



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

ZONING BOARD OF APPEALS
NEW BEDFORD CITY HALL – 3rd Floor
WILLIAM STREET
NEW BEDFORD, MA
Thursday, August 16, 2018

MINUTES

PRESENT: Leo Schick (*Chairperson*)
John Walsh (*Vice Chairperson*)
Laura Parrish
Stephen Brown

ABSENT: Allen Decker
Robert Schilling

STAFF: Angela Goncalves, Assistant Project Manager
Danny Romanowicz, *Commissioner of Buildings and Inspectional Services*

1. CALL TO ORDER

Chairperson Schick called the meeting of the City of New Bedford Zoning Board to order at 6:00 p.m. He then explained the meeting process and protocol.

2. PUBLIC HEARINGS

ITEM 1 – Case #4333: Petition of Antonio Furtado (1033 Belleville Avenue, New Bedford, MA) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulations) 2710 (general), 2720 (table of dimensional requirements- Appendix B, side yard), 2750 (yards in residence district), 2755 (side yard) and generators as of (05/05/15) (8) must be in rear yard; relative to property located at 1033 Belleville Avenue, Assessors' map 127 lot 53 in a Residential A [RA] zoned district. The petitioner proposes to install a standby generator in the side yard as plans filed.

A motion was made (JW) and seconded (SB) that the following be received and placed on file: communication from the Commissioner of Buildings and Inspectional Services dated 7/11/18; communication from the Office of the City Planner dated 8/7/18; the appeal package as

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CITY CLERK

submitted; the plan as submitted; and that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Antonio Furtado, 1033 Belleville Ave, explained that he is seeking a variance so that he can put in a generator, in order to deal with electrical outages. He stated the reason is for the variance is because he needs to put the generator in the side of the house instead of the back, which would involve 40' of digging and breaking up his driveway. He stated he plans to put bushes to screen the generator.

Board Member Brown consulted with Mr. Romanowicz.

There was no response to Chairperson Schick's invitation to speak or be recorded in favor.

There was no response to Chairperson Schick's invitation to speak or be recorded in opposition.

The hearing was closed.

After a brief discussion, including the generator size, unit location, noise, and approval conditions, a motion was made (JW) and seconded (SB) to grant a Variance under the provisions of the city code of New Bedford, relative to property located at 1033 Belleville Avenue, Assessors' map 127 lot 53 in a Residential A [RA] zoned district, to allow the petitioner to install a standby generator in the side yard as plans filed, which requires a variance under provisions Chapter 9, Comprehensive Zoning sections 2700, 2710, 2720, 2750 and 2755. Generators, as of (05/05/15), must be in rear yards.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that, in respect to these sections, the applicable sections have addressed, and in addition to the foregoing sections, the petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances. This determination includes consideration of the following:

- The board finds that there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this case, it's not possible to install a generator in the rear yard because of the location of a garage and windows at the rear of the house.
- Second, due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner. In this case, installing a generator behind the house would require the breaking up of an existing driveway and digging up a 40' trench.
- Third, desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good.

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In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made on these items, along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief, with the following conditions:

- That appropriate screening with shrubs be placed between the generator and the property line

General conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant ensure the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Schick – Yes	Vice Chairperson Walsh – Yes
Board Member Parrish - Yes	Board Member Brown – Yes

Motion passes 4-0

ITEM 2 – Case #4334: Petition of David V. Costa (72 Seymour Street, New Bedford, MA) and Gerald Harris Jr. (72 Seymour Street, New Bedford, Ma) for a Variance under Chapter 9 Comprehensive Zoning Sections 2710 (general), 2720 (tables of dimensional requirements – Appendix B, side yard & rear yard), 2750 (yards in residence district), 2753 (rear yard) and 2755 (side yard); relative to property located at 72 Seymour Street, Assessors' map 4 lot 84 in a Residential A [RA] zoned district. The petitioner proposes to construct an attached garage, add a bathroom/laundry room and enlarge the kitchen as plans filed.

A motion was made (JW) and seconded (SB) that the following be received and placed on file: communication from the Commissioner of Buildings and Inspectional Services dated 7/20/18; communication from the Office of the City Planner dated 8/7/18; a letter of support from abutter Antonio Couto, dated 8/14/18; the appeal package as submitted; the plan as submitted; and that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified. Motion passed unopposed.

David Costa, Seymour Street, said they are looking to build a garage with a bathroom and laundry room in it for convenience, as we plan to retire in the residence.

In response to Board Member Walsh, Mr. Costa stated this is the only place on this corner lot where there is room to construct the building on the property. In addition, that is where the driveway is, and there is already a curb cut there. Mr. Costa represents that he spoke to a couple of neighbors who seem agreeable. In response to Board Member Walsh, Mr. Costa stated that Mr. Couto is right next to him on the side where the garage would be going.

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In response to Board Member Walsh, Mr. Costa stated they would have to sell and move where we could have a garage that big. He stated that there is very little storage in the 900 SF home.

In response to Chairperson Schick's invitation to speak or be recorded in favor, City Councilor Joseph Lopes, stated he knows the property and it is one of the smallest houses on the street. He noted the board has granted several additions and improvements in the homes in the area. He stated allowing this keeps good families in the community. He stated he received no negative comments from neighbors.

There was no response to Chairperson Schick's further invitation to speak or be recorded in favor. There was no response to Chairperson Schick's invitation to speak or be recorded in opposition.

The hearing was closed.

There being no further board questions, a motion was made (JW) and seconded (SB) to grant a Variance under the provisions of the city code of New Bedford, relative to property located at 72 Seymour Street, Assessors' map 4 lot 84 in a Residential A [RA] zoned district, to allow the petitioner to construct an attached garage, add a bathroom/laundry room and enlarge the kitchen as plans filed, which requires a variance under provisions of Chapter 9 Comprehensive Zoning Sections 2710, 2720, 2750, 2753 and 2755.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that, in respect to these sections, the applicable sections have addressed, and in addition to the foregoing sections, the petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances. This determination includes consideration of the following:

- The board finds that there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this instance, circumstances are that there is an existing driveway and a curb cut on the west side of the property where the proposed addition is to be placed.
- Second, due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, the hardship is that if the petitioner was not granted the variance, they would not be able to maximize the use of their property. The property as it stands does not meet their present or future needs.
- Third, desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made on these items, along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request,

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the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief, with the following general conditions:

- That the project be set forth according to the plans submitted with the application; that the applicant ensure the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Schick – Yes	Vice Chairperson Walsh – Yes
Board Member Parrish – Yes	Board Member Brown – Yes

Motion passes 4-0

ITEM 3 – Case #4335: Petition of Gary Paiva (276 Allen Street, New Bedford, MA) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements – Appendix B – side yard & green space 35%), 2750 (yards in residence district), and 2755 (side yard); relative to property located at 276 Allen Street, Assessors' map 35, lot 49 in a Mixed Use Business [MUB] zoned district. The petitioner proposes to install a 13' x 14' driveway which would be installed against the neighbors' foundation as plans filed.

A motion was made (JW) and seconded (SB) that the following be received and placed on file: communication from the Commissioner of Buildings and Inspectional Services dated 7/20/18; communication from the Office of the City Planner dated 8/7/18; the appeal package as submitted; the plan as submitted; and that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Gary Paiva, Allen Street, stated he is seeking to install a driveway. He stated his wife is handicap and Allen Street is a busy road, and it is hard for her to come across the street with cars going so fast. He stated it is hard in the snow and when bringing groceries across the street. He stated a driveway would be ideal.

Board Member Walsh confirmed that the driveway would be right up against the neighbor's property. Mr. Paiva stated the need for the variance was a lack of 35% green space. He stated his neighbor, Mr. Demers, had given the okay.

In response to Chairperson Schick's further invitation to speak or be recorded in favor, Greg Demers, 274 Allen Street, owner of the next-door property which the driveway would abut, stated he had absolutely no problem with it and would love to see it.

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In response to Chairperson Schick, Mr. Paiva discussed there was no problem with the present drainage.

In response to Board Member Walsh, Mr. Paiva confirmed there is limited space on the property for a driveway with only 13' from one foundation to the other. He stated he had just done the same thing with his driveway.

There was no response to Chairperson Schick's further invitation to speak or be recorded in favor. There was no response to Chairperson Schick's invitation to speak or be recorded in opposition.

The hearing was closed.

There being no further board questions, a motion was made (JW) and seconded (LP) to grant a Variance under the provisions of the city code of New Bedford, relative to property located at 276 Allen Street, Assessors' map 49, lot 84 in a Mixed Use Business[MUB] zoned district, to allow the petitioner to construct a 13' x 34' driveway which would be installed flush to the neighbors' foundation per plans filed, which requires a variance under Chapter 9, Comprehensive Zoning Sections 2700, 2710, 2720, 2750 and 2755.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that, in respect to these sections, the applicable sections have addressed, and in addition to the foregoing sections, the petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances. This determination includes consideration of the following:

- The board finds that there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this instance, circumstances are that based upon the configuration of the applicant's property, there is limited space to place the driveway on the property, and this is the only available space which exists.
- Second, due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, the hardship is, number one, there is only on-street parking and the applicant's wife has a disability and this driveway would help her have a safer means of ingress/egress to the property.
- Third, desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made on these items, along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief, with the following general conditions:

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- That the project be set forth according to the plans submitted with the application; that the applicant ensure the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Schick – Yes Vice Chairperson Walsh – Yes
Board Member Parrish - Yes Board Member Brown – Yes

Motion passes 4-0

A motion was made (SB) and seconded (LP) to consolidate the following cases for hearing.
Motion passed unopposed.

ITEM 4 - Case #4336: Petition of David Bizarro (50 Larch Street, New Bedford, MA) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulations) 2710 (general), 2720 (table of dimensional requirements - Appendix B, minimum lot size & rear yard), 2750 (yards in residence district), and 2753 (rear yard); relative to property located at East Side of Osborn Street, Assessors' map 17A lot 85 & 86 in a Residential B [RB] zoned district. The petitioner proposes to construct a 26'x52'x40 single family dwelling with an in-law setup as plans filed.

Case #4337: Petition of David Bizarro (50 Larch Street, New Bedford, MA) for a Special Permit under Chapter 9, Comprehensive Zoning Sections 4400-4470 (flood zone hazard overlay district), and 5300-5330 & 5360-5390 (special permit); relative to property located at East Side of Osborn Street, Assessors' map 17A lot 85 & 86 in a Residential B [RB] zoned district. The petitioner proposes to construct a 26'x52'x40 single family dwelling with an in-law setup as plans filed.

A motion was made (JW) and seconded (SB) with respect to both cases that the following be received and placed on file: communication from the Commissioner of Buildings and Inspectional Services dated 7/23/18; communication from the office of the City Planner dated 8/7/18; the order of conditions from the Conservation Commission dated 8/15/18; the appeal package as submitted; the plan as submitted; and that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

David Bizarro, Larch Street, stated he is looking to build a single-family home with an in-law set up for his mother who currently lives on his first floor. He hopes to sell his current house and build.

In response to Chairperson Schick, Mr. Bizarro stated the proposed site is just an empty lot, which used to be a junkyard.

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Board Member Brown consulted with Mr. Romanowicz regarding the flood zone, et cetera, and setbacks, which trigger the need for a variance and special permit.

Board Member Walsh confirmed it is an undersized lot.

At Board Member Brown's request, Mr. Bizarro described the house he is seeking to build. He stated his goal is to have it fit within the neighborhood. Mr. Bizarro confirmed for Board Member Parrish that it is a proposed two-story, but the in-law portion is a single story.

In response to Chairperson Schick's further invitation to speak or be recorded in favor, City Councilor Joseph Lopes stated he was in favor of the proposal. He stated this proposal adds a house to a vacant lot in a residential neighborhood. He noted the applicant has planted trees on the street, and is a person dedicated to the community and will be beautifying this neighborhood.

There was no response to Chairperson Schick's further invitation to speak or be recorded in favor. There was no response to Chairperson Schick's invitation to speak or be recorded in opposition.

The hearing was closed.

After brief discussion on the hardship related to purchase of an undersized lot, a motion was made (JW) and seconded (SB) relative to Case #4337 to grant a special permit under the provisions of the city code of New Bedford, relative to property located at the East Side of Osborn Street, Assessors' map 17A lot 85 & 86 in a Residential B [RB] zoned district, to allow the petitioner to construct a 26'x52'x40' single family dwelling with an in-law setup as per plans filed, which requires a special permit under Chapter 9, Comprehensive Zoning sections 4400-4470, and 5300-5330 & 5360-5390.

In accordance with the City Code 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 includes consideration of the each of the following:

- As concerns the social, economic or community needs served by the proposal, this proposal takes a longstanding empty lot and returns it to the tax rolls and creates residential living space needed in the city.
- As concerns traffic flow and safety, including parking and loading, the proposal shows no negative impact within the materials.
- As concerns the adequacy of utilities and other public services, the neighborhood already has power service, as well as water and sewer which are sufficient for the proposed use.
- As concerns the neighborhood character and social structure; the proposal is consistent with surrounding residences in the area.
- As concerns impacts on the natural environment, this proposal is positive, as it makes use of a vacant lot used for wrecked cars; the proposal has already received approval by the Conservation Commission.
- As concerns the potential fiscal impact, tax base and employment, this proposal increases the tax base by virtue of increasing the property value.

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The board finds the requirements have been met and moves the special permit be granted with no special conditions, but the following general conditions are that the project be set forth according to the plans submitted with the application, and that the applicant ensure the notice of decision bearing certification from the city clerk's office be recorded at the Registry of Deeds, and that the rights authorized by the granting of this special permit be exercised by the issuance of a building permit issued by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Schick – Yes

Board Member Walsh – Yes

Board Member Parrish - Yes

Board Member Brown – Yes

Motion passes 4-0

A motion was then made (JW) and seconded (SB) relative to Case #4336 to grant a variance under the provisions of the city code of New Bedford, relative to property located at the East Side of Osborn Street, Assessors' map 17A lot 85 & 86 in a Residential B [RB] zoned district, to allow the petitioner to construct a 26'x52'x40' single family dwelling with an in-law setup as per plans filed, which requires a variance under the provisions of Chapter 9, Comprehensive Zoning sections 2700, 2710, 2720, 2750 and 2753.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that, in respect to these sections, the applicable sections have addressed, and in addition to the foregoing sections, the petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances. This determination includes consideration of the following:

- The board finds that there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this instance, the combined parcels are 350' short of the required lot size and represents an undersized lot.
- Second, due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, if the variance is not granted, the lot would be unbuildable.
- Third, desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made on these items, along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief, with the following general conditions:

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- That the project be set forth according to the plans submitted with the application; that the applicant ensure the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Schick – Yes Vice Chairperson Walsh – Yes
Board Member Parrish - Yes Board Member Brown – Yes

Motion passes 4-0

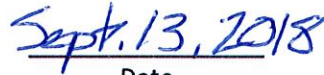
3. ADJOURNMENT:

After Board Member Walsh moved to adjourn, the meeting was declared closed at 6:55 p.m.

THE NEXT ZONING BOARD MEETING IS SCHEDULED FOR OCTOBER 18, 2018



Allen Decker, Clerk



Date

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