



ZONING BOARD OF APPEALS

City Hall, Room 303
133 William Street,
New Bedford, MA 02740
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Registry of Deeds Use Only:

CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:		#4173		
Request Type:		Variance		
Address:		986 Kensington Street		
Zoning:		Residential A Zoned District		
Recorded Owner:		Robert S. Pinto and Evelina M. (Pires) Pinto		
Applicant:		Robert S. Pinto and Evelina M. (Pires) Pinto		
Applicant Address:		986 Kensington Street New Bedford, MA 02745		
Application Submittal Date		Public Hearing Date		Decision Date
January 23 rd , 2015		February 26 th , 2015		February 26 th , 2015
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
137A	41	9853	127	

CITY CLERK
2015 MAR 10 AM 10:21
CITY CLERKS OFFICE
NEW BEDFORD, MA

Application:

Variance under provisions of Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Rear Yard), 2570 (Yards in Residence District) and 2753 (Rear Yard); relative to property located at 986 Kensington Street, Assessor's Map Plot 137A Lot 41 in a Residential-A Zoned District. To allow the petitioner to remove the existing decks and build a 10'x 20' sunroom with a deck below 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 Parker
Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to remove the existing decks and build a 10'x 20' sunroom with a deck below 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), 2570 (Yards in Residence District) and 2753 (Rear Yard); relative to property located at 986 Kensington Street, Assessor's Map Plot 137A Lot 41 in a Residential-A Zoned District.

MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan- "Proposed", drawn by Unknown, date stamped received by City Clerk's Office January 23rd, 2015

Other Documents & Supporting Material

- Site Plan - "Existing", drawn by Unknown, date stamped received by City Clerk's Office January 23rd, 2015.
- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office January 23rd, 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.

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: Dana Pickup (239 Huttleston Avenue Fairhaven, MA) described the petition. Mr. Pickup explained the property currently has an 8' x 11' deck. The house is a raised ranch with a walk-out to the back side. The proposal is to

take off the existing deck and build a 10'x20' deck on the lower level with a sunroom/three season room above off the second floor.

Chairperson Comerford confirmed the measurements of the proposed sunroom with the applicant. Chairperson Comerford stated it is a 20 foot rear yard setback and 30 feet is required. Chairperson Comerford asked the applicant to describe the existing deck.

Mr. Pickup stated currently it's a double deck the lower level is a walk out from a living room and the second story is a walk out from the kitchen. The proposed is an open deck on the lower level with the sunroom overhead off the second level.

Following the petitioner's testimony, Chairperson I. Comerford invited to the podium anyone wishing to speak in favor of the application. Mr. Robert Pinto (986 Kensington Street) owner of the property spoke in favor of his petition. Mr. Pinto explained he bought the house out of foreclosure for him and his family. His family has made many improvements to the home since he bought it in 2010. He said he wishes to build the proposed deck and sunroom to improve the quality of life for his family as he plans to live there for a long time. At Large City Councilor Linda Morad (4162 Acushnet Avenue New Bedford, MA 02745) stated the applicant bought the house out of foreclosure and cleaned up the property. She stated Mr. Pinto has brought the living quarters up to a nice single family home to raise his family there. Councilor Morad stated Mr. Pinto owns other properties in the city and maintains them nicely. Ward 6 City Councilor Joseph Lopes (75 Dudley Street New Bedford, MA) stated he has known Mr. Pinto for 25 years and went to high school with him. Mr. Lopes stated Mr. Pinto is a strong family, and a man involved in his community; just trying to make improvements to his home. No one else 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 Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Rear Yard), 2570 (Yards in Residence District) and 2753 (Rear Yard); relative to property located at 986 Kensington Street, Assessor's Map Plot 137A Lot 41 in a Residential-A Zoned District. To allow the petitioner to remove the existing decks and build a 10'x 20' sunroom with a deck below 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