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STAFF COMMENTS

ZONING BOARD OF APPEALS MEETING
October 17, 2016

Case # 4251: VARIANCE
 North Side Holden Street
 Map: 118, Lot: 223

**Owner/
 Applicant:** Mario B. Amaral &
 Kristinal C. Amaral
 208 Tarkiln Hill Road
 New Bedford, MA 02745



Please note: this petition is contingent upon the granting of Case #4250 in regards to property located at 208 Tarkiln Hill Road (Map 118 Lot 202). If the preceding case is not granted, this case may not continue.

Overview of Request: The petitioners have submitted an application for a **Variance** relative to the subject property located within a Residential B [RB] zoning district. The petitioners propose to construct a 32' x28' single family dwelling with a 24'x24' attached garage as plans filed. The plans as proposed do not meet the dimensional requirements for lot size or rear yards. The following chart details each dimensional relief required:

	Existing	Required	Proposed
Minimum lot size (sq. ft.)	5,495	8,000	5,495
Rear yards	n/a	30'	20'

As with all variances, the board must find:

- There are circumstances relating to the soil conditions, shape or topography which especially affect the land in question, but which do not affect generally the zoning district in which the land or structure in question is located.
- If the city were to literally enforce the zoning ordinance, due to these circumstances unique to this land or structure, it would mean substantial hardship to the petitioner.

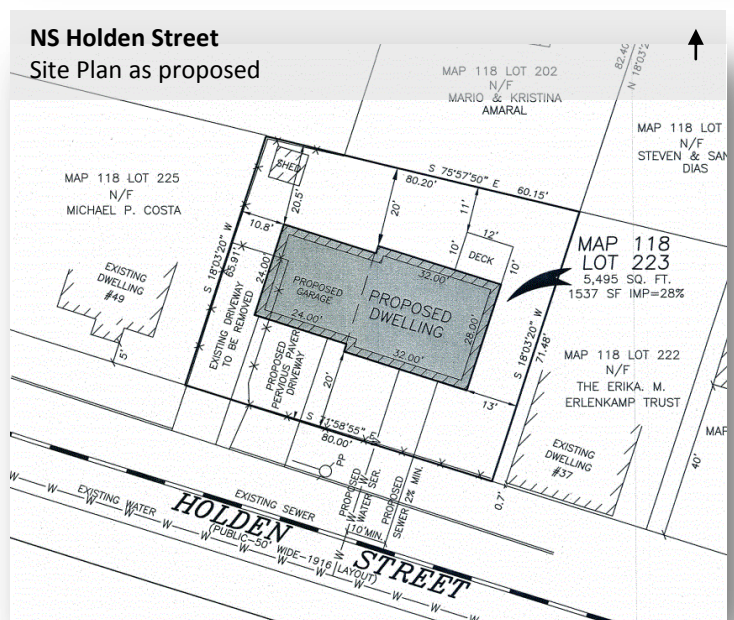
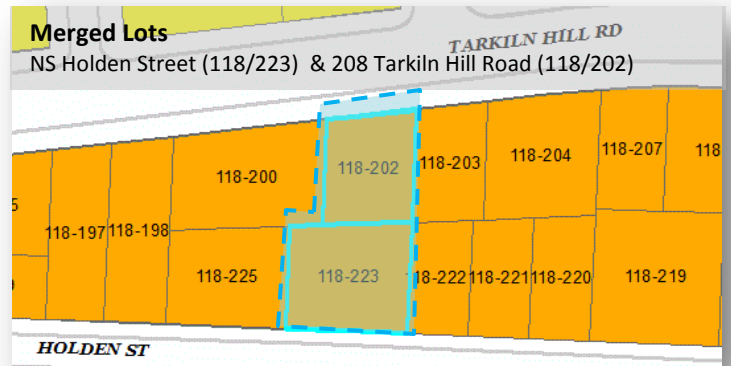
- The granting of the variance would not take away from the purpose of the zoning ordinance nor would it cause substantial detriment to the public good.

Existing Conditions: The subject lot – map 118 lot 223 is currently considered merged for zoning purposes with map 118 lot 202. If approved by this board in the preceding case #4250, the lot will be allowed to be split from lot 202. Once divided from the larger lot it will be 5,495 sq. ft. with 80' frontage on Holden Street and 66'± in depth.

For zoning purposes lots held in common ownership are considered merged unless intentionally maintained as separate parcels. Properties are merged under zoning so they more closely conform to the current zoning requirements. The zoning enforcement officer determines whether lots held in common ownership are merged. In this case the lots were determined to be merged and must be formally allowed to separate into two nonconforming lots via the variance process (Case #4250).

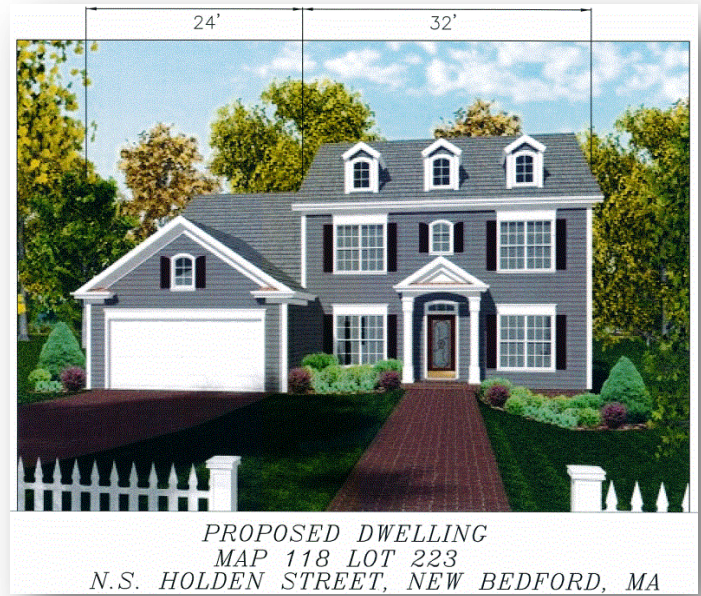
Currently the 5,495 sq. ft. lot is vacant with the exception of an 8'x8' shed and fencing surrounding the south, east and west boundaries. An above ground round pool appears to straddle the proposed rear property line and will need to be moved, if this petition is to be granted. A 12.5' x 37' driveway is located on the southeast corner of the property and the property has a few trees. Currently, it appears the lot is used as the rear yard for the property at 208 Tarkiln Hill Road.

Holden Street is a local neighborhood through street with low traffic volumes. The surrounding neighborhood is predominantly 1-2.5 story single family residential houses lots less than 8,000sq. ft. Four of the five properties directly abutting this property are 1.5 stories with the exception of a 2.5 story three-family house dwelling diagonally abutting in the rear northeast corner.



Proposal: The petitioner proposes to construct a 32' x28' - 2.5 story single family dwelling with a 24'x24' attached garage and 10' x12' rear deck on the lot. The proposal also removes the existing driveway and relocates it to be in line with the garage door.

In regards to the criteria necessary to grant the appeal the petitioners' agent indicates that the "parcel configuration/shape mimics the original parcel prior to merge". The agent indicates they "made every attempt to meet the required building setbacks" and "feel the parcel and proposed dwelling size and setback are comparable in size and shape to the lots within the immediate area." The proposal he argues "would not derogate from the intent of the zoning ordinance which is intended to create reasonably sized lots with adequate building separation." The agent highlights that the owners have been assessed and taxed separately for the two parcels. Lastly, he petitions the proposal would be an improvement to the neighborhood and increase the tax base and property value.



For Board Member Consideration: Staff notes the proposed project appears larger in scale particularly due to the proposed height and the garage when compared to the properties directly abutting and across Holden Street. However, as the applicant's agent notes, the proposal is within all dimensional requirements under zoning ordinance except for the lot size and rear yards – the reason for this petition.

This petition is subject to a formally recorded ANR (approval not required) plan allowing the division of the lots. Such plans are reviewed and decided upon by the City Planner. If the applicant's petition is granted, the board may wish to require that the applicant submit proof of a formally recorded ANR plan as a condition of the approval.



NS Holden Street Map: 118, Lot: 223

NOTE: Property line is approximate; for discussion purposes, only.

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41°40'56.01" N 70°55'34.76" W elev 47 ft eye alt 412 ft