



JONATHAN F. MITCHELL
MAYOR

City of New Bedford
ZONING BOARD OF APPEALS

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ZONING BOARD OF APPEALS
NEW BEDFORD CITY HALL – 3rd Floor
WILLIAM STREET
NEW BEDFORD, MA
Thursday, June 20, 2019

MINUTES

CITY CLERKS OFFICE
NEW BEDFORD, MA
2019 AUG 16 A 10:52
CITY CLERK

PRESENT: Allen Decker (*Acting Chairperson*)
Stephen Brown, *Clerk*
Celeste Paleologos
Laura Parrish

ABSENT: Leo Schick (*Chairperson*)

STAFF: Angela Goncalves, *Assistant Project Manager*
Danny Romanowicz, *Commissioner of Buildings and Inspectional Services*

1. CALL TO ORDER

Acting Chairperson Decker called the meeting of the City of New Bedford Zoning Board to order at 6:00 p.m. Acting Chairperson Decker then explained the meeting process and protocol. He then advised the applicants that with only four board members present, a unanimous vote would be required to prevail. Mr. Decker offered each an opportunity to continue their matters to a full board meeting.

Att. Kehoe requested a continuance to July 18, 2019 with regard to the following cases #4378, #4379 and #4380.

2. PUBLIC HEARINGS:

ITEM 1 - CASE #4377 – Petition of: Kathy A. Knapp (125 Lafayette Street, New Bedford, MA 02745 and Moses Smith, Markey & Walsh, C/O Timothy Walsh (50 Homers Wharf, New Bedford, MA 02740) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2750 (yards in residence district), 2755 (side yard), 3100 (parking and loading), 3110 (applicability), 3140 (location and layout of parking and loading facilities) and 3145 (no driveway in a residential district shall exceed eighteen(18) feet in width);relative to property located at 125 Lafayette Street,Assessors’map114lot241 in a Residential B [RB] zoned district. The petitioner proposes to expand the width of the existing driveway from 12’

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to 26', exceeding the 18' limit by 8', and install a 2' buffer between the property line and the driveway, reduced from the required 4' buffer per plans filed.

A motion was made (SB) and seconded (CP) that the following be received and placed on file: communications from the Commissioner of Buildings and Inspectional Services dated 5/23/19; communication from the Office of the City Planner dated 6/7/19; the appeal package as submitted; the plans as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Att. Tim Walsh, 50 Homer's Wharf, New Bedford representing Ms. Kathy Knapp, and Kathy Knapp, 125 Lafayette Street introduced themselves. Att. Walsh submitted a petition that Ms. Knapp presented to several neighbors. He stated the most affected neighbor is present to speak this evening.

A motion was made (SB) and seconded (LP) to receive the submission.

Motion passed unopposed.

Att. Walsh spoke on Ms. Knapp's request to extend her driveway beyond 18' to some 26' affecting the 4' required buffer. He stated the layout of the property has an angle which affects the buffer availability. He described the setback on the garage present when the house was purchased. Att. Walsh stated this project will get her large truck off this small New Bedford Street. Att. Walsh further described the project and the efforts toward prevention of runoff. He then introduced Ms. Knapp's abutting neighbor.

Acting Chairperson Decker asked for clarification on the runoff prevention effort of beading, which was described as an edging.

In response to Acting Chairperson Decker's invitation to speak or be recorded in favor, Lisa Medeiros, next-door neighbor, stated she had had discussions with Ms. Knapp and stated she had no real concerns, not believing it will adversely affect her at all.

There was no response to Acting Chairperson Decker's further invitation to speak or be recorded in favor.

There was no response to Acting Chairperson Decker's invitation to speak or be recorded in opposition.

The hearing was closed.

After brief board discussion and consultation with Commissioner Romanowicz, a motion was made (SB) and seconded (LP) to grant a Variance under provisions of the City Code of New Bedford, relative to property located at 125 Lafayette Street, Assessors' map 114 lot 241 in a Residential B [RB] zoned district to allow the petitioner to expand the width of the existing driveway from 12' to 26', exceeding the 18' limit by 8', and install a 2' buffer between the property

line and the driveway, reduced from the required 4' buffer per plans filed, which requires a Variance under provisions of Chapter 9, Comprehensive Zoning Sections 2700, 2710, 2750, 2755, 3100, 3110, 3140 and 3145.

