



Zoning Board of Appeals

December 17th, 2015 – 6:00 PM - **Minutes**

New Bedford City Hall, Charles Ashley Meeting Room-1st Floor
133 William Street

PRESENT: James Mathes (*Acting Chairman*)
Debra Raffa-Trahan
John Walsh
Sherry McTigue
Robert Schilling

ABSENT: Allen Decker

STAFF: Dan Romanwicz, *Commissioner of Buildings and Inspectional Services*
Jennifer Gonet, *Assistant Project Manager*

1. CALL TO ORDER

Chair Mathes called the meeting of the City of New Bedford Zoning Board to order at 6:00 p.m.

2. ROLL CALL

A formal roll call was conducted confirming members present as stated above.

3. MINUTES REVIEW AND APPROVAL

A motion was made (JW) and seconded (SM) to approve the minutes of November 19, 2015. Motion passed unopposed.

OLD BUSINESS:

4. CASE #4203

With regard to the above-mentioned case, Chairman Mathes reported the Board had received a request for continuance.

A motion was made (JW) and seconded (DT) to continue Case #4203 to January 21, 2016. Motion passed unopposed.

5. Mr. Mathes read the meeting protocols and hearing requirements for those in attendance.

PUBLIC HEARINGS:

6. CASE #4213

Petition of: Marcio J. Brito & Lindsey Freire (124 Locust Street New Bedford, MA), who have submitted a petition for a Special Permit under provisions of Ch. 9 Comprehensive Zoning sections 2400 (nonconforming uses and structures), 2410 (Applicability), 2430-2432

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(non-conforming structures other than single and two family structures), 5300-5330 & 5360-5390 (Special Permit); relative to property located at 124 Locust Street, Assessor's Map 70, Lot 111 in a Residential B zoned district. The petitioner proposes to legalize the third floor apartment as plans filed.

A motion was made (JW) and seconded (RS) that the following be received and placed on file: the communication dated 11/30/15 from the Commissioner of Buildings & Inspectional Services; communication from the Planning Division dated 12/11/15; the appeal package; 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.

Lindsey Freire of Locust Street explained to the board that she was trying to legalize her third floor. She stated she bought the property in 2013, thinking it was legal as the tenant had lived there for some twelve years. She stated when trying to obtain a permit for her roof, she was told it was not legal. She stated that as far as she knows everything is correct and up to date in the third floor. She noted there was an entrance and exit.

Mr. Mathes confirmed that the work was done prior to her purchase. Ms. Freire stated it was.

Mr. Schilling inquired if the third floor was a separate apartment. Mr. Friere stated it was a one bedroom apartment that the tenant has been in there for some twelve years.

Ms. Trahan noted for board members that they had come in and filed a petition to do that and it was denied, and apparently the former owner did it anyway.

In response to Mr. Schilling, Ms. Freire stated the tenant has parking in the driveway.

In response to Ms. McTigue's inquiry, Ms. Freire confirmed that there were two sets of stairs from the third floor, an entrance in front and one in the back.

There was no response to Mr. Mathes' invitation to speak or be recorded in support of the petition.

There was no response to Mr. Mathes' invitation to speak or be recorded in opposition.

Mr. Mathes declared the hearing closed.

There being no discussion among board members, a motion was made (JW) and seconded (RS) to grant special permit under the provisions of the city code of New Bedford to Marcio J. Brito & Lindsey Freire (124 Locust Street New Bedford, MA), relative to property located at 124 Locust Street, Assessor's Map 70, Lot 111 in a Residential B zoned district, to allow the petitioner to legalize the third floor apartment as plans filed, which requires a special permit under the provisions of Chapter 9, Comprehensive Zoning Sections 2400, 2410, 2430-2432, 5300-5330, and 5360-5390 according to the City of New Bedford Code of Ordinances, Chapter 9, Section

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5320, the benefit to the city and the neighborhood outweighs the adverse effects 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: The social, economic, or community needs which are served by the proposal. According to the applicant, safe housing and additional living space in the city. Traffic flow and safety, including parking and loading, which according to the applicant there is no negative effect, as there is a driveway on the property. The adequacy of utilities and other public services in this case are existing and adequate. The neighborhood character and social structures which according to the applicant would not affect the neighborhood, as the majority of the neighborhood is multi-family. Impacts on the natural environment which according to the applicant are positive by adding additional housing. Potential fiscal impact, including impact on city services, tax base, and employment, according to the applicant are additional apartment space and a means for increasing the tax base. In accordance with the City of New Bedford Code of Ordinances, Chapter 9, Section 2340, the board finds the proposed change will not be substantially more detrimental than the existing structure to the neighborhood. Therefore, 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.

ROLL CALL VOTE AS FOLLOWS:

R. Schilling - Yes Deb Trahan - Yes
J. Mathes – Yes J. Walsh – Yes
Sherri McTigue – Yes

Passed 5-0

7. CASE #4214

Petition of: Our Lady of Perpetual Help/Roman Catholic Bishop of Fall River c/o Rev. Conrad Salach (235 North Front Street New Bedford, MA), who have submitted a petition for a Variance under provisions of Ch. 9 Comprehensive Zoning section 2300 (Accessory Building and Uses) 2310 (General), 2330 (Accessory Structures), 2331 (Private Garage), and 2334; relative to property located at 235 North Front Street, Assessor’s Map 93, Lot 81 in a Mixed Use Business zoned district. The petitioner proposes to erect a 12’x24’ garage as plans filed.

