



JONATHAN F. MITCHELL
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City of New Bedford
ZONING BOARD OF APPEALS

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NOTICE OF DECISION

Case Number: #4218				
Request Type: Variance				
Address: 101 Seymour Street				
Zoning: Residential A Zoned District				
Recorded Owner: Maria C. Goulart				
Owner's Address: 101 Seymour Street				
Applicant: Maria C. Goulart				
Applicant's Address: 101 Seymour Street New Bedford, MA 02744				
Application Submittal Date	Public Hearing Date			
December 18 th , 2015	January 21 st , 2016			
Decision Date	January 21 st , 2016			
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
4	59	8029	246	

Variance under provisions of Chapter 9 comprehensive zoning sections 3100 (parking and loading), 3110 (applicability), 3145 (no driveway in a residential district shall exceed eighteen (18) feet in width; relative to property located at 101 Seymour Street, assessor's map 4, lot 59 in a residential A zoned district. To allow the petitioner to widen the driveway to 22 feet as plans filed, with condtions.

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 February 4th, 2016. 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.

Feb. 4, 2016
Date

Allen Decker
Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner proposes to widen the driveway to 22 feet as plans filed, which requires a variance under provisions of Chapter 9 comprehensive zoning sections 3100 (parking and loading), 3110 (applicability), 3145 (no driveway in a residential district shall exceed eighteen (18) feet in width; relative to property located at 101 Seymour Street, assessor's map 4, lot 59 in a residential A zoned district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, drawn by unknown, not dated.

Other Documents & Supporting Material

- Completed Petition for a Variance Form, stamped received by City Clerk's Office December 18th, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated January 4th, 2016.
- Staff Comments to ZBA from City Planning Division, dated January 13th, 2016.
- Letter to ZBA from Ward Six City Councilor Joseph P. Lopes dated January 7th, 2016.

3.) DISCUSSION

On the evening of the January 21st, 2016 meeting, board members: James Mathes, Allen Decker, Sherry McTigue, Debra Trahan, and Leo Schick were present for the public hearing. City of New Bedford staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Jennifer Gonet (Assistant Project Manager, Planning Division) were present during proceedings for the subject case review.

Mr. Decker made a motion, seconded by Ms. Trahan, to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated January 4th, 2016; the Department of Planning, Housing and Community Development, dated January 13th, 2016; Ward Six City Councilor Joseph P. Lopes dated January 7th, 2016; 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. With all in favor, the motion carried.

Chairperson Mathes then declared the hearing open.

The petitioner: Ms. Maria Goulart (101 Seymour Street New Bedford, MA) presented that she wished to obtain a variance to widen her existing driveway to 22 feet. Mr. Schick confirmed with Ms. Goulart that the ground in the landscaped area abutting the driveway was level and not sloped. Ms. Goulart confirmed it was level. Chairperson Mathes noted the staff comments recommend, if granted, the petitioner retain a four foot green space area between the driveway and property line. Chairperson Mathes asked if Ms. Goulart would accept that as a condition, if granted. Ms. Goulart agreed to the condition.

Following the petitioner's testimony, Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. Mr. Jaime Goulart (101 Seymour Street New Bedford), son of the petitioner, spoke in favor of the petition. Mr. Goulart explained the difficulty in shuffling cars in the morning due to the current size of the driveway. He explained one car would have to park on the grass. Also, they wouldn't need to park cars on the street which is a benefit. He explained there isn't a concern for water runoff to the abutting neighbor as the ground is level. He further stated pavement would be a benefit in order to keep the grass from deteriorating and sinking in. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Chairperson Mathes 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 questions of concerns, Chairperson Mathes closed the hearing, and opened the floor for discussion amongst board members. Chairperson Mathes expressed he understood the concern for the lawn. He spoke about his experience during the snow emergency last winter where he parked on his lawn and subsequently needed to replace a substantial portion of his lawn. Ms. Goulart interjected that she was concerned that if they continue to use the lawn to park the footing of individuals when entering and exiting the vehicle will not be secure due to ruts. Board members indicated their readiness to vote.

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 continued parking on the grass area next to the driveway creates safety concerns for the homeowners. The board found the hardship is not being able to widen the driveway for parking creates a continued safety concern for the homeowners and their guests.

- 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 3100 (parking and loading), 3110 (applicability), 3145 (no driveway in a residential district shall exceed eighteen (18) feet in width; relative to property located at 101 Seymour Street, assessor's map 4, lot 59 in a residential A zoned district. To allow the petitioner to widen the driveway to 22 feet as plans filed, with conditions.

6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY

- a. That the four foot buffer to the side property line be maintained;
- b. The project shall be set forth according to plans submitted with the application, with conditions;
- c. 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;
- d. 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 D. Trahan, L. Schick, S. McTigue, A. Decker, and J. Mathes and voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

Feb. 4, 2016

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals