



Zoning Board of Appeals

October 13, 2016 – 6:05 PM - **Minutes**

New Bedford City Hall, Charles Ashley Meeting Room-1st Floor
133 William Street

PRESENT: Leo Schick (Acting *Chairperson*)
Allen Decker (*Clerk*)
Robert Schilling
Sherry McTigue
Horatio Tavares

ABSENT: Debra Trahan

STAFF: Dan Romanwicz, *Commissioner of Buildings and Inspectional Services*
Jennifer Gonet, *Assistant Project Manager*

1. CALL TO ORDER

Acting Chairperson Schick called the meeting of the City of New Bedford Zoning Board to order at 6:05 p.m.

2. ROLL CALL

A formal roll call was conducted confirming members present as stated above.

Acting Chairperson Schick explained the process and procedures for those in attendance.

SCHEDULED HEARINGS

ITEM 1 – Case #4244 - Petition of: Dennis Costa (176 Shawmut Avenue New Bedford, MA 02740) for a Variance under provisions of chapter 9 comprehensive zoning section 2330-2334 (accessory structures), 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements-appendix b side yards), 2730 (dimensional variations), 2750 (yards in residential districts), and 2755 (side yards); relative to property located at 176 Shawmut Avenue, assessor's map 76, lot 126 in a residential B [RB] zoned district. The petitioner proposes to erect an 18'x20' prefabricated garage as plans filed.

In regard to Case #4244, a motion was made (AD) and seconded (SM) that the following be received and placed on file: the communication dated 9/2/16 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 9/15/16; communication from Councilor Linda Morad dated 9/14/16, wherein she advocates for passage of this variance; 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.

Acting Chairperson Schick opened the public hearing.

Zoning Board of Appeals

10/13/16

Page 1 of 7

Dennis Costa, 176 Shawmut Avenue, New Bedford, stated he had purchased a project vehicle in January 2015 which he did restorative work on for 19 months. He stated the vehicle was registered and he is looking to build a garage for the vehicle.

In response to Mr. Decker, Mr. Costa stated he is looking for a variance on the side yard setback.

In response to Acting Chairperson Schick's invitation to speak in favor, Councilor Brian Gomes, expressed support of the variance and requested the board grant the same.

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

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

In response to Ms. McTigue, Mr. Costa explained the orientation of the proposed driveway and confirmed future plans to add pavement.

In response to Mr. Decker, Mr. Costa confirmed he will move one of the existing sheds further back to have room for the proposed garage.

Acting Chairperson Schick closed the public hearing.

There being no further questions, a motion was made (AD) and seconded (SM) to approve the variance to allow the petitioner to erect an 18'x20' prefabricated garage as per plans, requiring a variance under Chapter 9 comprehensive zoning sections 2330-2334, 2700, 2710, 2720 Appendix B, 2730, 2750 and 2755 relative to property located at 176 Shawmut Avenue, assessor's map 76, lot 126 in a residential B [RB] zoned district.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9 Comprehensive Zoning Section as cited, the board finds that in respect to these sections, the requested relief is granted. In addition to the foregoing sections, this petition has also been found to be in accordance with M.G.L. Chapter 40A, Section 10, relative to the granting of variances, because the board has found first, 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 generally effect the zoning district in which the land or structure is located. In this case, given the location of the existing house, the only site for the proposed garage is as proposed per the plans submitted. Second, 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. In this case, to comply with existing setbacks in placing the garage, there would be an extreme hardship in accessing the entrance of the garage given the location of the existing house. Third, the desirable relief may be granted without nullifying or substantially derogating from the intent of the zoning ordinance or by-law. And fourth, 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 finds that the material presented is complete, and after its careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief. Therefore, this motion is made and includes the following conditions: that the project be set forth according to plans submitted with the application, and that the Notice of Decision be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Roll-call vote as follows:

Board Member Schilling - Yes
Acting Chairperson Schick – Yes
Clerk Decker– Yes

Board Member Tavares - Yes
Board Member McTigue – Yes

Passed 5-0

ITEM 2 – Case #4245 – Petition of JMP Property & Development, LLC (24 Jocelyn Street New Bedford, MA 02745) for a Special Permit under provisions of chapter 9 comprehensive zoning sections 2400 (nonconforming uses and structures), 2410 (applicability), 2430-2432 (nonconforming structures, other than single and two-family structures) and 5300-5330 & 5360-5390 (special permit); relative to property located at 331-337 Wood Street, assessor's map 117 lot 26 in a residential-B [RB]. The petitioner proposes to convert the existing repair shop on the west side of the first floor to a residential unit as plans filed.

In regard to Case #4245, a motion was made (AD) and seconded (SM) that the following be received and placed on file: the communication dated 9/2/16 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 9/15/16; communication from Councilor Morad dated 9/14/16, wherein she advocates for passage of this special permit; a revised development impact statement submitted 10/13/16; 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.

After input from Ms. Gonet, an amendment to the motion was made (AD) and seconded (SM) to include a submitted proposed repair renovation at 331-337 Wood Street, submitted 9/23/16.
Motion passed unopposed.

Acting Chairperson Schick opened the hearing

Armando Pereira of Comprehensive Design Build Services, Union Street, addressed the board as representative of the owner. He stated the property, a two story structure on the corner of Vernon & Wood Streets, was built in 1925. He stated a former pinball and vending machine repair company, Adams & Adams, previously occupied part of the building. He stated the east side has one residential unit, with a second residential unit above. He stated they are looking to convert the repair shop into another residential unit, by adding two bedrooms and a kitchen.

They also wish to install a laundry facility in back and some windows on the west side, all renovations staying within the footprint.

Mr. Pereira stated there are a couple of similar buildings on Wood Street, and historically many buildings did retail business on the first floor. He stated the conversion will better the neighborhood and reduce impacts, such as deliveries and parking. He stated that a residential unit also lessens the structure's hazard rating.

Mr. Pereira stated there are four available off-street parking spaces double stacked, again lowering any impact to the neighborhood. He stated such a use requires no additional city services. He then briefly went through the plans. He noted the area has three and six-family duplexes, and this proposed conversion will definitely fit in.

Mr. Decker noted that a third unit will increase parking requirements, and the applicant will need a parking reduction through the Planning Board. He suggested that their approval could be conditioned on the same.

Mr. Pereira indicated the applicant is amenable to the same.

In response to Acting Chairperson Schick's invitation to speak or be recorded in favor were the following:

John Pereira, 24 Jocelyn Street, New Bedford, the property owner.

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

Acting Chairperson Schick closed the public hearing.

There being no further questions on the matter, a motion was made (AD) and seconded (SM) to approve the special permit to allow the petitioner to convert the existing repair shop on the west side of the first floor to a residential unit as per plans filed, which requires a special permit under provisions of Chapter 9 comprehensive zoning sections 2400, 2410, 2430-2432, and 5300-5330 and 5360-5390, relative to property located at 331-337 Wood Street, assessor's map 117 lot 26 in a residential-B [RB]. This petitioner has been found to be in accordance with the City of New Bedford Code of Ordinances, Chapter 9, above cited sections, particularly as it relates to the following conditions: The board has found compliance with said Sections 2210 and 2230. In addition to the foregoing sections, this petition has also been found to be in accordance with City of New Bedford Code of Ordinances, Chapter 9, 5300-5330 and 5360-5390, relative to the granting of special permits, because the board has found that 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.

In consideration of the following sections, the board found that the social, economic or community needs served by the proposal are that conversion to a residential use adds needed housing in the immediate area. Concerning traffic flow and safety, including parking and loading, the board finds that the removal of commercial use reduces the necessary related traffic

flow. With respect to the adequacy of utilities and other public services, the board found that the application is neutral. Concerning the neighborhood's character and social structures, the board finds that the proposal promotes a proposed use that fits within the neighborhood's character of neighborhood. Concerning impacts on the natural environment, the board finds this petition neutral. Lastly, as to potential fiscal impact, including impact on city services, tax base and employment, the board finds the application and proposal are neutral.

In light of the review of the specifics noted within the motion, the board finds the material presented is complete, and after its careful consideration of the petitioner's request, the Zoning Board finds the petition satisfactorily meets the basis of the requested relief. Therefore the with the following conditions: that the project be set forth according to the plans submitted with the application, and that the Notice of Decision be recorded with the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year; and that the applicant secures the necessary approval from the Planning Board concerning the amount of parking required on site, the special permit is motioned to approved.

Roll-call vote as follows:

Board Member Schilling - Yes

Board Member Tavares - Yes

Acting Chairperson Schick – Yes

Board Member McTigue – Yes

Clerk Decker – Yes

Motion passed 5-0

ITEM 3 – Case #4246 - Petition of: Cynthia and James Cammarata (197 Hawthorne Street New Bedford, MA 02740) for a Variance under provisions of chapter 9 comprehensive zoning sections 3000 (general regulations), 3100 (parking and loading), 3110 (applicability) and 3145 (no open air-off street parking space shall be located in front of the dwelling or principal building); relative to property located at 197 Hawthorne Street, assessor's map 45 lot 356 in a residential A [RA] zoned district. The petitioners propose to construct a driveway which would be located in front of the dwelling as plans filed.

A motion was made (AD) and seconded (SM) that the following be received and placed on file: the communication dated 9/2/16 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 9/20/16; communication from Councilor Winterson dated 9/20/16, wherein he advocated for passage of this variance; communication dated 9/15/16 from Mr. Skaliotis, 203 Hawthorn Street, advocating for passage of the variance and that he has no concerns with this application; the appeal package as submitted; the plan as submitted - a revised plan submitted 10/13/16 showing the construction of the proposed driveway; 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.

Acting Chairperson Schick opened the public hearing.

James Cammarata stated he is requesting permission to install a ribbon-style driveway in front of his Hawthorn Street home. He stated they have had to park on side streets (Ocean & Tremont)

Zoning Board of Appeals

10/13/16

Page 5 of 7

as they have no on-street parking in front of their house. He stated it would be a practical added convenience to have their vehicles on-site, as the neighbors do. He noted it would also alleviate congestion on adjoining streets and increase the safety of pedestrians. He added it will help snow removal to have the cars off the street.

Mr. Cammarata stated his hope is to have his father-in-law move in and his mobility limitations will require room for a handicap accessible van, which would not be possible without this variance. In discussing the plans, he stated he plans to keep the driveway to the minimum 13' width and keep within the historical appearance.

Ms. McTigue discussed the use of stone and encouraged the applicant to keep the stones off the sidewalk for pedestrian safety.

In response to Acting Chairperson Schick's invitation to speak or be recorded in favor, the following asked to be recorded in favor:

Cynthia Cammarata, 197 Hawthorne Street

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

Acting Chairperson Schick closed the public hearing.

There being no further questions on the matter, a motion was made (AD) and seconded (SM) to approve a variance to allow the petitioner to construct a driveway which would be located in front of the dwelling as per plans filed, which requires a variance under provisions of Chapter 9 comprehensive zoning sections 3000, 3100, 3110, 3145 relative to property located at 197 Hawthorn Street, assessor's map 45 lot 356 in a residential-A [RA] zoned district. Having reviewed this petitioner in light of the City of New Bedford Code of Ordinances, Chapter 9, above cited sections, the board finds that in respect to these sections the relief requested is granted.

In addition to the foregoing section, this petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances, because the board has found, first, 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 generally effect the zoning district in which the land or structure is located. In this case, the proposed location of the driveway is the only location that works, given the size of the lot and the location of the existing house thereon. Second, 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. In this case, parking is not permitted on Hawthorn Street and the homeowners currently must park on adjacent streets, which is a substantial hardship. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or by-law. And, that the 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 finds that the material presented is complete, and after its careful consideration of the petitioner's request, the Zoning

Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief. Therefore, this motion is made and includes the following conditions: that the project be set forth according to plans submitted with the application, and that the Notice of Decision be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year from the date of this decision.

Roll-call vote as follows:

Board Member Schilling - Yes

Board Member Tavares - Yes

Acting Chairperson Schick – Yes

Board Member McTigue – Yes

Clerk Decker– Yes

Passed 5-0

ITEM 4 – CASE #4236 - Petition of: Anthony R. DeCosta (1861 Shawmut Avenue New Bedford, MA) and Thomas P. Crotty, Esq. (388 County Street New Bedford, MA) for an Administrative Appeal under provisions of chapter 9 comprehensive zoning section 5200 (Zoning Board of Appeals), 5220 (Powers), and 5223 (to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A. c. 40A, §§ 7, 8, and 15); relative to property located at 1861 Shawmut Avenue, assessor's map 124 lot 27 in an Industrial-B [IB] zoned district. The petitioners propose to overturn a cease and desist order.

Mr. Decker announced that the above case has been continued and is scheduled to be heard at a hearing on October 27th, 2016.

3. OLD/NEW BUSINESS:

Ms. McTigue inquired as to the status of the Planning Department's Form Based Zoning. A motion was made (SM) and seconded (AD) for an update from the Planning Department on the same at the November Zoning Board meeting.

Motion passed unopposed.

4. ADJOURNMENT:

There being no further business to come before the board, a motion was made (JW) and seconded (AD) to adjourn at 6:54 p.m..

Next meeting – September 20, 2016