



JONATHAN F. MITCHELL
MAYOR

City of New Bedford
ZONING BOARD OF APPEALS

133 William Street, New Bedford
Massachusetts 02740
Telephone: (508) 979.1488
Facsimile: (508) 979.1576

NOTICE OF DECISION

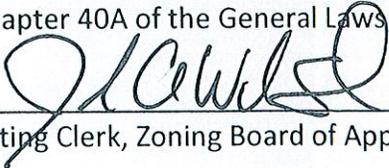
Case Number:	#4227			
Request Type:	Special Permit			
Address:	45 Summit Street			
Zoning:	Residential A Zoning District			
Recorded Owner:	Aldo Alves Junior			
Owner's Address:	87 Alpha Street Dartmouth, MA 02747			
Applicant:	Aldo Alves Junior			
Applicant's Address:	87 Alpha Street Dartmouth, MA 02747			
Application Submittal Date	Public Hearing Date(s)		Decision Date	
April 8 th , 2016	May 19 th , 2016		May 19 th , 2016	
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
56	134	11618	329	

Special Permit under provisions of Chapter 9, comprehensive zoning sections 3100 (parking and loading), 3110 (applicability), 3149 (Special Permit-Vehicular access to a building accessed from a public way that does not constitute frontage of a lot), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 45 Summit Street, assessor's map 56 lot 134 in a residential A zoned district. To allow the petitioner to install a driveway in a rear yard 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 27th, 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 27, 2016
Date


Acting Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner proposes to install a driveway in a rear yard as plans filed, which requires a Special Permit under provisions of Chapter 9, comprehensive zoning sections 3100 (parking and loading), 3110 (applicability), 3149 (Special Permit-Vehicular access to a building accessed from a public way that does not constitute frontage of a lot), and 5300-5330 & 5360-5390 (Special Permit). This petition is relative to property located at 45 Summit Street, assessor's map 56 lot 134 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 Special Permit Form, stamped received by City Clerk's Office April 8th, 2016
- Photos of properties in the neighborhood, submitted by the applicant, with the petition
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated May 2nd, 2016.
- Staff Comments to ZBA from City Planning Division dated May 5th, 2016.

3.) DISCUSSION

On the evening of the May 19th, 2016 meeting, board members: Deb Trahan, Sherry McTigue, Leo Schick, 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, Planning Division) were present during proceedings for the subject case review.

Mr. Walsh 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 May 2nd, 2016; Staff Comments from the Department of Planning, Housing & Community Development, dated May 5th, 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.

Chair Trahan then declared the hearing open.

Representative of the petitioner: Mr. Jose Fontes (178 Grinnell Street New Bedford, MA), stated general contractor for the project, presented the petition. He explained Mr. Aldo Alves Junior was unable to attend due to undergoing surgery earlier in the day. Mr. Fontes explained the petition is to have a driveway located in the rear of the property, similar to other driveways in the neighborhood. He further explained that it would be very difficult and expensive to carve out the land in order to have the driveway on the lot frontage. He explained as the east side/front of the property is about 4-5 feet high. It would require a large amount of land to be removed, engineering, and retaining walls to place

the driveway along the frontage. The neighbors also have driveways in the rear as it is easier to do it that way and this proposal would take two cars off the street, he said.

Following the petitioner's testimony, Chair Trahan 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.

Chair Trahan 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 or concerns, Chair Trahan closed the hearing, and opened the floor for discussion amongst board members. Mr. Walsh stated based on the materials submitted and presented he was ready to vote. Ms. McTigue indicated she travels by the property frequently and was familiar with it. Board members indicated their readiness to vote.

4.) FINDINGS

The Board found that in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 5320, the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination included consideration of each of the following:

- *Social, economic, or community needs which are served by the proposal;*
 - The proposal increases the availability of off-street parking.
- *Traffic flow and safety, including parking and loading;*
 - The Board found the project would improve traffic flow and safety by increasing the availability of off-street parking.
- *Adequacy of utilities and other public services;*
 - The Board found no impact on existing utilities or public services.
- *Neighborhood character and social structures;*
 - The Board found the project fits within the character of the neighborhood and said social structures.
- *Impacts on the natural environment;*
 - The Board found the proposal will preserve existing green space on the property.
- *Potential fiscal impact, including impact on City services, tax base, and employment*
 - The Board found with respect to this section the proposal is neutral or will improve the tax base.

Additionally, the board found the petition to be in accordance with City of New Bedford Code of Ordinances Chapter 9 Sections 3100, 3110, and 3149.

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), 3149 (Special Permit-Vehicular access to a building accessed from a public way that does not constitute frontage of a lot), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 45 Summit Street, assessor's map 56 lot 134 in a residential A zoned district. To allow the petitioner to install a driveway in a rear yard as plans filed.

6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY

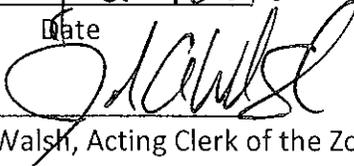
- a. The project shall be set forth according to plans, submitted with the application, with conditions;
- b. The applicant shall ensure that a copy of this decision, bearing the certification of the City of New Bedford Clerk's Office, is recorded in the Registry of Deeds;
- c. The rights authorized by the granted Special Permit 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 Special Permit.

On a motion by J. Walsh seconded by R. Schilling to grant the requested Special Permit, the vote carried 5-0 with members R. Schilling, S. McTigue, L. Schick, J. Walsh, and D. Trahan voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

May 27, 2016
Date


John Walsh, Acting Clerk of the Zoning Board of Appeals