



JONATHAN F. MITCHELL
MAYOR

City of New Bedford
ZONING BOARD OF APPEALS

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Registry of Deeds Use Only:

2016 JUL -7 A 9:21
 CITY CLERK
 CITY CLERKS OFFICE
 NEW BEDFORD, MA

NOTICE OF DECISION

Case Number:	#4231			
Request Type:	Variance			
Address:	21 Margin Street			
Zoning:	Residential C Zoned District			
Recorded Owner:	Donald L. Lamarre			
Owner's Address:	17 Antonio Way Dartmouth, MA 02747			
Applicant:	Donald L. Lamarre			
Applicant's Address:	17 Antonio Way Dartmouth, MA 02747			
Application Submittal Date	Public Hearing Date	Decision Date		
May 6 th , 2016	June 23 rd , 2016	June 23 rd , 2016		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
20	368	6866	221	

Variance under provisions of Chapter 9 comprehensive zoning sections 2330-2334 (accessory structures), 2430-2432 (nonconforming uses and structures - side and rear setback), 2750-2755 (yards in residential districts), 2753 (rear yards), 2755 (side yards); relative to property located at 21 Margin Street assessor's map 20 lot 368 in a residential-c [RC] zoned district; to allow the petitioner to reconstruct the garage 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 D. Decker
Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner proposes to reconstruct the garage as plans filed, which requires a variance under Chapter 9 comprehensive zoning sections 2330-2334 (accessory structures), 2430-2432 (nonconforming uses and structures - side and rear setback), 2750-2755 (yards in residential districts), 2753 (rear yards), 2755 (side yards). This petition is relative to property located at 21 Margin Street assessor's map 20 lot 368 in a residential-c [RC] zoned district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, drawn by Don Lamarre, date stamped received by City Clerk's Office May 23rd, 2016.
- Elevation drawings and Foundation Plan, drawn by Don Lamarre, date stamped received by City Clerk's Office May 23rd, 2016.

Other Documents & Supporting Material

- Completed Petition for a Variance Form, stamped received by City Clerk's Office May 6th, 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.

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; 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. Donald Lamarre (17 Antonio Way Dartmouth, MA 02747), owner of 21 Margin Street, explained he has an existing garage and he seeks approval to rebuild the garage within the same footprint with a little extension. He proposes making the rebuilt garage both wider and longer than that which exists and explained to the board that this meant the new structure would be both closer to the house and closer towards the street. Mr. Lamarre noted the existing block garage would be replaced with a wood frame structure which would "make the aesthetics a lot better for his property and the properties surrounding it." He said he is not extending it [rebuilt garage] much higher than the existing garage said he thought it would be "good."

Ms. McTigue asked if there will be a three (3) foot clearance between the garage and stairs. Mr. Lamarre stated there is a three and a half (3 ½) foot clearance to the stairs.

Following the petitioner's testimony, Acting Chair Walsh invited to the podium anyone wishing to speak in favor of the application. Ward 6 City Councilor Joseph Lopes (75 Dudley Street New Bedford, MA) spoke in favor of the petition. Councilor Lopes stated he had spoken with the petitioner and the neighbors. He further stated not a single neighbor had any concerns with the improvements to the property. 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.

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 existing home limits the siting of the new garage in a different location. The board found the hardship is the replacement of the garage would not be otherwise possible.

- b.) *That desirable relief may be granted without substantial detriment to the public good;*

The Board found that relief may be granted without substantial detriment 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 desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

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 2330-2334 (accessory structures), 2430-2432 (nonconforming uses and structures - side and rear setback), 2750-2755 (yards in residential districts), 2753 (rear yards), 2755 (side yards); relative to property located at 21 Margin Street assessor's map 20 lot 368 in a residential-c [RC] zoned district; to allow the petitioner to reconstruct the garage as plans filed.

6.) 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.

Mr. Decker made a motion, seconded by Mr. Schick, as follows, to approve the variance to allow the petitioner to reconstruct the garage as plans filed, requiring a variance under Chapter 9 comprehensive zoning sections 2330-2334 (concerning accessory structures), 2430-2432 (concerning nonconforming uses and structures - side and rear setback), 2750-2755 (concerning yards in residential districts), 2753 (concerning rear yards), 2755 (concerning side yards); relative to property located at 21 Margin Street assessor's map 20 lot 368 in a residential-c [RC] zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9 sections 2330-2334, 2430-2432, 2750-2755, 2753, 2755, the board finds that respect to these sections the board grants relief as requested. In addition to the foregoing sections, this petition has also been found to be in accordance with Massachusetts General Law Chapter 40A section 10 relative to the granting of Variances because the board found: That there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located. These circumstances are the location of the existing home limits the siting of the new garage in a different location on the property. And that due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant. The hardship is the replacement of the garage would not be otherwise possible. And that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw. And that desirable relief may be granted without substantial detriment to the public good. 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.

And, 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 L. Schick, S. McTigue, A. Decker, R. Schilling, and J. Walsh 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

July 7, 2016

Date