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MAYOR

City of New Bedford
ZONING BOARD OF APPEALS

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Registry of Deeds Use Only:

CITY CLERK
2016 AUG - 4 A 9: 35
CITY CLERKS OFFICE
NEW BEDFORD, MA

NOTICE OF DECISION

Case Number:		#4234		
Request Type:		Special Permit		
Address:		361 Arnold Street		
Zoning:		Residential B Zoning District		
Recorded Owner:		Ricardo Simas		
Owner's Address:		361 Arnold Street New Bedford, MA 02740		
Applicant:		Bouley Property Management LLC c/o Thomas Swift		
Applicant's Address:		374 Smith Neck Road South Dartmouth, MA 02747		
Application Submittal Date		Public Hearing Date(s)		Decision Date
May 23 rd , 2016		July 21 st , 2016		July 21 st , 2016
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
44	292	11726	97	

Special Permit under provisions of chapter 9 comprehensive zoning sections 1200 (definitions-lot, and frontage of), 5300-5330 and 5360-5390 (special permit); relative to property located at 361 Arnold Street, assessor's map 44 lot 292 in a residential-B [RB] zoned district. To allow the petitioner to construct a driveway on Armour Street 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 August 4th, 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.

Aug. 4, 2016
Date

Allan Decker
Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner proposes to construct a driveway on Armour Street as plans filed, which requires a Special Permit under chapter 9 comprehensive zoning sections 1200 (definitions-lot, and frontage of), 5300-5330 and 5360-5390 (special permit); relative to property located at 361 Arnold Street, assessor's map 44 lot 292 in a residential-B [RB] zoned district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, drawn by Farland Corporation, dated April 8th, 2016; stamped received by City Clerk's Office May 23rd, 2016.

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office May 23rd, 2016.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated June 30th, 2016.
- Staff Comments to ZBA from City Planning Division dated July 15th, 2016.
- Letter to ZBA from Ricardo Simas, dated July 21st, 2016.

3.) DISCUSSION

On the evening of the July 21st, 2016 meeting, board members: Deb Trahan, Allen Decker, Sherry McTigue, Leo Schick, and Robert Schilling 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 June 30th, 2016; Staff Comments from the Department of Planning, Housing & Community Development, dated July 15th, 2016; communication from Mr. Ricardo Simas, the new owner of 361 Arnold Street, dated July 21st, 2016; the appeal packet; the plan as submitted; 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.

Chair Trahan then declared the hearing open.

Representative of the petitioner: Mr. Christian Farland (401 County Street New Bedford, MA 02740) President of Farland Corporation presented the petition to the board. Mr. Farland explained the special permit petition is for an 18' x 35' driveway proposed on Armour Street, which is not the legal frontage for the subject lot. He noted that the site is a corner lot with legal frontage on Arnold Street. If the property had the Armour Street address the petition would not be before the board this evening, he stated. Mr. Farland explained the driveway would be an asset to the neighborhood and immediate area, especially during major snow storm events. Mr. Farland noted the driveway will take 2-3 cars off

the existing roadway thus making it better for the city department of public infrastructure when snow plowing. Further, he said, they met with the department of public infrastructure's engineering department who did not have any problems with the location of the curb cut as proposed, that being 4 feet off the existing northerly property. Given this, it was felt the ZBA granting the appeal will not have any adverse effects on the abutting properties, he said. Mr. Farland explained the petitioners feel there will be no negative impacts and ultimately the requested relief would be an improvement by taking vehicles off the roadway and increasing the property value. There will be no impacts to traffic or safety for the abutting properties or roadways.

Mr. Decker asked whether, given the increase in impervious surface, there would be any accommodation for additional runoff as a result of the driveway. Mr. Farland noted that given the small size of the area, the impact is negligible and any runoff would be directed onto the street not any abutting properties.

Following the petitioner's testimony, Chair Trahan invited to the podium anyone wishing to speak in favor of the application. No one in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Chair Trahan 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, Chair Trahan closed the hearing.

City Council President Linda Morad (133 William Street New Bedford, MA 02740) returned to the room during a break from the City Council meeting which she was chairing and which was happening at the same time. Chair Trahan offered Councilor Morad an opportunity to make a statement for the record as the vote hadn't been made yet. Councilor Morad asked the board for their favorable consideration on the proposal before them. She stated this will be an asset to the neighborhood to take cars off of the street and add to the beauty of the neighborhood.

Board members indicated their readiness to vote.

4.) FINDINGS

The Board found that in accordance with City 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 included consideration of each of the following:

- *Social, economic, or community needs which are served by the proposal;*
 - The Board found the creation of the driveway will serve community needs by removing cars from using existing street parking.

- *Traffic flow and safety, including parking and loading;*
 - The Board found the creation of the driveway will remove cars from parking on the street thereby improving traffic flow and reducing parking load on the street.

- *Adequacy of utilities and other public services;*
 - The Board found the proposal to be neutral to this issue.
- *Neighborhood character and social structures;*
 - The Board found that as designed, the driveway will not have any effect on the neighborhood's character.
- *Impacts on the natural environment;*
 - The Board found the proposal to be neutral as to this issue given that runoff will be directed into the street.
- *Potential fiscal impact, including impact on City services, tax base, and employment*
 - The Board found the proposal would present a potential increase in value to the property and will therefore increase the tax base.

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 1200 (definitions-lot, and frontage of), 5300-5330 and 5360-5390 (special permit); relative to property located at 361 Arnold Street, assessor's map 44 lot 292 in a residential-B [RB] zoned district. To allow the petitioner to construct a driveway on Armour Street 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 Special Permit.

Mr. Decker made a motion, seconded by Mr. Schick, as follows, to approve the special permit to allow the petitioner to construct a driveway on Armour Street as plans filed, requiring a Special Permit under chapter 9 comprehensive zoning sections 1200 (concerning the definitions-lot, and frontage thereof), 5300-5330 and 5360-5390 (concerning special permit); relative to property located at 361 Arnold Street, which is assessor's map 44 lot 292 in a residential-B zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9 Comprehensive Zoning sections 1200, 5300-5330, and 5360-5390 the board finds that in respect to these sections, the board is willing to grant relief from these sections. 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 Sections 5300-5330 and 5360-5390 relative to the granting of Special Permits because the board 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 first in regards to section 5321 social, economic, or community needs which are served by this proposal; the creation of the driveway will serve community

needs by removing cars from using existing street parking. Concerning 5322 on traffic flow and safety, including parking and loading; the board has found that the creation of the driveway will remove cars from parking on the street thereby improving traffic flow and reducing parking load on the street. In regards to 5323 concerning adequacy of utilities and other public services; the Board has found the proposal to be neutral to this issue. Concerning 5324, concerning neighborhood character and social structures; as designed the driveway will not have any effect on the neighborhood's character. Concerning 5325 the impacts on the natural environment; the Board found the petition is neutral to this issue as runoff will be directed into the street. In regards to 5326 concerning the potential fiscal impact, including impact on City services, tax base, and employment; the Board has found the proposal a potential increase in value to the property and will therefore increase the tax base. In light of its review of the specifics noted within this motion, the board's finding that the material presented is complete and 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, with the following conditions:

- a. That the project be set forth according to the plans submitted with the application.
- b. That the notice of decision be recorded at the Registry of Deeds and
- c. A building permit be issued by the Department of Inspectional Services and acted upon within one year from the date of this decision.

On a motion by A. Decker seconded by L. Schick to grant the requested Special Permit, the vote carried 5-0 with members A. Decker, R. Schilling, S. McTigue, L. Schick, and D. Trahan voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

Aug. 4, 2016
Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals