



# *Zoning Board of Appeals*

February 27, 2014 - **Minutes**

Brooklawn Park Senior Center, 1997 Acushnet Avenue

## **PRESENT:**

**Acting Chairman Allen Decker**

**Donald Gomes**

**James Mathes**

**Leo Schick**

## **ALSO IN ATTENDANCE:**

**Dan Romanowicz, Inspectional Services**

**Patrick Day**

**Blair Bailey**

MEETING CALLED TO ORDER by Allen Decker @ 6:00 p.m. Acting Chairman Decker explained procedures.

## **Case #4115 – Petition for special permit**

Acting Chairman Decker informed the petitioner that due to the shortage of board members at this hearing, petitioner had the right to delay hearing on the petition until the next meeting. Petitioner elected to proceed.

A motion was made (JM) and seconded (DG) that the communication from the building inspector be received and placed on file.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the appeal be received and placed on file.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the plan be received and placed on file.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the owners of the lot as indicated are the ones deemed by the board to be affected.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the communication from the office of the city planner be received and placed on file.

Motion passed unopposed.

Mr. Decker opened the hearing.

Carlos Costa addressed the board regarding his request to put a driveway on the side instead of the front of his property on 244 Chestnut Street. He noted that adjacent homes all have driveways.

In response to a question from Mr. Decker, petitioner confirmed the access point would be on Merrimac Street and the driveway would run approximately twenty feet. Petitioner had not yet decided on paving or gravel.

Mr. Decker raised the issue of surface water run-off with a paved driveway. Mr. Mathes added that if paved, the planting of three shade trees of 3.5 inch diameter may be a condition for the applicant and discussed their location.

Mr. Gomes expressed his disagreement on the requirement of the board to have people plant trees in locations other than their property. He expressed his concern about the additional cost to applicants who are seeking to improve their property.

Mr. Schick confirmed that the project would be on a residential property that the applicant is repairing to sell.

There was no response to Mr. Decker's invitation to be heard in favor of the application.

There was no response to Mr. Decker's invitation to be heard in opposition.

Mr. Decker closed the hearing.

There was discussion between board members with regard to the requirement placed on applicants to plant trees if pavement is used.

The applicant stated he would abide by any tree planting condition if they chose to use pavement.

Mr. Bailey added that the use of gravel would also address any run-off to the abutting property.

Mr. Romanowicz noted the requirement of a four foot buffer between neighbors, so applicant could have a fifteen foot driveway and add a mulch material.

A motion was made (JM) and seconded (DG) to grant a special permit under provisions of the City Code of New Bedford to Landtech LLC, care of Carlos Costa, 100 Adams Street, New Bedford MA relative to property located at 244 Chestnut Street, Assessor's Map Plot 71, Lot 217, in a Residential B Zoned District; and to allow the petitioner to install a 19 x 20 foot driveway, which would require a special permit under Chapter 9 of Comprehensive Zoning Section 3149, with the following condition, that it be a pervious surface; and that the project be set forth according to plans submitted with the application and that it be recorded at the registry of deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Motion passed unopposed.

#### **Case #4116 –**

Acting Chairman Decker informed the petitioner that due to the shortage of board members at this hearing, petitioner had the right to delay hearing on the petition until the next meeting. Petitioner elected to proceed.

A motion was made (JM) and seconded (DG) that the communication be received and placed on file.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the appeal be received and placed on file.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the plan be received and placed on file.

Motion passed unopposed

A motion was made (JM) and seconded (DG) that the owners of the lots as indicated are the ones deemed by the board to be those affected

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the communication from the office of the city planner be received and placed on file.

Motion passed unopposed.

Mr. Decker declared the hearing open.

Mr. Moniz addressed the board with regard to his seeking a permit to cover a 16x40 patio.

Mr. Decker confirmed that applicant had done construction prior to getting a permit.

Mr. Moniz explained that his car port was destroyed in a recent hurricane and he sought to replace it. He stated he was told by the city he could replace it if he had a two tenement house. He stated that upon a visit by inspectors, he was told that having a three tenement house would require a license and permit. He informed the board the he stopped work and the project is not complete.

There was no response to Mr. Decker's invitation to be heard in favor of the petition.

There was no response to Mr. Decker's invitation to be heard in opposition.

Mr. Decker closed the hearing.

There being no further discussion by the board, a motion was made (JM) and seconded (DG) to grant a variance under provisions of the City Code of New Bedford to Louis T. Moniz 77 Willis Street, New Bedford MA relative to property located at 77 Willis Street, Assessor's Map Plot 65, Lot 51, in a Residential B Zoned District; and to allow the petitioner to cover a 16' x 40' patio in the back of his house, which would require a variances under Chapter 9 of Comprehensive Zoning Sections 2700, 2710, 2720, 2730, 2750, and 2753 with no conditions; and that the project be set forth according to plans submitted with the application and that it be recorded at the registry of deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Motion passed unopposed.

