



Zoning Board of Appeals

September 10, 2015 - 6:00 P.M. – **Minutes**
City Hall, 133 William Street, New Bedford, MA Room 314

PRESENT:

James Mathes (Acting Chairman)
Allen Decker (Clerk)
Robert Schilling
Leo Schick
John Walsh

Also in attendance:

Dan Romanowicz, Commissioner of Buildings and Inspectional Services
Jennifer Gonet, Assistant Project Manager, Planning Division

MEETING CALLED TO ORDER by Acting Chairman Mathes at 6:00 p.m.

Mr. Mathes then explained the process and procedures to the applicants and those in attendance.

NEW BUSINESS:

CASE #4197

Board Members: J. Mathes, A. Decker, R. Schilling, J. Walsh, and L. Schick were present on the evening of the public hearing. Mr. Decker recused himself from the subject case hearing and left the room.

Mr. Walsh motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated August 5th, 2015; the Communication from the Office of City Planner dated September 9th, 2015; the appeal packet; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the action of the Clerk in giving notice of the hearing as stated be and is hereby ratified. Motion seconded by Mr. Schick. With all in favor, the motion carried.

Acting Chairperson Mathes then declared the hearing open.

Petitioner: Mr. Ted Haggerty (1018 Shelburne Street New Bedford, MA) described the proposed three-season room and explained the reason for the variance request. Mr. Haggerty stated under code he needs thirty (30) feet in the rear yard but proposes nineteen (19). He stated there is a deck already located on the property that does not meet the rear yard requirement. The proposed three-season room is to be built in the same location.

Following the petitioner's testimony, Acting Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. Mr. Alvin Silvia (21 Ethel Street New Bedford, MA) stated owner of the property abutting in the rear, stated he is in support of the petition. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chairperson Mathes invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

With no further stated questions or concerns, Acting Chairperson Mathes declared the hearing closed.

The Board members discussed amongst themselves the criteria necessary to grant the variance. Mr. Walsh asked the petitioner what it is about the land or structure that a variance is necessary. Mr. Haggerty explained when he purchased the house it already had a 12'x14' deck, which he now needs to replace and it doesn't have the setback anyway. So, when they decided to rebuild they would get more use of out a three season room. He further explained the dimensions of the proposed sunroom we more cost effective than if built on the smaller footprint of the existing deck. He explained he never had the required 30 feet; currently he has 23 feet and is proposing 19 feet. Mr. Schilling stated it would be an improvement at the property.

Motion was made by Mr. Walsh, seconded by Mr. Schick, to grant a Variance under provisions of the City Code of New Bedford, to Thaddeus and Heather Haggerty (1018 Shelburne St. New Bedford, MA); Relative to property located at: 1018 Shelburne Street, Assessor's Map 127E, Lot 436 in a Residential A Zoned District. To allow the petitioner to: erect a 16'x14' sunroom as plans filed, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Rear Yard) and 2753 (Rear Yards).The Board finds that there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located. These circumstances are that there was insufficient area to build upon the existing deck. And that due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant. The hardship is the applicants are unable to improve their property without the variance. And that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw; and that desirable relief may be granted without substantial detriment to the public good. With the following conditions, 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. On the Roll Call Vote the vote carried 4-0 with members J. Mathes, L. Schick, R. Schilling, and J. Walsh voting in the affirmative, no member voting in the negative. (Tally 4-0)

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Mr. Decker returned to the meeting.

Mr. Decker motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated August 5th, 2015; the Communication from the Office of City Planner dated September 9th, 2015; the appeal packet; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the action of the Clerk in giving notice of the hearing as stated be and is hereby ratified. Motion seconded by Mr. Schick. With all in favor, the motion carried.

Acting Chairperson Mathes then declared the hearing open.

Petitioner: Mr. Cameron Crooks (3532 Acushnet Avenue New Bedford, MA) explained the variance request is due to the layout of the lot and the location of his house and existing carport. He cannot place the garage anywhere else. He stated the garage, as proposed, will be three (3) feet from his neighbor on the north side of the property.

Mr. Schick asked if the garage proposed was metal. Mr. Crooks stated yes and that the garage comes in a variety of colors. He submitted a photo to the board as an example of what it would look like.

Mr. Decker made a motion to receive and place on file the photo submitted. Motion seconded by Mr. Schick. With all in favor the motion passed.

Following the petitioner's testimony, Acting Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. Mr. Arthur Glassman (3540 Acushnet Avenue New Bedford, MA) explained he is the only abutter affected by the relief from setbacks sought by the applicant. He stated there would be no negative effect and would give him more privacy at his property. Mr. Glassman said Mr. Crooks was a good neighbor who

took care of his property since he bought the home in 2012. Mr. Glassman also stated Mr. Crooks was leaving enough room for Mr. Glassman to be able to maintain his fence. For these reasons Mr. Glassman was in favor of the petition. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chairperson Mathes invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

With no further stated questions or concerns, Acting Chairperson Mathes declared the hearing closed.

The Board members discussed amongst themselves the criteria necessary to grant the variance.

Motion was made by Mr. Decker, seconded by Mr. Walsh, to grant a Variance under provisions of the City Code of New Bedford to Cameron A. Crooks (3532 Acushnet Ave. New Bedford, MA); relative to property located at: 3532 Acushnet Ave., Assessor's Map 134 Lot 297 in a Residential-A Zoned District. To allow the petitioner to: erect a 18'x30' garage as plans filed, which will require a Variance under Ch.9 Comprehensive Zoning sections 2330-2334 (Accessory Structure) and 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B, Side Yards), 2730 (Dimensional Variation), (22750 Yards in Residential Districts), and 2753 (Side Yards). The Board finds that there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located; these circumstances are: that the shape and layout of the property and its dwelling are such that placement of the garage only works in the location as planned. And that due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant; The hardship is the prevention of the applicant's ability to improve or enhance the property in order to provide additional coverage for vehicles and/or other items. And that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw; and that desirable relief may be granted without substantial detriment to the public good. With the following conditions: 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.

On a roll call vote, the vote carried 5-0 with members J. Mathes, A. Decker, L. Schick, R. Schilling, and J. Walsh. voting in the affirmative, no member voting in the negative. (Tally 5-0)

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Mr. Decker motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated August 6th, 2015; the Communication from the Office of City Planner dated September 9th, 2015; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the action of the Clerk in giving notice of the hearing as stated be and is hereby ratified. Motion seconded by J. Walsh. With all in favor, the motion carried.

Acting Chairperson Mathes then declared the hearing open.

Petitioner: Mr. Christopher Grinnell (1678 E. Main Road #3 Portsmouth, RI) addressed the board stating he is asking for the building to be turned into a residence in a residential A zoned district. He stated it was built as a commercial purpose before zoning went into effect. He expressed that its best use is to be returned to a residential use. Mr. Grinnell noted that the building across the street is of the same style.

He further explained that he is retired and wishes to do artwork. He is used to doing artwork outdoors so the side of the building with the proposed sliding door will be open with this as the intent. The other side will be for his residential home area.

Mr. Mathes confirmed with the petitioner that the property referenced across the street was Diman Landry.

Mr. Decker asked the petitioner if he intended to sell his artwork at the property. Mr. Grinnell stated no his artwork is not good enough. He further explained he makes plywood bicycles. Brief comments were made and questions asked about the plywood bicycles by the Board members.

Following the petitioner's testimony, Acting Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. No one in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chairperson Mathes invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

With no further stated questions or concerns, Acting Chairperson Mathes declared the hearing closed.

The Board members discussed amongst themselves the criteria necessary to grant the special permit. Mr. Decker stated this proposal brings the property more into conformance with the applicable zoning. Mr. Grinnell interjected that he forgot to mention he also plans to take out the tar and gravel in the rear of the property and replace with grass. Mr. Decker thanked Mr. Grinnell for bringing that to the attention of the Board. The remainder of the criteria necessary to grant were discussed.

Motion was made by Mr. Decker, seconded by Mr. Walsh, to grant a Special Permit under provisions of the City Code of New Bedford to: Christopher R. Grinnell (1678 E. Main Rd #3 Portsmouth, RI); Kevin and Catherine R. Alves (975 Oakley Street New Bedford, MA); Relative to property located at: 231-233 Hillman St., Assessor's Map 57 Lot 20 in a Residential-A Zoned District. To allow the petitioner to: remove special permit (variance) status as retail in a Residential-A zone and designate as residence in a Residential-A zone, create a Carriage House in Appearance with sliding doors covering 10 feet x 10 feet opening on left middle front, mullion (insert) windows, domestic passage door and horizontal sheathing as plan filed, which will require a Special Permit under Chapter 9, Comprehensive Zoning Sections 2400 (Nonconforming Uses and Structures), 2410 (Applicability), 2420 (Nonconforming Uses), 2422 (Change from one nonconforming use to another, less detrimental, nonconforming use), 2430 (Nonconforming structures, other than single and two-family structure), 2432 (Altered to provide for a substantially different purpose or for the same purpose in a substantially greater extent), and 5300-5330 & 5360-5390 (Special Permit). In accordance with City of New Bedford Code of Ordinances Chapter 9 Section 5320, the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination includes consideration of each of the following:

Social, economic, or community needs which are served by the proposal: The Board found the proposal creates an additional residential property where one was not before. Traffic flow and safety, including parking and loading: The Board found the proposal provides for a reduction in traffic flow due to removal of a commercial use. Adequacy of utilities and other public services: The Board found that the adequacy of utilities and other public service were neutral as proposed. Neighborhood character and social structures: The Board found that the proposed use brings the property into conformance with applicable zoning. Impacts on the natural environment: The Board found the removal of gravel and tar in the rear will increase the lot's green space. Potential fiscal impact, including impact on City services, tax base, and employment: The Board found that the proposal will have a minimal impact on City services, a potential increase in tax revenue based on property renovations and enhancements. Additionally, in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 2420 and 2430, the Board of Appeals finds that the proposed use and modifications will not be substantially more detrimental than the existing nonconforming use and structure to the neighborhood. With the following conditions

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.

On a Roll Call Vote, the vote carried 5-0 with members J. Mathes, A. Decker, J. Walsh, R. Schilling, and L. Schick, voting in the affirmative, no member voting in the negative. (Tally 5-0)