



City of New Bedford ZBA VARIANCE APPLICATION

CASE # 4216

1. SUBMITTAL CHECKLIST

The following documentation must be submitted, in duplicate (1 Original and 11 Copies):

Have you included...			Planning staff review finds...	
Yes	No		Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Completed and Signed Application</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	An <u>Existing Conditions Site Plan</u> , drawn to a scale not less than 1 inch: 40 feet, identifying positioning of existing structures must be provided. Your site plan must show footprint and dimensions of rear, front and side distances between structure(s) and boundary lines.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Proposed Site Plan</u> showing all proposed alterations or additions with side, front and rear set property lines identified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	<u>Sub-Division Plans</u> if Applicable.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Certified Abutter's List</u> prepared by planning staff and certified by the Assessor's Office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Plot Plan</u> as provided through Department of Inspectional Services or through the Assessor's Office (in person or online through parcel lookup).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Filing Fee</u> in check form made payable to the City of New Bedford.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Copy of <u>Building Permit Rejection Packet</u> (Containing Rejected Building Permit and all information submitted with Building Permit Application)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Owner's Verification</u> including owner's signature and parcel deed for all involved parcels.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Official Use Only:

Review of submittal compliance performed by [Signature] of the city's Division of Planning.

Staff review found the application packet to be complete incomplete on this date: _____.

This is page 1 of your ZBA Application BUT YOU DO NOT NEED 11 COPIES OF IT; just the original is enough.
Please remove the instruction pages when submitting your completed application packet but keep this as your first page.

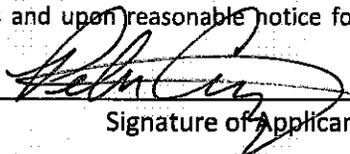
2. VARIANCE SPECIFICS

The undersigned petitions the New Bedford Zoning Board of Appeals [ZBA] to grant a VARIANCE in the manner and for the reasons set forth here under the provisions of the city's zoning ordinance to the following described premises:

APPLICATION SUMMARY (PLEASE PRINT)

SUBJECT PROPERTY			
ASSESSOR'S MAP PLOT#	10	LOT(S)#	134
REGISTRY OF DEEDS BOOK:	9930	PAGE #	33
PROPERTY ADDRESS: 117 SWAN St., New BEDFORD, MA 02744			
ZONING DISTRICT: (RB) RESIDENTIAL B			
OWNER INFORMATION			
NAME: BRUCE M. FOUCART			
MAILING ADDRESS: 813 BEVERLEY DR., ALEXANDRIA, VA 22302			
APPLICANT/CONTACT PERSON INFORMATION			
NAME (IF DIFFERENT): PETER CRUZ			
APPLICANT'S RELATIONSHIP TO THE PROPERTY: Check one:	OWNER <input type="checkbox"/>	CONTRACT VENDEE <input type="checkbox"/>	OTHER Describe <input checked="" type="checkbox"/> BUYER OF THE HOME
MAILING ADDRESS (IF DIFFERENT): 133 BUTLER ST., New BEDFORD, MA 02744			
TELEPHONE #			
EMAIL ADDRESS:			

By signing below, I/we acknowledge that all information presented herein is true to the best of my/our knowledge. I/we further understand that any false information intentionally provided or omitted is grounds for the revocation of the approval(s). I/we also give planning division staff and ZBA members the right to access the premises (both interior and exterior) at reasonable times and upon reasonable notice for the purpose of taking photographs and conducting other visual inspections.



Signature of Applicant/s

12-17-2015

Date

If the applicant differs from the owner, this section must be completed/signed by the property owner/s:

I hereby authorize the applicant represented above and throughout this application to apply and to represent my/our interests on my/our behalf for the relief requested herein for the premises I/we own noted as "property address" above and presented throughout this application. Furthermore, by signing this application I/we acknowledge having read and understood this application and the accompanying instructions and information. If petition is granted, I/we understand the approvals are specific to the plans submitted, unless the Board states otherwise and that if granted, that the variance must be recorded and acted upon within one year.

Signature of Owner/s

Date

APPLICATION SPECIFICS

DIMENSIONS OF LOT/S:	FRONTAGE <i>60 FT.</i>	DEPTH <i>125 FT.</i>	AREA in SQ FT <i>7,500 ± S.F.</i>		
EXISTING BUILDING/S	# OF BLDGS <i>1</i>	EXISTING SIZE <i>30'x26' ± 16.5' x 12.75'</i>	TOTAL SQ FT BY FLOOR <i>1 = EXISTING 2 = EXISTING</i>	NUMBER OF FLOORS <i>2</i>	TOTAL SQ. FT ENTIRE STRUCTURE <i>1,471 ± S.F.</i>
	# OF DWELLING UNITS <i>1</i>		# OF BEDROOMS <i>3</i>		
PROPOSED BUILDING/S	# OF BLDGS <i>1</i>	PROPOSED SIZE <i>29.25'x16.5' ± 24' x 15.5'</i>	TOTAL SQ FT BY FLOOR <i>1 = 372 S.F. 2 = 855 S.F.</i>	NUMBER OF FLOORS <i>2</i>	TOTAL SQ. FT ENTIRE STRUCTURE <i>1,227 ± S.F.</i>
	# OF DWELLING UNITS <i>1</i>		# OF BEDROOMS <i>4</i>		EXTENT OF PROPOSED ALTERATIONS <i>ADDITION</i>
EXISTING USE OF PREMISES:	<i>Single Family Home</i>				
PROPOSED USE OF PREMISES:	<i>Single Family Home</i>				
EXPLAIN WHAT MODIFICATIONS YOU ARE PROPOSING THAT NECESSITATE THE REQUESTED VARIANCE:	<i>We ARE PROPOSING TO BUILD A ATTACHED ONE CAR GARAGE WITH A MASTER BEDROOM ABOVE THE GARAGE AREA.</i>				

If there's a commercial use existing and/or proposed, please complete the following:

	EXISTING	PROPOSED
NUMBER OF CUSTOMERS PER DAY	<i>N/A</i>	
NUMBER OF EMPLOYEES	<i>N/A</i>	
HOURS OF OPERATION	<i>N/A</i>	
DAYS OF OPERATION	<i>N/A</i>	
HOURS OF DELIVERIES	<i>N/A</i>	
FREQUENCY OF DELIVERIES <i>(Check frequency)</i>	<i>N/A</i>	
	<input type="checkbox"/> DAILY <input type="checkbox"/> WEEKLY	<input type="checkbox"/> DAILY <input type="checkbox"/> WEEKLY
	<input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER	<input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER

If you are also requesting site plan review and special permit/s from the planning board, please specify here:

N/A

Complete each item that is relevant to your variance request:

	Existing	Allowed/ Required	Proposed
Lot Area (sq ft)			
Lot Width (ft)			
Number of Dwelling Units			
Total Gross Floor Area (sq ft)			
Residential Gross Floor Area (sq ft)			
Non-Residential Gross Floor Area (sq ft)			
Building Height (ft)			
Front Setback (ft)			
Side Setback (ft)	5'-5"	10	5'-5"
Side Setback (ft)	24'-2"	12	± 9'-5/16"
Rear Setback (ft)			
Lot Coverage by Buildings (% of Lot Area)			
Permeable Open Space (% of Lot Area)			
Green Space (% of Lot Area)			
Off-Street Parking Spaces			
Loading Bays			
Number of Ground Signs			
Height of Ground Sign			
Proximity of Ground Sign to Property Line			
Area of Wall Sign (sq ft)			
Number of Wall Signs			

3. PARCEL LEGAL DOCUMENTATION

Title Reference to Property

DEED

(Attach copy of Deed, Certificate of Title & most recent Recorded Plans showing affected lot or lots)

Is the applicant also the owner? Yes No

If no, please attach the following three items to your application and indicate they are attached:

A notarized authorization letter on letterhead from the owner to tenant/buyer for application of this permit.

If the Applicant is Not the Owner, Provide:

A copy of the Purchase & Sale Agreement or lease, where applicable.

A copy of the deed or deeds of abutting parcels if said parcels have been held in common ownership with the subject property at any time since January 1, 1976.

4. REQUIRED FINDINGS FOR GRANTING A VARIANCE

Massachusetts General Law Chapter 40A Section 10 requires the "permit granting authority" (which, in this instance is the Zoning Board of Appeals) to make ALL the following findings before a variance can be granted:

A

That there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located.

B

That 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.

C

That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw.

D

That desirable relief may be granted without substantial detriment to the public good.

The full text of M.G.L. Chapter 40A, Section 10 can be viewed at: <http://www.mass.gov/legis/laws/mal/>

Because the ZBA must be able to articulate each of these four findings in order to grant a variance, you must make your case as to WHY your application meets each of these four points. **This is an extremely important question and it is recommended that you answer this VERY carefully.** You may use an additional sheet if needed.

A

Describe any circumstances relating to soil conditions, shape or topography which especially affect the land or structure in question but that doesn't generally affect the zoning district in which your premises is located:

THE EXISTING LOT IS A NON-CONFORMING LOT TO TODAY'S CITY STANDARDS IN A RESIDENTIAL NEIGHBORHOOD. THE PLACEMENT OF THE EXISTING HOME MAKES IT DIFFICULT TO MEET THE REQUIRED SETBACKS TO TODAY'S ZONE ORDINANCE

B

Describe how circumstances unique to your land or structure would mean a substantial hardship to you if the city were to literally enforce the zoning ordinance: IF THE ZBA WERE TO ENFORCE THE CURRENT

ZONING ORDINANCE, IT WOULD PREVENT ME, AS THE OWNER OF THE PROPERTY, FROM UTILIZING THE FULL VALUE AND AVAILABLE, USABLE SQUARE FOOTAGE OF THE LOT. THE PROPOSED STRUCTURE WOULD ALLOW FOR OFF STREET PARKING, WHICH IN TURN LEAVES A PORTION OF THE STREET OPEN FOR PASSING EMERGENCY, WASTE AND RECYCLING REMOVAL AND SNOW REMOVAL VEHICLES TO PASS THROUGH WITH EASE AND SAFETY.

C

Describe how granting you relief would not take away from the purpose of the city's zoning ordinance:

THE CITY GRANTING THE SETBACK RELIEF THAT IS BEING REQUESTED WILL NOT NEGATIVELY IMPACT THE SURROUNDING AREAS OR NEIGHBORS AS THERE ARE OTHER HOMES THAT HAVE SIMILAR CONFIGURATIONS.

PLEASE SEE PHOTOS. THIS STRUCTURE IS MEANT TO BRING A BETTER QUALITY OF LIFE TO ME AND MY FAMILY. IT WILL ALSO ENHANCE THE HOME'S CURB APPEAL, AND IS NOT DESIGNED TO DISTURB OR IMPOSE ON ANY OF THE ABUTTING LOTS.

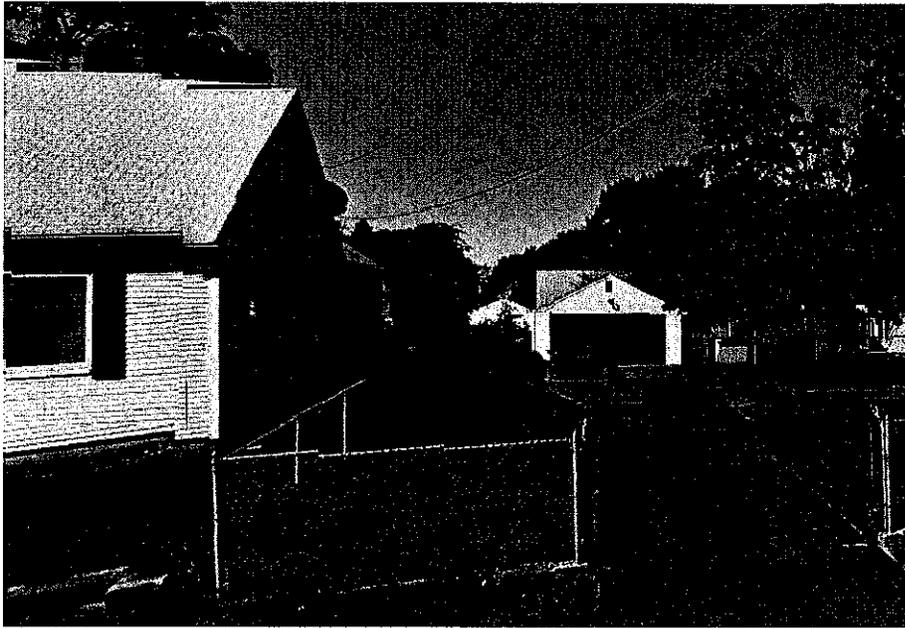
D

Describe why nobody else would be hurt if the city granted your requested zoning relief:

THE CITY GRANTING THE REQUEST SETBACK RELIEF WILL NOT NEGATIVELY IMPACT THE SURROUNDING AREAS OR NEIGHBORS. THE NEW STRUCTURE WOULD BE CONFINED TO THE BOUNDARIES OF THE LOT, AND HIS DESIGN IS NON OBTRUSIVE. THE DIRECT ABUTTER IS IN FAVOR OF THE PROPOSED IMPROVEMENTS AND WILL NOT BE DIRECTLY IMPACTED BY THE CONSTRUCTION OF THE GARAGE.

City Hall • 133 William Street • Room 303 • New Bedford, MA 02740 • www.newbedford-ma.gov

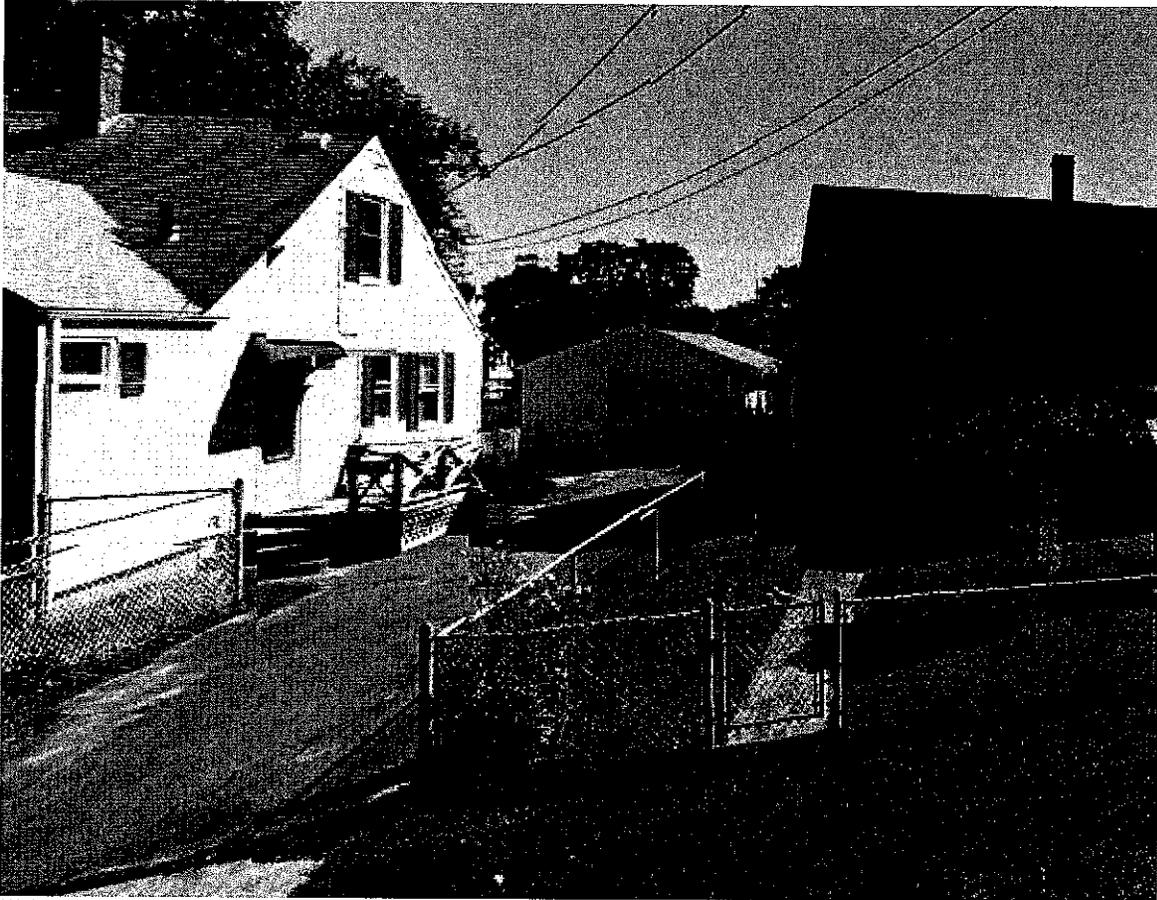
PH: (508)979-1488 • FX: (508)979-1576



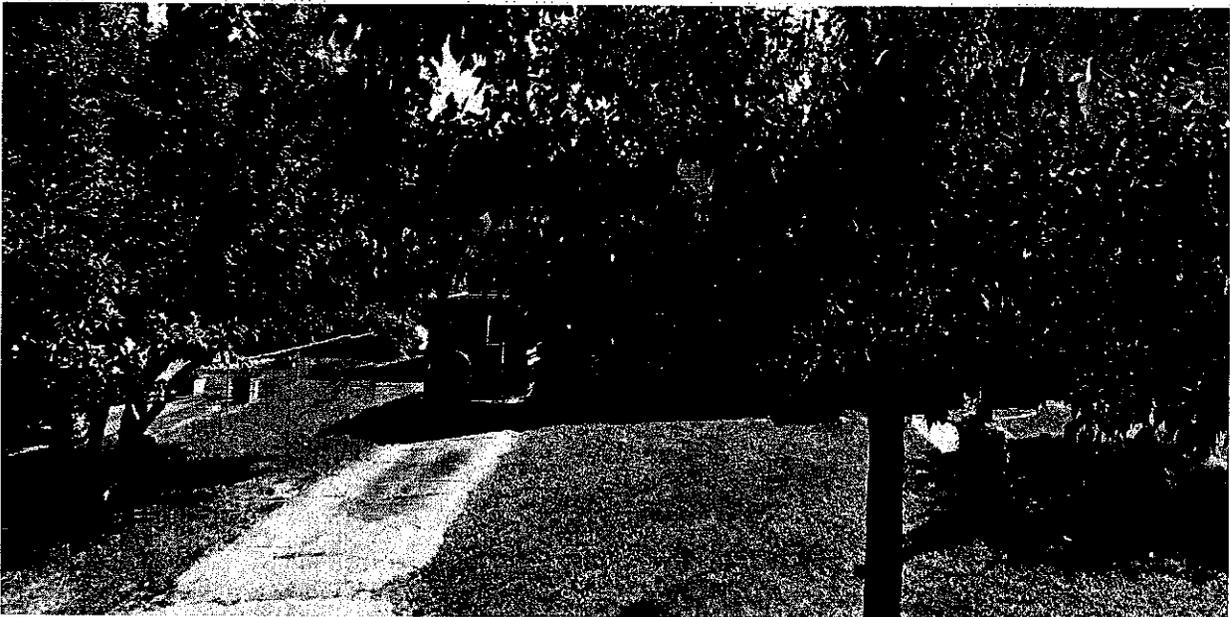
104 Bulter Street's garage abutting the North Property Line to 117 Swan Street



120 Swan Street (Neighbor across the street) (Garage near Property Line)



122 and 118 Moss Street (Garage near Property Line)



112 Moss Street (Garage near Property Line)



City of New Bedford
REQUEST for a CERTIFIED ABUTTERS LIST

This information is needed so that an official abutters list as required by MA General Law may be created and used in notifying abutters. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

PLANNING
DEC 11 2015
DEPARTMENT

SUBJECT PROPERTY	
MAP #	10
LOT(S)#	134
ADDRESS: 117 Swan St	
OWNER INFORMATION	
NAME: BRUCE M. FOUCART	
MAILING ADDRESS:	
APPLICANT/CONTACT PERSON INFORMATION	
NAME (IF DIFFERENT): PETER CRUZ	
MAILING ADDRESS (IF DIFFERENT): 133 BUTLER ST. NEW BEDFORD, MA	
TELEPHONE #	
EMAIL ADDRESS:	
REASON FOR THIS REQUEST: <i>Check appropriate</i>	
<input checked="" type="checkbox"/>	ZONING BOARD OF APPEALS APPLICATION
<input type="checkbox"/>	PLANNING BOARD APPLICATION
<input type="checkbox"/>	CONSERVATION COMMISSION APPLICATION
<input type="checkbox"/>	LICENSING BOARD APPLICATION
<input type="checkbox"/>	OTHER (Please explain):

2015 DEC 10 A 10:45
 CITY CLERK
 CITY CLERK OFFICE
 NEW BEDFORD, MA

Once obtained, the Certified List of Abutters must be attached to this Certification Letter.

Submit this form to the Planning Division Room 303 in City Hall, 133 William Street. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

Official Use Only:

As Administrative Assistant to the City of New Bedford's Board of Assessors, I do hereby certify that the names and addresses as identified on the attached abutters list, are duly recorded and appear on the most recent tax map.

