



JONATHAN F. MITCHELL
MAYOR

City of New Bedford
ZONING BOARD OF APPEALS

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Registry of Deeds Use Only:

CITY CLERKS OFFICE
NEW BEDFORD, MA

2016 JUL -7 A 9:21

CITY CLERK

NOTICE OF DECISION

Case Number:	#4230			
Request Type:	Finding			
Address:	168 Grinnell Street			
Zoning:	Residential B Zoned District			
Recorded Owner:	Virgulino Lima Duarte			
Owner's Address:	168 Grinnell Street New Bedford, MA 02740			
Applicant:	Virgulino Lima Duarte			
Applicant's Address:	168 Grinnell Street New Bedford, MA 02740			
Application Submittal Date	Public Hearing Date	Decision Date		
May 4 th , 2016	June 23 rd , 2016	June 23 rd , 2016		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
36	203	2998	0284	

Finding under chapter 9 comprehensive zoning sections 2400 (non-conforming uses and structures), 2410 (applicability), 2440 (nonconforming single and two family structures); relative to property located at 168 Grinnell Street assessor's map 36 lot 203 in a residential-B [RB] zoned district. To allow the petitioner to erect an addition by extending the footprint, raising the deck, and finishing the basement 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 July 7th, 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.

July 7, 2016
Date

Allen Decker
Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner proposes to erect an addition by extending the footprint, raising the deck, and finishing the basement as plans filed, which requires a finding under chapter 9 comprehensive zoning sections 2400 (non-conforming uses and structures), 2410 (applicability), 2440 (nonconforming single and two family structures); relative to property located at 168 Grinnell Street assessor's map 36 lot 203 in a residential-B [RB] zoned district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, drawn by Gateway Survey Associates, LLC, dated 6/9/2015
- Plan Set, prepared by Design Construction & Consulting Services, dated 8/20/15 including:
 - A-0 Title Sheet
 - A-1 Existing Basement Plan
 - A-2 Existing First Floor Plan
 - A-3 Existing Second Floor Plan
 - A-4 Existing Front Elevation
 - A-5 Existing Left Side Elevation
 - A-6 Existing Rear Elevation
 - A-7 Proposed Basement Plan
 - A-8 Proposed First Floor Plan
 - A-9 Proposed Second Floor Plan
 - A-10 Proposed Front Elevation
 - A-11 Proposed Left Side Elevation
 - A-12 Proposed Rear Elevation
 - A-13 Cross Section A
 - A-14 Framing Plans
 - A-15 Perspectives
 - A-16 Perspectives

Other Documents & Supporting Material

- Completed Petition for a Variance Form, stamped received by City Clerk's Office May 4th, 2016.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated June 3rd, 2016.
- Staff Comments to ZBA from Department of Planning, Housing and Community Development, dated June 15th, 2016.
- Letter to ZBA from Mr. Jose P. Ayala, dated June 22nd, 2016.

3.) DISCUSSION

On the evening of the June 23rd, 2016 meeting, board members: John Walsh, Allen Decker, Robert Schilling, Sherry McTigue, 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, Department of Planning, Housing, & Community Development) were present during proceedings for the subject case review.

Mr. Decker made a motion, seconded by Mr. Schick, to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated June 3rd, 2016; correspondence from the Office of the City Planner, dated June 15th, 2016; communication from resident Jose P. Ayala, dated June 22nd, 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 Walsh then declared the hearing open.

The petitioner, Mr. Virgulino Lima Duarte, (168 Grinnell Street New Bedford, MA) presented his petition. Mr. Duarte explained he was seeking permission to construct the addition in order for him prepare his home for his retirement. He explained he was currently hitting his head coming out of the basement via the existing door located under the deck and that the proposal seeks to remedy this problem. He explained how he spoke with different professionals who recommended that in order to fix his issue, he would need to dig down to create more space for better access to the door, and that additionally, the space would need to be covered otherwise he would have it filled with water when it rained. Therefore, the addition being presented was designed to meet the floor level and provide him a better access into his home and basement. Mr. Duarte stated he proposes to dig down to the basement level, elevate the deck up one level, create a sunroom and finish his basement and that by doing so; the finished basement will create space for his books and other items.

Following the petitioner's testimony, Acting Chair Walsh invited to the podium anyone wishing to speak in favor of the application. Mr. John King (167 Grinnell Street New Bedford, MA) wished to be recorded in favor. Mr. Decker asked where Mr. King's property was located in relation to Mr. Duarte's. Mr. King stated he is across the street. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chair Walsh 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, Acting Chair Walsh closed the hearing, and opened the floor for discussion amongst board members.

Ms. McTigue stated she thought the proposal would create a nice space in the back of his house and it doesn't get much more space in the basement.

Mr. Decker stated based on the communication from the City Planner there seems to be confusion over the extension that is proposed. He stated that on one part of the application it is stated to be extending by three (3) feet and another part to be extending by five (5) feet. Mr. Decker asked Mr. Duarte which one is correct. Mr. Duarte said it was his understanding based on the drawing he saw that he's extending from where the deck ends three (3) feet into his side yard, with nothing further into the back yard. Mr. Decker said the application says three (3) feet but the plan shows five (5) feet. Mr. Duarte said if the plan says five (5) feet then it is five (5) feet, he said he had eyeballed it and thought it was three (3) feet. If the plan shows five (5) feet, he stated, then it is five (5) feet as he did not draw the plan. He further stated there is ample space in the yard.

4.) FINDINGS

Criteria for Approval of a Finding (Ch. 9, Sect. 2400, 2410, 2440):

2440. Nonconforming Single- and Two-Family Structures.

Nonconforming single and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Inspector of Buildings that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the issuance of a building permit, where applicable.

In the event that the Inspector of Buildings determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by finding (which shall not require a super majority), allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

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 to erect an addition by extending the footprint, raising the deck, and finishing the basement as plans filed, which requires a finding under chapter 9 comprehensive zoning sections 2400 (non-conforming uses and structures), 2410 (applicability), 2440 (nonconforming single and two family structures); relative to property located at 168 Grinnell Street assessor's map 36 lot 203 in a residential-B [RB] zoned district.

6.) DECISION

Based on a review of the application documents, testimony given at the public hearing and the findings described, and with no further discussion or questions for the applicant, the board indicated their readiness to vote.

The Zoning Board of Appeals hereby **GRANTS, WITH CONDITIONS**, the requested variance as follows:

Mr. Decker made a motion, seconded by Mr. Schick, on behalf of petitioner, Virgulino Lima Duarte, 168 Grinnell Street, Ma 02740, relative to property at 168 Grinnell Street, which is assessor's map 36, lot 203, in a residential B zoned district. That we [Zoning Board of Appeals] approve a finding to allow the petitioner to erect an addition by extending the footprint, raising the deck, and finishing the basement as per the plans filed. Which requires a finding under chapter 9 comprehensive zoning sections 2400 (concerning non-conforming uses and structures), 2410 (concerning applicability), 2440 (concerning nonconforming single and two family structures); relative to property located at 168 Grinnell Street which is assessor's map 36 lot 203 in a residential-B [RB] zoned district. Having reviewed the petition in light of the City of New Bedford Code of Ordinances Chapter 9 sections 2400, 2410, 2440 the board finds that in respect to these sections the petition is in compliance. And, in light of its review of the specifics noted within this motion, the board's finding that the material presented is complete and its careful consideration of the petitioner's request, the Zoning Board of Review finds that the petition satisfactorily meets the basis of the requested relief.

Therefore, this motion is made and includes the following conditions:

- a. That the project be set forth according to the plans submitted with the application.
- b. That the notice of decision be recorded at the registry of deeds and
- c. A building permit be issued by the department of Inspectional Services and acted upon within one year from the date of the decision.

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

Filed with the City Clerk on:

Allen Decker
Allen Decker, Clerk of the Zoning Board of Appeals

July 7, 2014
Date