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# **STAFF COMMENTS**

## **ZONING BOARD OF APPEALS MEETING**

**April 1, 2016**

**Case # 4226:**                   **VARIANCE**  
167 Maryland Street  
Map: 127-C, Lot: 271

**Owner/Applicant:**       Timonthy J. Rezendes  
167 Maryland Street  
New Bedford, MA 02745

**Overview of Request:** The petitioner has submitted an application for a **Variance** relative to the subject property located within a Residential A [RA] zoning district. The petitioner proposes to widen the existing driveway and build an addition onto his house in the location of the current carport at the property listed above. The petitioner proposes to widen the driveway to 24', where an 18' maximum is allowed under the zoning ordinance. The bulkhead of the proposed addition will be setback 19' from the rear yard line, where 30' is required under zoning ordinance. The petition will also require a variance for parking in front of the dwelling.

As with all variances, the board must find that there are circumstances relating to the soil conditions, shape or topography which especially affect the land in question, but which do not affect generally the zoning district in which the land or structure in question is located. The ZBA must find that if the city were to literally enforce the zoning ordinance, due to these circumstances unique to this land or structure, it would mean substantial hardship to the petitioner. Additionally, the ZBA must find that the granting of the variance would not take away from the purpose of the zoning ordinance nor would it cause substantial detriment to the public good.



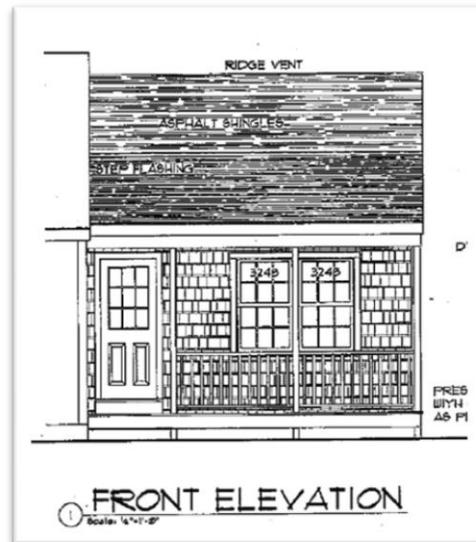
**167 Maryland Street**  
Looking north from Maryland Street



**167 Maryland Street**  
Looking westerly into the rear yard

**Existing Conditions:** The 6,400 sq. ft. subject lot, located in the north end near Pine Grove Cemetery, has 80' frontage on Maryland Street and is 80' in depth. The property has a single family house with an attached 18'± x 22.5' carport, 12' x 30' driveway, above ground pool, and a shed. The existing rear yard setback is approximately 26' and is nonconforming. The neighborhood is comprised of single family houses and structures on similarly-sized lots. The subject property is surrounded by differing grade elevations bounded by retaining walls. While the house on this lot sits above the street grade, it is below the rear abutter's property and slightly below the east side abutter's property. The shed is actually built into the rear retaining wall. The immediate abutter on the east side is an undeveloped lot with 60' of frontage.

**Proposal:** The petitioner proposes to demolish the existing carport and erect a 16' x 23'-4" addition onto his house for a family room. The front of the addition is to include a 16' x 4' farmer's porch. The proposed bulkhead of the addition will be 19' from the rear lot line where 30' is required and 7' closer to the rear lot line than presently exists. The petitioner also proposes to expand the driveway width from 12' to 24' in order to relocate two off-street parking spaces including one that will be lost as a direct result of the proposed family room addition. As a result of this request, parking will be relegated to the front of the dwelling, also contrary to the zoning ordinance.



The applicant has indicated that the current carport does not meet the setback requirement and is therefore an existing nonconforming structure. The petitioner notes that the footprint of the proposed addition will not be expanding much beyond the footprint of the existing carport structure and that in fact, the only expansion beyond the existing footprint is a six (6) foot bulkhead.

The petitioner contends that if he were to set the addition closer to the front of the property it would result in an even shorter driveway and block a side window on the house. Additionally, the applicant argues that any change to the dimensions of the proposed addition would result in the need for nontraditional framing lumber.



The petitioner's application states the addition is compatible with the neighborhood, that it enhances curb appeal, it increases the property value and replaces an unattractive carport. Lastly, the petitioner notes that because the rear abutters' property height [dwelling elevation] is above the subject property, his neighbor's views would not be obstructed by the proposed addition.

**For Board Member Consideration:** Several relevant points with respect to this request are worth bearing in mind in the board's review of this petition.

- The proposed bulkhead, which necessitates the setback relief from the zoning ordinance, will be 19' from the rear lot line. Despite this, the actual rear wall of the proposed addition will extend less than one foot further into the rear yard than the existing carport structure. Therefore, visually there will be minimal change to the rear yard setback.

- The board may wish to pay particular note to the elevation of the lot in combination with the location of the existing structure and driveway and how the grade changes between the subject property and abutting properties impact the request.
- The construction of the addition would result in the loss of one off-street parking space; as such the applicant seeks to widen his driveway to allow for side by side, rather than the existing tandem parking layout. Such a plan does result in the need to park in front of the residential dwelling. It is not unreasonable to need two car driveways in this location nor is that inconsistent with other neighborhood properties. Because it is unclear if the petitioner wishes to expand the curb cut and have an existing city street tree removed to accommodate a wider driveway entrance or if the driveway will flare out from the existing curb cut and widen to provide the two car space, staff recommends that the board seek such clarification from the petitioner.



**167 Maryland Street Map: 127-C, Lot: 271**

*NOTE: Property line is approximate; for discussion purposes, only.*

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41°41'06.75" N 70°55'47.66" W elev. 64 ft eye alt 919 ft