



ZONING BOARD OF APPEALS
 City Hall, Room 303
 133 William Street,
 New Bedford, MA 02740
 (508)979-1488
 www.newbedford-ma.gov

Registry of Deeds Use Only:

CITY OF NEW BEDFORD
 JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:	#4172			
Request Type:	Variance			
Address:	58 Hazard Street			
Zoning:	Residential B Zoned District			
Recorded Owner:	Deolinda Barbosa			
Applicant:	Deolinda Barbosa			
Applicant Address:	154 Merrimack Street New Bedford, MA 02740			
Application Submittal Date	Public Hearing Date	Decision Date		
January 22 nd , 2015	February 26 th , 2015	February 26 th , 2015		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
72	7	11098	144	

CITY CLERK'S OFFICE
 NEW BEDFORD, MA
 2015 MAR 10 A 10:21
 CITY CLERK

Application:

Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulation), and 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B- Height of Buildings-# of stories); relative to property located at 58 Hazard Street, Assessor's Map Plot 72 Lot 7 in a Residential-B zoned district. To allow the petitioner to create a cottage setup between the second floor and attic as plans filed.

Action: GRANTED, WITH CONDITIONS, for the reasons set forth in the attached Decision with the Conditions as described in the attached Decision.
 (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on March 10th, 2015. Any person aggrieved by this decision has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 17 of Chapter 40A of the General Laws of Massachusetts.

March 10, 2015

Date

Allen Decker

Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to create a cottage setup between the second floor and attic as plans filed, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulation), and 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B- Height of Buildings-# of stories); relative to property located at 58 Hazard Street, Assessor's Map Plot 72 Lot 7 in a Residential-B zoned district.

MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan and Floor Plans Packet, drawn by Comprehensive Design-Build Services, date stamped received by City Clerk's Office January 22nd, 2015, including:
 - Existing Basement Plan, Drawing no. EX1.1.
 - First Floor Plans, Drawing no. A1.1
 - Proposed Enlarged Rear Entrance Plan, Drawing no. A1.1A
 - Second Floor Plans, Drawing A1.2
 - Third Floor Plans, Drawing A1.3
 - Existing Site Plan, Drawing no. C1.1.

Other Documents & Supporting Material

- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office January 22nd, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, dated January 26th, 2015.
- Letter to ZBA from City Planner Jill Maclean, dated February 25th, 2015.
- Photograph of property, submitted by Armando Pereira, received February 26th, 2015.

2.) DISCUSSION

Board Members I. Comerford, J. Mathes, A. Decker, and L. Schick were present on the evening of the public hearing.

City of New Bedford Staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services), and Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

A. Decker read and motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated January 26th, 2015; to have the appeal be received and placed on file; to have the plan be received and placed on file; that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the Communication from the Office of City Planner dated February 25th, 2015 be received and placed on file. Motion seconded by J. Mathes. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open.

The Representative of the Petitioner: Mr. Armando Pereira (P.O. Box 578 West Wareham, MA 02576) submitted a picture of the property to the Board. A Decker motioned to receive and place on file the photograph of the property. Motion seconded by L. Schick. With all in favor, motion carried.

Mr. Pereira explained the proposal. He stated this property has a basement, first story, second story, and an attic space used. Mr. Pereira explained the first floor reconfiguration to separate the first and second story on the first floor landing on the back side. He explained the first unit will have one bedroom, the second unit will have one bedroom on the second story and two bedrooms on the upper level. The proposal is recouping the upper level, adding value to the property, said Mr. Pereira. He stated the house currently only has one bedroom per unit, this proposal adds bedrooms to the second unit making it more attractive to families with children.

Chairperson Comerford asked if the property is currently vacant. Mr. Pereira said yes, the property is currently vacant. Chairperson Comerford asked when the property was purchased. Mr. Pereira stated it was purchased either mid-last year or beginning of this year. Chairperson Comerford asked if there are any open building permits for the property. Mr. Pereira stated he believes there is a building permit currently for structural repairs on the lower level. Mr. Pereira reiterated they wanted to do combine the upper levels to make the home more useable and add value to the property.

Chairperson Comerford asked if any Board members had questions at this time for the applicant. No other board members had questions. Chairperson Comerford stated he felt this project struck him differently than a previous case heard as the applicant here purchased the property with the intent to make these changes. But, he wasn't sure why it seemed different when it's really not. Mr. Pereira said it is the same scenario as a previous case heard by the Board. He explained that the third floor cannot be made into a third unit unless you add a second means of egress, which they can't do. This is making a one bedroom apartment for the first unit and a three bedroom apartment for the second unit. Mr. Pereira explained it is a more useable property this way than as a set of three single bedroom units. He stated the plaster walls already exist in the third space. Chairperson Comerford commented he has an identical type of house and understands the bedroom walls in the attic.

Following the petitioner's testimony, Chairperson I. Comerford 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.

Chairperson I. Comerford 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, Chairperson I. Comerford declared the hearing closed.

4.) FINDINGS

Criteria for Approval of Dimensional Variation (Ch. 9, Sect. 2730)

The Board of Appeals may vary otherwise applicable dimensional requirements pertaining to frontage, lot area, building height and sidelines upon finding the following:

- a.) *That owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant;*

The Board found that a literal enforcement of the dimensional requirements of the zoning district would constitute a hardship for the applicant.

- b.) *That desirable relief may be granted without substantial detriment to the public good;*

The Board found that sufficient information and testimony had been given to determine that granting the required relief would not result in substantial negative impact to the public good.

- c.) *And, that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

The Board found that the impact of the dimensional relief would be minimal, and would not substantially derogate from the intent of the zoning ordinance.

5.) RELIEF

With respect to the relief requested by the Applicant, the Board has been presented with sufficient information at the hearing to justify the relief described below, subject to the conditions set forth below in Section 6.

The Board grants the Applicant's request for relief from Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulation), and 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B- Height of Buildings-# of stories); relative to property located at 58 Hazard Street, Assessor's Map Plot 72 Lot 7 in a Residential-B zoned district. To allow the petitioner to create a cottage setup between the second floor and attic as plans filed.

6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY

- a. The project shall be set forth according to plans submitted with the application;
- b. That the applicant shall ensure that a copy of this decision, bearing the certification of the City of New Bedford Clerk's Office, is recorded in the Registry of Deeds;
- c. And that the rights authorized by the granted Variances must be exercised, by issuance of a Building Permit by the Department of Inspectional Services and acted upon within one year from the date they were granted or they will lapse.

7.) DECISION

Based on a review of the application documents, testimony given at the public hearing and the findings described above, the Zoning Board of Appeals hereby **GRANTS, WITH CONDITIONS**, the requested Variance.

On a motion by J. Mathes, seconded by L. Schick to grant the requested Variance, the vote carried 4-0 with members J. Mathes, L. Schick, A. Decker, and I. Comerford voting in the affirmative, no member voting in the negative. (Tally 4-0)

Filed with the City Clerk on:

March 10, 2015

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals