  
**COUNSELLORS AT LAW**  
55 WILLARD STREET  
QUINCY MA 02169  
(617) 376-0700  
FAX 376-2331  
TOLL FREE (866) 376-0700

**JAMES S. TIMMINS**  
[jtimmins@cronintimmins.com](mailto:jtimmins@cronintimmins.com)

August 19, 2022

Honorable Members of the  
Rockland Zoning Board of Appeals  
Rockland Town Hall  
Rockland MA 02370

RE: *Application for Use Variance*  
*18-20 East Water Street, Rockland MA*

Dear Sir/Madam:

Please be advised that I represent the owners of the above-referenced mixed use property. The property, long located in a B-1 Zoning District, is now also subject to the provisions of the town's zoning by-law found at Section 415-21.2 – the Downtown Rockland Revitalization Overlay District.

The owners, Andrew Shanahan and Craig Borghesani, hold title to the property in under BNS, LLC following their acquisition of the premises on October 1, 2021. They seek a use variance in relation to a residential unit located on the first floor of the building in the rear. While the owners believe the unit is a lawfully-protected nonconforming use, having been in existence at the time of the ordinance change prohibiting first floor residential uses in the DRROD (added 5-1-2017), the Building Inspector does not agree. The owners present this petition for relief to “legalize” the unit, used as a residential premises since at least November 14, 1993. There is no other issue with the property – due to its long existence, and resulting nonconforming rights, in its current state. For this reason, the sole relief requested is the use variance for the one rear unit; the owners rely on their nonconforming rights with regard to the balance of the use and dimensional characteristics of the property.

**MATERIAL FACTS**

BNS, LLC acquired the property by deed dated September 29, 2021 recorded at Plymouth Deeds in Book 55775, Page 324. (Deed attached as Exhibit 1) The property, long used as a commercial store front on East Water Street with four residential units above and one residential unit in a first-floor rear location, includes five striped, off-street parking spaces in the rear of the lot, serving each of the five, one bedroom units for

decades. (See Attached Exhibit 2, consisting of photos of the five marked spaces). BNS seeks to continue this operation without change. The long-standing use, however, is no longer conforming with the current zoning for this district.

In May of 2017, the town amended its zoning map and zoning by-law – creating a new downtown district intended to “encourage smart growth in accordance with the purpose of M.G.L. c. 40R.” Section 415-21.2(A)(1). In furtherance of this objective, the amended by-law provides, at 415-21.2 (E)(b)(3), that “[r]esidential uses shall not occupy the ground floor level of a Mixed-Use Development Project.” That proscription bars the use that now exists (and has existed for decades) and is the reason for the requested relief.

## DISCUSSION

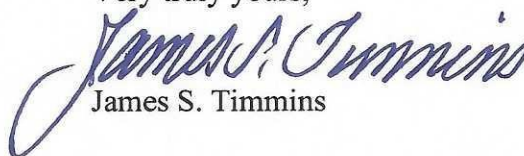
The particular merits of a requested variance often elude the strict requirements found in a zoning by-law, as set out in G.L. c. 40A. This is particularly so when it comes to use variances – which Rockland’s zoning by-law specifically empowers this board to grant (at Section 415-98.1). The applicant respectfully suggests, therefore, that focus on the following factors will aid in its consideration.

The variance sought here will not cause substantial detriment to the public good or impair the purpose or intent of the bylaw; nor will it constitute a special privilege to this particular lot owner. Both are true because the applicant seeks to do nothing more than continue the prior use without any change whatsoever. Evidence of the long-standing use is found in the attached Exhibit 3 – an MLS Listing Agreement from March of 1998, showing that as of November 14, 1993 the property was operated as a mixed use property with five 1 BR Units and a “storefront” depicted in the picture of the property on the listing sheet.

The applicant and his counsel have consulted with both direct abutters, each of whom – in the presence of counsel – indicated they had no problem with this application. (Brian O’Connor Metro Management and Paul, the manager at Bagnell Auto Supply are the two individuals with whom the undersigned and Andrew Shanahan spoke.) On-street parking is available for the commercial use, and each unit enjoys assigned off-street parking to the rear of the building. Its operation will continue as it has for decades, under a responsible manager (Shanahan) who owns and operates other properties in the town. There will be no adverse impact whatsoever, should this Board grant the requested relief.

For these reasons, and those raised at the public meeting, BNS, LLC respectfully requests that the Board grant the requested relief.

Very truly yours,

  
James S. Timmins

JST/bbg