



# ZONING BOARD OF APPEALS

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CITY OF NEW BEDFORD  
JONATHAN F. MITCHELL, MAYOR

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NEW BEDFORD, MA  
2015 JUN 11 A 9:04  
CITY CLERK

## NOTICE OF DECISION

Case Number:	#4183			
Request Type:	Variance			
Address:	652 West Rodney French Boulevard			
Zoning:	Residential A Zoned District			
Recorded Owner:	David Amaral and Lisa Alfaiate			
Applicant:	David Amaral and Lisa Amaral			
Applicant Address:	652 West Rodney French Boulevard New Bedford, MA 02744			
Application Submittal Date	Public Hearing Date	Decision Date		
May 5 <sup>th</sup> , 2015	May 28 <sup>th</sup> , 2015	May 28 <sup>th</sup> , 2015		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
5	96	7621	85	

Application: Variance under provisions of Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements Appendix-B- (Front Yard), 2750 (Yards in Residence Districts), and 2751 (Front Yard); relative to property located at 652 West Rodney French Boulevard, Assessor's Map Plot 5 Lot 96 in a Residential-A Zoned District. To allow the petitioner to make alterations to the front porch on the first and second floors 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 June 11<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.

June 11, 2015  
Date

*Alfred P. Decker*  
Clerk, Zoning Board of Appeals

### 1.) APPLICATION SUMMARY

The petitioner is proposing to make alterations to the front porch on the first and second floors 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- (Front Yard), 2750 (Yards in Residence Districts), and 2751 (Front Yard); relative to property located at 652 West Rodney French Boulevard, Assessor's Map Plot 5 Lot 96 in a Residential-A Zoned District.

### MATERIALS REVIEWED BY THE BOARD

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

- Plan Set, drawn by Moniz Design, date Stamped Received by City Clerk's Office May 5<sup>th</sup>, 2015, including:
  - South Side Elevation (Existing Conditions)
  - South Side Elevation (Proposed)
  - First Floor Plan
- Site Plan, drawn by unknown, not dated

#### Other Documents & Supporting Material

- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office May 5<sup>th</sup>, 2015
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated May 8<sup>th</sup>, 2015.
- Letter to ZBA from City Planner, Jill Maclean, dated May 21<sup>st</sup>, 2015.

### 2.) DISCUSSION

Board Members I. Comerford, A. Decker, R. Schilling, J. Mathes, 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), Kreg Espinola (Assistant City Solicitor), and Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

A. Decker motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated May 8<sup>th</sup>, 2015; the Communication from the Office of City Planner dated May 21<sup>st</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 J. Mathes. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open.

Petitioner: Mr. David Amaral (652 West Rodney French Boulevard, New Bedford, MA) presented the reasons for the requested relief. Mr. Amaral stated he and his wife had purchased the property in 2005. He explained they are trying to extend the existing footprint of the front porch,

which is already on the house, laterally across the front of the house. Mr. Amaral explained he felt what they are proposing is in line with other properties in the neighborhood.

A. Decker asked Mr. Amaral to explain the hardship in this case, as a hardship is necessary to grant a variance. Mr. Amaral explained he had bought this property with the intention to raise his family and has made an effort to improve the property. Mr. Amaral explained he has renovated the property to make a better neighborhood. He mentioned for example a vacant property next door to his property. He further explained he is trying to make the home livable and comfortable to raise his family, including his two kids. Mr. Amaral explained that currently the double door he was allowed to put in during a previous renovations is wider than the current porch. His intention is to widen the porch in front of the door, like other neighbors have on that street. I. Comerford explained the criteria of a hardship and gave examples for the applicant. Mr. Amaral said the hardship in his case is the ability to access the front door.

I. Comerford stated the communication from the City Planner expressed that the proposal appears to be in character with the neighborhood.

Following the petitioner's testimony, Chairperson I. Comerford invited to the podium anyone wishing to speak in favor of the application. Ms. Lisa Amaral (652 West Rodney French Boulevard New Bedford, MA) wished to be recoded in favor. Ward 6 City Councilor, Joseph Lopes, (75 Dudley Street New Bedford, MA) spoke in favor of the petition. Councilor Lopes stated he has known the petitioners for some time and they had always wished to relocate and own a home in the south end of New Bedford. Councilor Lopes referred to the City Planner letter and further reiterated that most homes located along both West and East Rodney French Boulevard have front facing decks. Most of the homes have the front facing porches on the West side to take advantage of the most beautiful sunsets over the water in the evenings, and on the East side, the sun rises, he said. Councilor Lopes stated homeowners in this area want to be able to take advantage of what they are paying for. He stated they pay the high taxes and flood insurance and this is not a cheap place to live. Councilor Lopes explained these are people willing to invest in this part of the city, he mentioned the vacant property next door has seven liens against the property, and deteriorating in the neighborhood. Councilor Lopes stated this family is willing to invest in our City and wants to raise their kids here. Councilor Lopes again expressed the similarity of this proposal to others properties in the neighborhood. He spoke positively about Mr. and Mrs. Amaral's community involvement. Councilor Lopes stated he has seen the Board grant similar variances and wished that the board look favorably upon this proposal to enable the family to build their dream 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.

I. Comerford asked the Board if they had any questions for the petitioner and opened the floor for discussion amongst the Board.

The Board members had a brief discussion about the new blank form provided to Board Members for preparing motions to grant and how the statement of hardship needs to be made by petitioners to the Board.

The Board members discussed the hardship in this case. I. Comerford stated he thought the Board agreed that this proposal may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance. He further stated that as indicated by the City Planner, the applicant, and the City Councilor this proposal is in line with the character of the neighborhood, so it would not be a detriment to the public good. The Board discussed the location of the home on the property as the circumstance and the hardship of the case being financial. The hardship was described as financial due to the resale value of the property in relation to those around it, which already have similar porches on the front of the houses.

With no further stated questions or concerns, Chairperson 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 the position of the house forces the applicant to break required front yard setbacks. The Board found the hardship to be that other houses have similar decks as that being proposed; and not having such a deck would decrease the property resale value.

- 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- (Front Yard), 2750 (Yards in Residence Districts), and 2751 (Front Yard); relative to property located at 652 West Rodney French Boulevard, Assessor's Map Plot 5 Lot 96 in a Residential-A Zoned District. To allow the petitioner to make alterations to the front porch on the first and second floors 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 J. Mathes to grant the requested Variance, the vote carried 5-0 with members J. Mathes, A. Decker, I. Comerford, R. Schilling, and L. Schick voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

June 11, 2015  
Date

Allen Decker  
Allen Decker, Clerk of the Zoning Board of Appeals