



**JONATHAN F. MITCHELL**  
MAYOR

*City of New Bedford*  
**ZONING BOARD OF APPEALS**

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2016 MAY -5 A 9:54  
CITY CLERK

**NOTICE OF DECISION**

Case Number:	#4226			
Request Type:	Variance			
Address:	167 Maryland Street			
Zoning:	Residential A Zoned District			
Recorded Owner:	Timothy J. Rezendes			
Owner's Address:	167 Maryland Street New Bedford, MA 02745			
Applicant:	Timothy J. Rezendes			
Applicant's Address:	167 Maryland Street New Bedford, MA 02745			
Application Submittal Date	Public Hearing Date		Decision Date	
March 22, 2016	April 28 <sup>th</sup> , 2016		April 28 <sup>th</sup> , 2016	
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
127C	271	3456	59	

Variance under provisions of Chapter 9 comprehensive zoning sections 2700 (dimensional regulations), 2710 (general), and 2720 (table of dimensional requirements, appendix-B-rear yards), 2750 (yards in residence districts), 2753 (rear yard), 3100 (parking and loading), and 3145 (parking in front of dwelling and 18' maximum driveway width); relative to property located at 167 Maryland Street, assessor's map 127C, lot 271 in a residential-A [RA] zoned district; to allow the petitioner to demolish the existing carport and attached shed; and to erect a 16'x22' family room addition and expand the existing driveway 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 5<sup>th</sup>, 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.

May 5, 2016  
Date

*Allen D. Decker*  
Clerk, Zoning Board of Appeals

### **1.) APPLICATION SUMMARY**

The petitioner proposes to demolish the existing carport and attached shed; and to erect a 16'x22' family room addition and expand the existing driveway as plans filed, which requires a variance under provisions of Chapter 9 comprehensive zoning sections 2700 (dimensional regulations), 2710 (general), and 2720 (table of dimensional requirements, appendix-B-rear yards), 2750 (yards in residence districts), 2753 (rear yard), 3100 (parking and loading), and 3145 (parking in front of dwelling and 18' maximum driveway width). This petition is relative to property located at 167 Maryland Street, assessor's map 127C, lot 271 in a residential-A [RA] zoned district.

### **2.) MATERIALS REVIEWED BY THE BOARD**

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

- Site Plan, drawn by unknown, not dated
- Plan Set, drawn by Paul M. Gerrior Designs, dated June 2015 including:
  - Proposed 1<sup>st</sup> Floor Plan
  - Foundation Plan
  - Typical Cross Section
  - Elevations

#### **Other Documents & Supporting Material**

- Completed Petition for a Variance Form, stamped received by City Clerk's Office March 22<sup>nd</sup>, 2016.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated March 30<sup>th</sup>, 2016.
- Staff Comments to ZBA from Department of Planning, Housing and Community Development, dated April 1<sup>st</sup>, 2016.

### **3.) DISCUSSION**

On the evening of the April 28<sup>th</sup>, 2016 meeting, board members: Leo Schick, Allen Decker, Sherry McTigue, John Walsh and Robert Schilling 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, Department of Planning, Housing & Community Development) were present during proceedings for the subject case review.

Mr. Decker made a motion, seconded by Ms. McTigue, to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated March 30<sup>th</sup>, 2016; Staff Comments from the Department of Planning, Housing & Community Development, dated April 1<sup>st</sup>, 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.

Acting Chair Schick then declared the hearing open.

The petitioner: Mr. Timothy Rezendes (167 Maryland Street New Bedford, MA) presented his petition. He explained, he proposes to demolish the existing carport and replace it with a new family room

within the same footprint. He further explained the proposal includes a poured concrete foundation which will have a bulkhead to access the basement from outside. He explained currently he cannot access the basement from the outside of the house. This plan will connect the two basement sections. He also proposes to expand the driveway for two cars. The changes he noted would result in having parking in front of the house.

Mr. Decker clarified that currently the driveway fits two cars in tandem but not side by side. He asked if the petitioner wanted to expand the curb cut. Mr. Rezendes confirmed he proposes widening the existing 12' curb cut to the maximum 18' allowed by the city.

Following the petitioner's testimony, Acting Chair Schick 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.

Acting Chair Schick 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.

Ms. McTigue confirmed the location of the bulkhead to be in the rear of the proposed structure.

With no further questions or concerns, Acting Chair Schick closed the hearing, and opened the floor for discussion amongst board members.

#### **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 location of the structure on the lot makes it difficult to expand habitable living space in any other place than where the carport and attached storage shed is located. Also, the expansion of the driveway makes for a safer and more convenient way of parking vehicles. The board found the hardship is reconfiguring the addition other than as proposed would add substantial cost to the project due to nontraditional framing lumber that would be necessary for the project.

- 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), and 2720 (table of dimensional requirements, appendix-B-rear yards), 2750 (yards in residence districts), 2753 (rear yard), 3100 (parking and loading), and 3145 (parking in front of dwelling and 18' maximum driveway width); relative to property located at 167 Maryland Street, assessor's map 127C, lot 271 in a residential-A [RA] zoned district; to allow the petitioner to demolish the existing carport and attached shed; and to erect a 16'x22' family room addition and expand the existing driveway 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, with conditions;
- b. 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. 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. Walsh to grant the requested Variance, the vote carried 5-0 with members S. McTigue, A. Decker, L. Schick, J. Walsh and R. Schilling voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

  
Allen Decker, Clerk of the Zoning Board of Appeals

May 5, 2016  
Date