#### **Case #4117 –**

Acting Chairman Decker informed the petitioner that due to the shortage of board members at this hearing, petitioner had the right to delay hearing on the petition until the next meeting. Petitioner elected to proceed.

A motion was made (JM) and seconded (DG) that the communication from the Commissioner and Inspector of Buildings be received and placed on file.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the appeal be received and placed on file.  
Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the plan be received and placed on file.  
Motion passed unopposed

A motion was made (JM) and seconded (DG) that the owners of the lots as indicated are the ones deemed by the board to be those affected  
Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the action of the clerk in giving notice of the hearing is hereby ratified.  
Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the communication from the office of the city planner be received and placed on file.  
Motion passed unopposed.

Mr. Decker declared the hearing open.

Dr. Richardson addressed the board with regard to moving her practice into her Bedford Street home. She noted that she had a private waiting area and a driveway that could accommodate four cars.

In response to inquiry by Mr. Decker, Dr. Richardson stated that Merolla Chiropractic operates directly across the street, and that many offices exist in the immediate area. She confirmed that there would be no advertising/signage on the building.

In response to inquiry by Mr. Decker, Dr. Richardson stated neighbors who had signed a petition in favor of her proposal were immediately abutting on both sides and directly across the street.

Mr. Mathes noted that it was recommended by the city planner and there were similar home offices throughout the neighborhood.

In response to Mr. Decker's invitation to be heard in favor of the petition, City Councilor Brian Gomes addressed the board in support of Dr. Richardson's proposal. He stated her venture was a needed service and fits into the neighborhood.

There was no response to Mr. Decker's further invitation to be heard in favor.  
There was no response to Mr. Decker's invitation to be heard in opposition.

Dr. Richardson expressed her willingness to make an additional requirement from the board, as she felt a home based practice was more supportive of the children she treats than a public setting.

Mr. Decker closed the hearing.

Mr. Romanowicz noted that any use change requires handicap accessibility. He stated that if the historical nature of the building prevents a ramp in front of the house, the petitioner could provide another setting for services to handicap patients.

Mr. Decker reopened the hearing to confirm with Dr. Richardson her understanding of Mr. Romanowicz's statements. Dr. Richardson stated that the property has a sun porch next to the driveway which could be heated and, with moderate changes, could be easily accessed by a wheelchair.  
Mr. Decker re-closed the hearing.

After brief board discussion and input from Mr. Bailey, a motion was made (JM) and seconded (DG) to grant a special permit under provisions of the City Code of New Bedford to Jane Ferris Richardson, 95 Bedford Street, New Bedford MA relative to property located at 95 Bedford Street, Assessor's Map Plot 41, Lot 59, in a Residential A District; and to allow the petitioner to operate a mental health counseling service providing therapy from 95 Bedford Street, which would require a special permit under Chapter 9 of Comprehensive Zoning Sections 2500, 2520 to 2528, and 5300 to 5330, 5360 to 5390, with no conditions; and that the project be set forth according to plans submitted with the application and that it be recorded at the registry of deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.  
Motion passed unopposed.

Mr. Decker thanked the applicant for her service.

Mr. Decker confirmed with Mr. Bailey that the application was a special permit, not a variance.

#### **Case #4118 –**

Acting Chairman Decker informed the petitioner that due to the shortage of board members at this hearing, petitioner had the right to delay hearing on the petition until the next meeting.

Mr. Mathes explained that with the shortage of board members present, the petition would require in essence a unanimous vote to pass. Petitioner confirmed that a denial would result in a two year delay and then elected to postpone hearing to the next meeting.

Petitioner, Richard Poyant on behalf of Child & family Services, assented to a waiver of any continuation with regard to time constraints.

Acting Chairman Decker stated that Case #4118 would be continued to the 3/27/14 ZBA meeting.

Mr. Decker sought approval of meeting minutes from October 24, 2013.

A motion was made (DG) and seconded (LS) that the minutes be accepted with any necessary corrections. There being no corrections presently requested, the motion passed unopposed.

Mr. Decker sought approval of meeting minutes from December 19, 2013.

A motion was made (DG) and seconded (LS) that the minutes be accepted. There being no corrections presently requested, the motion passed unopposed.

Mr. Decker sought approval of the proposed meeting agenda, which would be the fourth Thursday of the calendar month, moving dates as need.

Mr. Gomes confirmed that Mr. Day had taken into account all holidays.

A motion was made (DG) and seconded (LS) to adopt the schedule as presented. The motion passed unopposed.

Mr. Mathes suggested requesting the mayor appoint more people to avoid board member shortages at meetings, such as occurred this evening.

There being no further business, meeting was adjourned at 6:50 p.m.