A motion was made (JW) and seconded (DT) that the following be received and placed on file: the communication dated 11/30/15 from the Commissioner of Buildings & Inspectional Services; communication from the Planning Division dated 12/10/15; communication from City Councilors Bousquet, Martins, Alves and Morad dated 12/9/15; the appeal; the plans submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Former Mayor Frederick Kalisz, Collette Street, addressed the board as a member of the parish council and a communicant of the church. He stated the parish is looking for relief for the purpose of erecting a single car garage on the property. He stated the location of the garage is

currently an open flat spaced parking area. He stated the reason for the garage is a matter of safety and security. Mr. Kalisz noted the father's ministry takes him out all hours of the day and night. He stated there are chances for vandalism, as well as the father's safety in exiting the rectory and getting to his car. Mr. Kalisz explained that in the winter season, when called out, his car will be ready to go and allow him to conduct his ministry that much quicker. Mr. Kalisz stated there is no abutter on either side of the lot, and the church comprises nearly $\frac{3}{4}$ of the block. He stated in the back area where the garage would be erected is currently parking space wrapping around the lot. Across the street is a neighborhood ethnic social club. He stated there is one residence on the street near the corner of Coggeshall and North Front. He was hopeful the board would entertain and grant this evening's request.

Ms. McTigue inquired as to the height of the garage. Mr. Kalisz responded that it was a single stall garage with an A-Frame roof and no storage up above.

Ms. McTigue noted there were no elevations of the structure. Ms. Trahan and Ms. McTigue had a brief discussion regarding the documents. Ms. Trahan stated documents were not included within the board packet.

Mr. Mathes, in response to Mr. Trahan, stated that when there are letters they are shared. She asked if any letters had been received in favor.

Ms. Gonet noted the letter from the city councilors. Ms. Trahan stated she had not seen it.

A motion was made (JW) and seconded (DT) to receive and place on file the plan submitted by Barnyard Great Country Garages as submitted.

Motion passed unopposed.

Mr. Kalisz noted that Fr. Conrad was also in attendance, if necessary, to speak in support.

In response to Mr. Mathes' invitation to speak in support of the petition, Fr. Conrad Salach pastor of Our Lady of Perpetual Help Church, stated that he thought Mr. Kalisz had said just about everything. He stated that one of the main things he wanted to reiterate was the safety factor. He stated that he appreciated the board's consideration.

There was no response to Mr. Mathes' further invitation to speak or be recorded in support. There was no response to Mr. Mathes' invitation to speak or be recorded in opposition.

Mr. Mathes closed the public hearing.

There being no further questions or discussion by the board, a motion was made (JW) and seconded (DT) to grant appeal #4214 under provisions of the city code of New Bedford to Our Lady of Perpetual Help/Roman Catholic Bishop of Fall River c/o Rev. Conrad Salach (235 North Front Street, New Bedford, MA), relative to property located at 235 North Front Street, Assessor's Map 93, Lot 81 in a Mixed Use Business zoned district to allow the petitioner to erect a 12'x24' garage as plans filed, which requires a variance under provisions of Ch. 9

Comprehensive Zoning, Section 2300, 2310, 2330, 2331, and 2334. The board finds that there are circumstances related to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. These circumstances are, according to the applicant, that a grade change necessitates the proposed location of the garage. 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 as stated is that presently there's a manicured landscaped green space in the rear and the proposed location would preserve that green space. Desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or by-law. This proposed garage, according to the applicant uses the existing driveway curb cut, so that there is no effect on the sidewalk of abutting properties. The 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.

There being no questions, a roll-call vote was taken as follows:

R. Schilling - Yes	D. Trahan - Yes
J. Mathes – Yes	J. Walsh – Yes
Sherri McTigue – Yes	

Passed 5-0

NEW BUSINESS:

8. Nominations for 2016 Officers

After discussion among board members, a motion was made (DT) and seconded (JW) to have Jim Mathes serve as Chairman of the Zoning Board of Appeals.

There being no further nominations, the motion passed unopposed.

After further board discussion, a motion was made (JM) and seconded (RS) to nominate Allen Decker as Clerk of the Zoning Board of Appeals.

Motion passed unopposed.

After further board discussion where in Robert Schilling declined to pursue the position, a motion was made (RS) and seconded (JW) to nominate Debra Trahan as Vice-Chair of the Zoning Board of Appeals.

Motion passed unopposed.

9. Ms. Trahan noted that April 21, 2016, is school vacation week and needs to be changed each year. She requested that meeting be scheduled for the following week, April 28, 2016.

10. ADJOURNMENT:

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There being no further business to come before the board, a motion was made (JW) and seconded (DT) to adjourn at 6:28 p.m..
Motion passed unopposed.

Date of Next Meeting: January 21, 2016