Having reviewed the petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that with respect to these sections, the applicable sections have been addressed. In addition to the foregoing sections, the petition has been found to be in accordance with M.G.L. Chapter 40A, Section 10 relative to the granting of variances. This determination includes consideration of the following:

The board finds that, one, there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this instance, the circumstances are the shape of the lot creates a diagonal lot line and the topography of the lot is such that directly abutting the existing driveway and attached garage, a gravel area partially enclosed by a vinyl fence, creates a sharp turn for the applicant's vehicle. Two, due to those circumstances especially effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or applicant. In this case, the hardship is the existing conditions vehicle ingress or egress raises safety concerns due to the sharp turn. Three, the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. Four, the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinances, the findings subsequently made on these items, along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

With no specific conditions, general conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Board Member Brown - Yes

Board Member Parrish -Yes

Board Member Decker - Yes

Board Member Paleologos - Yes

Motion passed 4-0

ITEM 2 – CASE #4381 – Petition of: Michael Simmons (340 Belair Street New Bedford, MA 02745) For a Variance under Chapter 9, Comprehensive Zoning Sections 2300 (accessory buildings and uses), 2310 (general), 2330 (accessory structures), 2331 (private garage), 2700 (dimensional regulation), 2710 (general), 2720 (table of dimensional requirements-Appendix-B side yard FT), 2750 (yards in residence district) and 2755 (side yard); relative to property located at 340 Belair

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Street, Assessors' map 130B lot 383 in a Residential A [RA] zoned district. The petitioner is proposing to construct an attached carport covering the driveway per plans filed.

A motion was made (SB) and seconded (CP) that the following be received and placed on file: communication from the Commissioner of Buildings and Inspectional Services dated 5/24/19; communication from the Office of the City Planner dated 6/7/19; the appeal package as submitted; the plans as submitted; letter of Santos Rodriguez dated 5/20/19; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Michael Simmons, 340 Belair Street, stated he is seeking to construct an 18'x20' carport addition. He described his property, noting he is trying to cover his existing driveway with a carport addition.

In response to Acting Chairperson Decker and Board Member Brown, Mr. Simmons explained his elderly parents visit and the angle of his driveway gets too slippery in inclement weather for their safety. In response to other board questions, he described the size of the structure in comparison to the adjacent house.

In response to Acting Chairperson Decker's invitation to speak or be recorded in favor, Councilor Brad Markey spoke in support of the project, noting he has received no negative comments from neighbors.

There was no other response to Acting Chairperson Decker's invitation to speak or be recorded in favor.

There was no response to Acting Chairperson Decker's invitation to speak or be recorded in opposition.

The hearing was closed.

After brief board discussion and consultation with Commissioner Romanowicz, a motion was made (SB) and seconded (CP) to grant a Variance under the City Code of New Bedford relative to property located at 340 Belair Street, Assessors' map 130B lot 383 in a Residential A [RA] zoned district, to allow the petitioner is proposing to construct an attached carport covering the driveway per plans filed, which requires a Variance under provisions of Chapter 9, Comprehensive Zoning Sections 2300, 2310, 2330, 2331, 2700, 2710, 2720, 2750 and 2755.

Having reviewed the petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that with respect to these sections, the applicable sections have been addressed. In addition to the foregoing sections, the petition has been found to be in accordance with M.G.L. Chapter 40A, Section 10 relative to the granting of variances. This determination includes consideration of the following:

The board finds that, one, there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect

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the zoning district in which the land or structure is located. In this instance, the circumstances are that due to the layout of the property, without a variance there would be no means for a safe covered structure. Two, due to those circumstances especially effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, the hardship is that the property owner and elderly family members need a covered carport to enter given the effect of inclement weather on the safety of the premises. Three, the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. Four, the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinances, the findings subsequently made on these items, along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

With no specific conditions, but with the following general conditions: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Board Member Brown - Yes
Board Member Decker - Yes

Board Member Parrish - Yes
Board Member Paleologos - Yes

Motion passed 4-0

3. OLD/NEW BUSINESS:


A motion was made (SB) and seconded (LP) to approve the minutes of May 23, 2019 related to Cases #4374, #4375 and #4376.

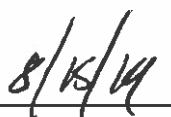
Motion passed unopposed.

4. ADJOURNMENT:

Proceedings were declared adjourned at 6:40 p.m.

NEXT MEETING SCHEDULED FOR JULY 18, 2019.


Stephen Brown, Clerk


Date