



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

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2015 MAY -6 A 9:14

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CITY OF NEW BEDFORD  
 JONATHAN F. MITCHELL, MAYOR

**NOTICE OF DECISION**

Case Number:	#4181			
Request Type:	Variance			
Address:	129 East Clinton Street			
Zoning:	Residential A Zoned District			
Recorded Owner:	Mary S. Rapoza			
Applicant:	Mary S. Rapoza			
Applicant Address:	129 East Clinton Street New Bedford, MA 02740			
Application Submittal Date	Public Hearing Date		Decision Date	
March 27 <sup>th</sup> , 2015	April 23 <sup>rd</sup> , 2015		April 23 <sup>rd</sup> , 2015	
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
45	219	8428	77	

Application: Variance under provisions of Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2750 (Yards in Residential Districts), and 2755 (Side Yards); relative to property located at 129 East Clinton Street, Assessor's Map Plot 45 Lot 219 in a Residential A Zoned District. To allow the petitioner to erect a 5'x7' shed 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 May 6<sup>th</sup>, 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.

May 6, 2015  
 Date

Allen P. Decker  
 Clerk, Zoning Board of Appeals

### 1.) APPLICATION SUMMARY

The petitioner is proposing to erect a 5'x7' shed as plans filed which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2750 (Yards in Residential Districts), and 2755 (Side Yards); relative to property located at 129 East Clinton Street, Assessor's Map Plot 45 Lot 219 in a Residential A Zoned District.

### MATERIALS REVIEWED BY THE BOARD

#### Plans Considered to be Part of the Application

- Site Plan, drawn by Mary S. Rapoza, Stamped Received by City Clerk's Office March 27<sup>th</sup>, 2015.

#### Other Documents & Supporting Material

- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office March 27<sup>th</sup>, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated March 30<sup>th</sup>, 2015.
- Letter to ZBA from City Planner, Jill Maclean, dated April 15<sup>th</sup>, 2015.

### 2.) DISCUSSION

Board Members I. Comerford, A. Decker, L. Schick, D. Trahan, and R. Schilling 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 March 30<sup>th</sup> 2015; the Communication from the Office of City Planner dated April 15<sup>th</sup>, 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 D. Trahan. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open.

Petitioner: Ms. Mary Rapoza (129 E. Clinton Street New Bedford, MA) presented the reasons for the requested relief. Ms. Rapoza explained her home is an older home built in 1895. She explained her property has about a nine (9) foot clearance on the north side/back yard, nine (9) foot on the east side yard, four (4) foot in the front yard and a sizable side yard on the west side. Ms. Rapoza explained she has no outdoor structure in her yard to store things like her lawn mower, gardening tools, bicycles etcetera. Ms. Rapoza explained she currently has to carry her lawn mower up from the basement cellar currently. Therefore, she wishes to put a 5'x7' shed on an existing concrete pad that used to be used as a driveway by the previous owner to store a

boat. Currently, she uses this space as a patio. Ms. Rapoza explained the location of the shed on the concrete pad is about thirteen (13) feet from the neighbor to the west and 30 feet to the property line to the north.

Chairperson Comerford clarified that the hardship for the applicant is bringing things up from the basement. Ms. Rapoza said yes, currently she has to carry the lawn mower up the cellar stairs each time.

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 Comerford declared the hearing closed.

The Board discussed the motion and the applicant's need for outdoor storage.

#### 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 the property has no existing outside storage. The Board found the hardship is that currently any outdoor equipment to be used on the premises, or elsewhere, has to be brought up the stairs, which is difficult.

- 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), 2750 (Yards in Residential Districts), and 2755 (Side Yards); relative to property located at 129 East Clinton Street, Assessor's Map Plot 45 Lot 219 in a Residential A Zoned District. To allow the petitioner to erect a 5'x7' shed 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 A. Decker, seconded by L. Schick to grant the requested Variance, the vote carried 5-0 with members A. Decker, L. Schick, R. Schilling, D. Trahan and I. Comerford voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

May 6, 2015

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals