



City of New Bedford
ZONING BOARD OF APPEALS

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JONATHAN F. MITCHELL
 MAYOR

CITY CLERKS OFFICE
 NEW BEDFORD, MA
 2016 OCT 25 A 8:41
 CITY CLERK

NOTICE OF DECISION

Case Number:	#4246			
Request Type:	Variance			
Address:	197 Hawthorne Street			
Zoning:	Residential A Zoned District			
Recorded Owner:	Cynthia and James Cammarata			
Owner's Address:	197 Hawthorne Street New Bedford, MA 02740			
Applicant:	Cynthia and James Cammarata			
Applicant's Address:	197 Hawthorne Street New Bedford, MA 02740			
Application Submittal Date	Public Hearing Date	Decision Date		
August 26 th , 2016	October 13 th , 2016	October 13 th , 2016		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
45	356	11739	249	

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. To allow the petitioners to construct a driveway which would be located in front of the dwelling 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 October 25th, 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.

October 25, 2016
 Date

Allen Decker
 Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioners propose to construct a driveway which would be located in front of the dwelling as plans filed, which requires 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.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, drawn by James P. and Cynthia Cammarata, stamped received by City Clerk's Office August 26th, 2016.
- Revised Site Plan, drawn by James P. and Cynthia Cammarata, revision date 9/22/16, stamped received by Planning Department October 13th, 2016.

Other Documents & Supporting Material

- Completed Petition for a Variance Form, stamped received by City Clerk's Office August 26th, 2016.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 2nd, 2016.
- Staff Comments to ZBA from Department of Planning, Housing and Community Development, dated September 20th, 2016.
- Letter to ZBA from Councillor Ward 4 Kerry Winterson, dated September 20th, 2016.
- Letter to ZBA from Mr. Dionisios Skaliotis, stamped received by Planning Department September 15th, 2016.

3.) DISCUSSION

On the evening of the October 13th, 2016 meeting, board members: Leo Schick, Horacio Tavares, Robert Schilling, Allen Decker, and Sherry McTigue 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, Planning Division) were present during proceedings for the subject case review.

Mr. Decker made a motion, seconded by Ms. McTigue to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 2nd, 2016; Staff Comments from the Department of Planning, Housing & Community Development, dated September 20th, 2016; Communication from City Councillor Ward 4 Kerry Winterson dated September 20th, 2016; Communication from Mr. Skaliotis, 203 Hawthorn Street; the appeal packet as submitted; the plan as submitted; the revised plan showing the construction of the proposed driveway submitted October 13th, 2016; 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 Schick then declared the hearing open.

The petitioner: Mr. James Cammarata (197 Hawthorne Street New Bedford, MA) stated he is requesting permission to install a ribbon-style driveway in front of his home at 197 Hawthorn Street. He stated they have had to park on side streets, Ocean Street & Tremont Street, as they have no on-street parking in front of their house. He stated it would be a practical 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, everyday traffic, and emergency vehicles. He described they are located in close proximity to Saint Luke's Hospital. He added it will help snow removal to have the cars off the street.

Mr. Cammarata stated their hope is to have his father-in-law move in. He described because of his father-in-law's mobility limitations, they would be using a handicapped accessible van with a motorized wheelchair. Without having a driveway in front of the house for his van it would not be possible for him to move in. In discussing the plans, he stated he plans to keep the driveway to the minimum 13' width, and inlay a base of decorative pavers to keep within the historical appearance. According to the plans submitted we have meet and exceed the 4' buffer, he explained, the variance is to locate the driveway directly in front of the house as we do not have enough room on either side of the house to place the driveway.

Acting Chairperson Schick confirmed with Mr. Cammarata the proposal is for a ribbon style driveway with stones in the center.

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

Following the petitioner's testimony, Acting Chair Schick invited to the podium anyone wishing to speak in favor of the application. Ms. Cynthia Cammarata (197 Hawthorne Street New Bedford, MA) was recorded in favor. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chair Schick 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 Schick closed the hearing. Board members indicated their readiness to vote.

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 that 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. The Board found in this case, parking is not permitted on Hawthorn Street and the homeowners currently must park on adjacent streets, which is a substantial hardship.

- 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 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. To allow the petitioners to construct a driveway which would be located in front of the dwelling 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.

A motion was made by Mr. Decker and seconded by Ms. McTigue, as follows, 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 (concerning general regulations), 3100 (concerning parking and loading), 3110 (concerning applicability) and 3145 (concerning no open air-off street parking space shall be located in front of the dwelling or principal building); relative to property located at 197 Hawthorn Street, assessor's map 45 lot 356 in a

residential-A [RA] zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances, Chapter 9, comprehensive zoning sections 3000, 3100, 3110, 3145, the board finds that in respect to these sections the relief requested is granted. In addition to the foregoing section, 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 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 the decision.

On a motion by A. Decker, seconded by S. McTigue to grant the requested Variance, the vote carried 5-0 with members H. Tavares, R. Schilling, L. Schick, A. Decker, and S. McTigue 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

October 25, 2016

Date