Charles Amadio
 Printed Name

[Signature]
 Signature

12/11/2015
 Date

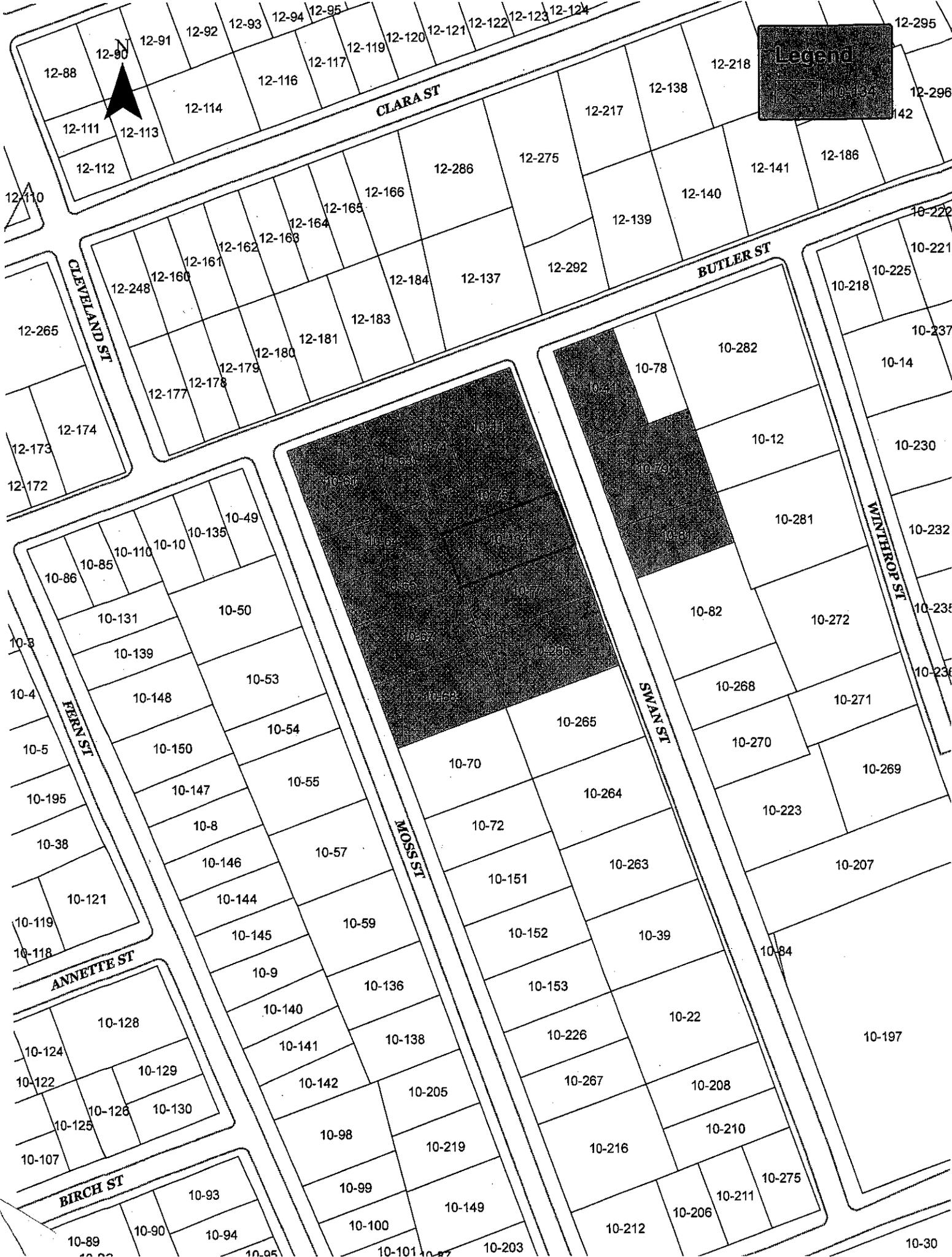
December 11, 2015

Dear Applicant,

Please find below the List of Abutters within 300 feet of the property known as 117 Swan Street (10-134). The current ownership listed herein must be checked and verified by the City of New Bedford Assessor's Office. Following said verification, the list shall be considered a Certified List of Abutters.

Please note that multiple listed properties with identical owner name and mailing address shall be considered duplicates, and shall require only 1 mailing. Additionally, City of New Bedford-Owned properties shall not require mailed notice.

Parcel	Location	Owner and Mailing Address
10-61	122 BUTLER ST	SANTOS CORY T, 122 BUTLER ST NEW BEDFORD, MA 02744
10-74	110 BUTLER ST	OLIVEIRA PAMELA, <i>clo Pamela Oliveira Debrosse</i> 75 FAIRWAY ROAD ROTUNDA WEST, FL 33947
10-41	130 SWAN ST	MORRIS KAREN A, 130 SWAN ST NEW BEDFORD, MA 02744
10-79	120 SWAN ST	CORMIER COURTNEY L, 120 SWAN STREET NEW BEDFORD, MA 02744
10-11	104 BUTLER ST	CRUZ JOSE, CRUZ BENEDITA 104 BUTLER ST NEW BEDFORD, MA 02744
10-68	104 MOSS ST	ANGERS JENNIFER E "TRUSTEE", BELLAVANCE KRISTEN L "TRUSTEE" 104 MOSS ST NEW BEDFORD, MA 02744
10-266	107 SWAN ST	BUCKLIN IAN W, 107 SWAN STREET NEW BEDFORD, MA 02744
10-67	110 MOSS ST	DEALMEIDA AUGUSTO D, DEALMEIDA MARIA M 110 MOSS ST NEW BEDFORD, MA 02744
10-77	111 SWAN ST	BUTLER PATIENCE J, 111 SWAN ST NEW BEDFORD, MA 02744
10-65	118 MOSS ST	RAMOS MANUEL P, RAMOS MARIA A 118 MOSS STREET NEW BEDFORD, MA 02744
10-64	122 MOSS ST	TYLER JESSICA L, DEANDRADE STEVEN P 122 MOSS ST NEW BEDFORD, MA 02744
10-81	116 SWAN ST	SIMAS JOHN F, SIMAS MARGARIDA M <i>Cesar Simas "Trs"</i> 78 FERN STREET <i>Sandra Nunes "Trs"</i> NEW BEDFORD, MA 02744
10-134	117 SWAN ST	FOUCART BRUCE M "TRUSTEE", MARCIA O FOUCART IRREVOCABLE TRUST 24 LAURELWOOD DRIVE NORWELL, MA 02061



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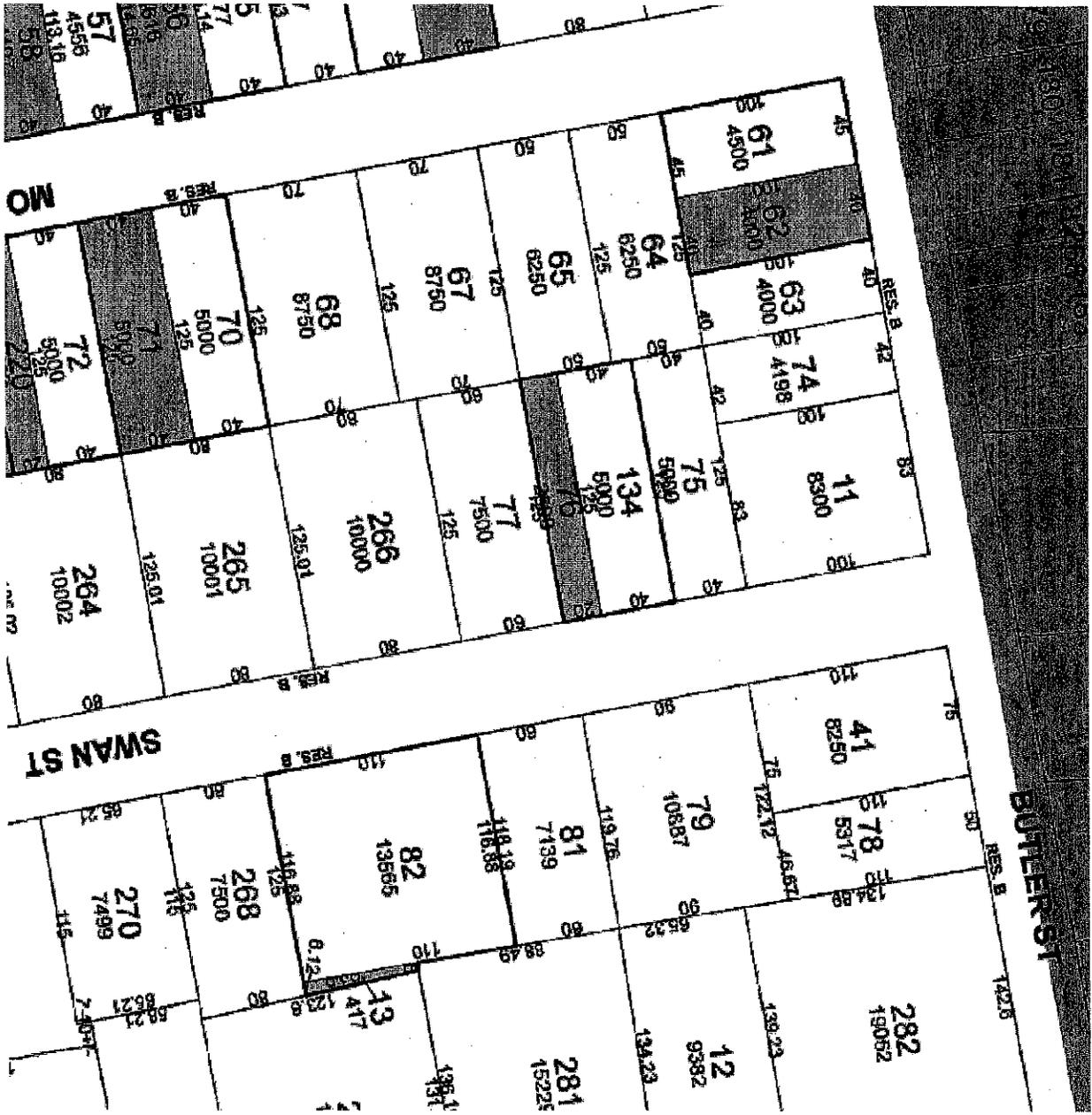
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PLOT PLAN
 117 SWAN ST.
 NEW BEDFORD, MA

December 8, 2015

To: The City of New Bedford Building Department and Planning Department

I Bruce M. Foucart as Trustee of the Marcia O. Foucart Irrevocable Trust (Seller) give permission to Peter J. Cruz (Buyer) to request and apply for all the required Building and Planning Permits that are necessary for the proposed work he is looking to do on the 117 Swan Street, New Bedford, MA 02744 property, which is under purchase agreement.

Said property is Assessors Map 10 Lot 134.

Mr. Cruz has notified me that he will be applying for a Building Permit and will be submitting a request to the Zoning Board of Appeals for a variance hearing on the necessary property setback reliefs that are required for some of the proposed improvements to the property.

Thank you,

Bruce M. Foucart

Owner: Bruce M. Foucart Date: 12/12/15
Bruce M. Foucart

Notary: Christian Lionel Arias Date: 12/12/15



CHRISTIAN LIONEL ARIAS
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
7146078
My Commission Expires Nov 30, 2019

Bristol South
Registry of Deeds

Not for Official Use

9930 PG 33
12/13/10 12:42 DOC. 30072
Bristol Co. S.D.

PROPERTY ADDRESS 117 Swan St, New Bedford MA 02744

DEED

KNOW ALL MEN BY THESE PRESENTS that **Marcia O. Foucart** of 117 Swan St, New Bedford, Bristol County, MA, 02744, for consideration of love and affection and One Dollar, hereby grant to **Bruce M. Foucart**, as Trustee of the **Marcia O. Foucart Irrevocable Trust**, dated November 2, 2010, of 24 Laurelwood Dr, Norwell, MA 02061

with quitclaim covenants,

The lands in New Bedford, Bristol County, MA, bounded and described as follows:

SEE SCHEDULE A

See Certificate of Trustee recorded herewith.

For title of **Marcia O. Foucart** see deed dated _____, recorded in the Bristol County Registry of Deeds in Book 19577 Page 45.

NO TITLE EXAMINATION

NO DOCUMENTARY STAMPS REQUIRED

WITNESS our hands and seals this 2nd day of November 2010

Marcia O. Foucart

Marcia O. Foucart

MASSACHUSETTS COMM

Bristol, ss.

New Bedford

November 2, 2010

On this 2nd day of November 2010 before me the undersigned notary public personally appeared **Marcia O. Foucart** proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose

Ashley J. Lindsey

Ashley J. Lindsey, Notary Public
My Commission Expires: May 11, 2012

Bristol South
Registry of Deeds

Not for Official Use

Not for

Bristol South
Registry of Deeds

Not for Official Use

Schedule A

The land in with any buildings thereon, in said New Bedford, bounded and described as follows:

BEGINNING at the northeasterly corner thereof at a point in the westerly line of Swan Street, one hundred forty (140) feet southerly from its intersection with the southerly line of Butler Street;

Thence SOUTHERLY in the westerly line of Swan Street sixty (60) feet

Thence WESTERLY one hundred twenty-five (125) feet;

Thence NORTHERLY sixty (60) feet to land now or formerly of Florence Bond

Thence EASTERLY in line of last named land one hundred twenty-five (125) feet to the point of beginning.

BEING the same premises conveyed to the grantor and grantee by deed of Mary M. Morris dated May 14, 1964 and recorded in Bristol County (S.D.) Registry of Deed Book 1445, Page 155.

Property Address: 117 Swan St. New Bedford, MA 02744

Not for Official Use

Not for

Not for Official Use

Not for

Bristol South
Registry of Deeds

Official Use