

DEPARTMENT OF INSPECTIONAL SERVICES 133 WILLIAM STREET - ROOM 308 NEW BEDFORD, MA 02740

New Bedford Comprehensive Zoning Code Review Code of Ordinances — Chapter-9

NS Holden Street - Plot: 118 - Lot: 223 - Zoned District: RB

Variance Required from the Zoning Board of Appeals

Zoning Code Review as follows:

Variance

SECTION

- 2700 Dimensional Regulation
- 2710 General
- 2711 Lot Change
- 2720 Table of Dimensional Requirements Appendix-B
 - Minimum Lot Size
 - Rear Yard-ft
- 2750 Yards in Residence District
- 2753 Rear Yard

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2700. - DIMENSIONAL REGULATIONS.

2710. **General.** No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this Section, unless exempted by this Ordinance or by statute.

2711. Lot change. No existing conforming or nonconforming lot shall be changed in size or shape except through a public land taking or donation for road widening, drainage, utility improvements or except where otherwise permitted herein, so as to violate the provisions of this Ordinance with respect to the size of lots or yards or to create a nonconformity or increase the degree of nonconformity that presently exists.

2712. Merger of lots. Adjacent lots held in common ownership on or after the effective date of this Section shall be treated as a single lot for zoning purposes so as to minimize nonconformities with the dimensional requirements of this Ordinance. Notwithstanding the previous sentence, adjacent lots in common ownership may be treated as separate lots for zoning purposes upon a finding by the zoning enforcement officer that the owner of said lots has expressly exhibited the intent to maintain the lots as separate. In making said finding the zoning enforcement officer shall rely on the following factors:

2712.a. The existence and maintenance of walls or fences along the original lot lines;

2712.b. The fact that the lots are separately assessed for tax purposes;

2712.c. The placement of structures on the various lots.

The manner in which said lots were acquired or the fact that said lots were separately described on a deed shall not be considered by the zoning enforcement officer in making said finding.

2713. Recorded Lots. A lot or parcel of land having an area or frontage of lesser amounts than required in the following schedule of dimensional requirements may be considered as satisfying the area and frontage requirements of this Section provided such lot or parcel of land was shown on a plan or described in a duly recorded deed or registered at the time of adoption of this Ordinance and did not at the time of adoptions of adjoin other land of the same owner available for use in connection with such lot or parcel.

(Ord. of 12-23-03, § 1)

2720. Table of Dimensional Requirements. See Appendix B.

(Ord. of 12-23-03, § 1)

2730. **Dimensional Variation**. The Board of Appeals may vary otherwise applicable dimensional requirements pertaining to frontage, lot area, building height and sidelines upon finding 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, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

(Ord. of 12-23-03, § 1)

2740. **Vision Clearance on Corner Lots in Residence Districts**. On a corner lot no fence, wall or structure more than three and one-half (3½) feet high above the plane of the established grades of the streets shall be erected on a front or side yard herein established which is included within the street lines of the intersecting streets and a straight line connecting said street lines at points which are twenty (20) feet distant from their point of intersection, measured along said street line, and no trees or hedges which will materially obstruct the view of a driver of a vehicle approaching the street intersection shall be placed or maintained within such area.

(Ord. of 12-23-03, § 1)

2750. Yards in Residence Districts.

2751. Front Yards. No story or part of any building except projecting eaves or uncovered steps shall be erected nearer to the street line of any street on which it fronts than the average alignment of the corresponding stories or parts of existing buildings within two hundred (200) feet on each side of the lot and within the same block and district. Where there is a building on one or both of the adjoining lots, the front yard for a building shall have a depth equal to the average of the front yard depths of the two (2) adjoining lots. A lot without a building shall be counted as having a front yard of the depth required by this Ordinance. If there are no existing buildings on the same side of the street, the average setback alignment of corresponding stories within two hundred (200) feet on each side of and directly opposite the lot shall govern. Nothing in this Ordinance shall require any story or part of a building to set back more than fifteen (15) feet from any street line. One street frontage of a corner lot shall be exempt from these provisions as provided in subsection 2752. The front yard of a lot shall remain clear of debris and junk.

2752. Where the alignment of a building is not controlled by subsection 2751, between every building and the line of the street upon which it fronts there shall be a front yard of a clear depth of fifteen (15) feet, except that on one side of a corner lot a yard of a clear depth of not less than ten (10) feet shall be provided, in which case this distance shall not be considered in determining the front yard depths on such street.

2753. Rear Yards. There shall be a rear yard on every lot and it shall be at least thirty (30) feet deep behind a dwelling, except that a ground story deck or porch, without a permanent roof, a patio, or a pool (including any projections therefrom) may extend to six (6) feet of a rear lot line. An unattached private garage may extend to four feet of a rear yard. A storage shed may extend to eighteen (18) inches of a rear yard unless a fence is erected on the property along the rear yard line. In such case the storage shed may extend to eighteen (18) inches of the fence or fence post whichever is closest. Unless referenced in this Code, nothing may be placed or constructed in or upon the ground within six (6) feet of a rear lot line. Notwithstanding the previous sentence, a fence may be constructed near or along a rear lot line and vegetation may also be planted within six (6) feet of a rear lot line.

2754. Where a lot is more than one hundred (100) feet deep, one-half (½) of the additional depth of the lot in excess of one hundred (100) feet shall be added to said rear yard depth; but in no case shall a rear yard depth in excess of forty (40) feet be required. The setbacks referenced in the previous section shall also apply to this Section.

2755. Side Yards. There shall be a side yard on every lot and it shall be at least ten (10) feet on one side and twelve (12) feet on the other side. The side yard shall be unobstructed from the line of the street to the rear lot line except that open porches, decks, steps, patios and pools (including any projections therefrom), which are located behind the dwelling within the rear yard, may extend to six (6) feet of a side lot line, driveways may extend to four (4) feet of a side lot line and storage sheds, which are located behind the dwelling within the rear yard may extend to eighteen (18) inches of a side yard unless a fence is erected on the property along the side yard line. In such case the storage shed may extend eighteen (18) inches of the fence or fence post whichever is closest. For all driveways, including those regulated under Section 2756, the area between a driveway and the side lot line shall be of a different material than the material used for the driveway and shall not be covered with an impervious surface or crushed stone.

Notwithstanding any provision to the contrary, any driveway existing prior to April 15, 2009, that is made of a material that creates an impervious surface, may be permitted for repair, resurfacing or reconstruction with substantially the same type of material provided that the dimensions of the driveway are not increased and the location of the driveway layout is not altered.

2756. Special Driveway Side Yard Requirements. For existing dwellings on lot sizes of less than five thousand (5,000) square feet, driveways shall not extend to the side lot line closer than ten (10) percent of the distance between the side lot line and the principle dwelling. For any driveway in excess of thirteen (13) feet in width, the provisions of Section 2755 regulating driveway setbacks shall apply and this section shall not apply.

(Ord. of 12-23-03, § 1; Ord. of 4-15-10, § 1; Ord. of 10-20-11, § 1; Ord. of 1-15-13, §§ 1, 2)

2760. Cornices and Belt Courses.

2761. A cornice shall not project more than one-third (1/3) of the width of a required open space.

2762. A belt course or other ornamental feature shall not project more than nine (9) inches into a required open space.

(Ord. of 12-23-03, § 1)

2770. Courts.

2771. If any part of a story of a nonresidence building is used for offices, studios or workshops which are not lighted from the street or the rear yard, there shall be a court starting not more than fifty (50) feet from the main exterior walls of that story.

2772. If any part of a story is used for living or sleeping rooms which are not lighted from the street or the rear yard, such court shall be required starting not more than two (2) rooms or thirty-five (35) feet from the main exterior walls of that story.

2773. An inner court shall be at least one-third (1/3) as wide as it is high, measured from the sills of the lowest windows served by it to the average level of the tops of the enclosing walls, and shall be at least twice as long as its required width or of an equivalent area, but no court shall be less than ten (10) feet in width.

2774. The minimum width of an outer court shall be double that required in this Section for an inner court.

2775. A cornice or belt course shall not project more than six (6) inches into any inner court.

(Ord. of 12-23-03, § 1)

2780. **Height of Buildings.** The provisions governing the height of buildings in Appendix B shall apply to chimneys, cooling towers, flagpoles, elevator bulkheads, skylights, ventilators, and other necessary appurtenant features usually carried above roofs; to domes, stacks or spires and also to wireless communications facilities.

(Ord. of 12-23-03, § 1)

APPENDIX B - TABLE OF DIMENSIONAL REGULATIONS
DISTRICTS

N	0	A/N
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PB	0	₹ Z
MUB	8,000 for uses allowed in residence A; 10,000 for two family units; 15,000 for 3 or more family units	1 per 10,000 sq. ft. for single family; 1 per 5,000 sq. feet for two family; 1 per 1,000
RAA	16,000	1 per 16,000 sq. ft.
RC	8,000 for uses allowed in RA; 10,000 for two family units; 15,000 for 3 or more family units	1 per 10,000 sq. ft. for single family; 1 per 5,000 sq. feet for two
RB	8,000 for uses allowed in RA; 10,000 for two family units	1 per 10,000 sq. ft. for single family; 1 per 5,000 sq. feet for two family
RA	8,000	1 per 10,000 sq. ft.
REQUIREMENT	Minimum ot Size (sq. ft.)	Density of Dwelling Units per Lot

	0	1001
	0	1001
	0	1001
	0	100
	0	25
sq. feet for three or more family	75 for uses allowed in RA; 100 for two family; 150 for 3 or more family; 0 for other allowed uses	45 for single or two family; 60 for three family, 100 ¹ for other allowed
	150	35; 60 for religious, educational, or institutional buildings
family; 1 per 1,000 sq. feet for three or more family	75 for uses allowed in RA; 100 for two family; 150 for 3 or more family	09
	75 for uses allowed in RA; 100 for two family	45; 60 for religious, educational, or institutional buildings
	75	45; 60 for religious, educational, or institutional buildings
	Lot Frontage (ft.)	Height of Buildings (ft.)

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		7				10					10				
		7				25			<u></u>		25				
. "	·	7				25		•			25				
-	-	7				25					25				
		2				25				·	25				
•	nses	2.5 for uses allowed in	residence A or B; 4 for three	or more family; 7 for other allowed	nses	20 for	uses allowed in	residential district ¹ ; 0	for other	allowed	10 on one side, 12	on the other for	uses allowed in	residential	district; for other
		2.5; 3 for religious, educational,	or institutional buildings			402					16 on one side; 24 on	the other	.		
		4			-	202					10 on one	side; 12 on the	other		
		2.5; 3 for religious, educational,	or institutional buildings			202					10 on one side: 12 on	the other		÷	
		2.5; 3 for religious, educational,	or institutional buildings			202					10 on one side: 12 on	the other			
		Height of Buildings (# stories)				Front Yard (ft.)					Side Yard (ft.)				
			<u> </u>								• •				

())	· .
	10 for 1-2 story buildings; 20 feet for 3 or more stories	50
	25	50
	25	50
	25	50
	25	50
uses, 10 on any side where adjacent lot is in a residential district or used for residential	30 for uses allowed in residential district; for other uses, 10 for 1-2 story buildings; 20 feet for 3 or more stories	30; 40 on corner lots for uses allowed in
	30	30; 40 on corner lots
	30	30; 40 on comer lots
	30	30; 40 on corner lots
	30	30; 40 on comer lots
	Rear Yard (ft.)	Lot Coverage by Buildings (%)

	J. J.
	20%
	20%
	20% 20% 20% 20%
	20%
residential district; 0 for other uses	35% for uses allowed in residential districts; 0 for other uses
	35%
	35%
	35%
	35%
	Green Space

Provided, however, that no part of any building shall be erected to a height in excess of 1% times the horizontal distance from its face to the opposite street line. Provided, however, that no story or part of any building except projecting eaves or uncovered steps shall be erected nearer to the street adjoining lots, the front yard for a building shall have a depth equal to the average of the front yard depths of the two (2) adjoining lots. A building hereafter erected between two (2) existing buildings or immediately adjacent lots to set back from the street a greater distance lot without a building shall be counted as having a front yard of the depth required by this chapter. If there are no existing buildings on case this distance shall not be considered in determining the front yard depths on such street. Nothing in this chapter shall require any the same side of the street, the average setback alignment of corresponding stories within two hundred (200) feet on each side of and directly opposite the lot shall govern. One street frontage of a corner lot shall have a clear depth of no less than ten (10) feet, in which ine of any street on which it fronts than the average alignment of the corresponding stories or parts of existing buildings within two hundred (200) feet on each side of the lot and within the same block and district. Where there is a building on one or both of the than that one of such two (2) existing buildings which is farther from the street line.

(Ord. of 12-23-03, § 1; Ord. of 11-27-13, § 1)

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d. Other (elevator, etc.)	Special State				
11. TOTAL VALUE OF CONSTRUCTION 12. TOTAL ASSESSED BLDG FALLE	. ± 2000000				
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WETLANDS PROTECTION

Is location subject to flooding?

Is location part of a known wetland?

Has local conservation commission reviewed this site? no

	FICATION - ALL APPLIC	ANTS - PLEASE PRINT	on accompany to the state of th
OWNER OR LESSEE NAME	MAILING ADDRESS	ZIP CODE	TELEPHONE NO
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VATURE OF OWNER	APPLICANT SIGNATU	RE	DATE

Omission of reference to any provision shall not nullify any

requirement of this code not exempt any structure from such requirement.

The applicants understands and warrant that they will comply with all pertinent federal and state statutes, local ordinances and all federal, state, and local regulations, including those of the Architectural Barriers board, Department of Environmental Protection Agency and may be forwarded for review to all pertinent local city agencies which may express specific concerns. It is understood that the issuance of a permit shall not serve as an acceptance or acknowledgment of compliance nor exempt any structure from such requirement. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel, or set aside any of the provisions of the State Building Code or local code of ordinances: except as specifically stipulated by modification or legally granted variation in accordance with Section 122.0 of State Building Code or local code of ordinances.

I have read the above and sign under pain and penalty of perjury as to the truth of all of the information and statements contained in sections I through IV of this application.

Applicant's Signature

Addross

City

3/22/14

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