



## City of New Bedford

### Department of Planning, Housing & Community Development

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## STAFF COMMENTS

### ZONING BOARD OF APPEALS MEETING

February 12, 2016

**Case # 4221: VARIANCE**

2 Merrimac Avenue  
New Bedford, MA 02740  
Map: 72, Lot: 218

**Owner/** Marco D. Sousa  
**Applicant:** 2 Merrimac Avenue  
New Bedford, MA 02740

**Overview of Request:** The petitioner has submitted an application for a **Variance** relative to the property listed above in a Residential B [RB] zoned district. The petitioner has erected a 12'x14' addition at the property listed above. The project requires dimensional relief for side yard setbacks. The addition is setback 8.85' from the north side property line, where 12' is required.



As with all variances, the board must find that 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. The ZBA must find that 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. And, in granting the desired relief it would not take away from the purpose of the zoning ordinance and be without substantial detriment to the public good.

**Existing Conditions:** The 1,710 sq. ft. lot has 49' frontage on Merrimack Avenue and 34'± of depth. The property has a 22'x29' house and a 12' x14' addition (see photo above). Located in the Acushnet Heights neighborhood north of Clasky Common, this property originally built in the 19<sup>th</sup> century, is located on a narrow right of way (10'x98') shared by four single family houses and one vacant lot. The board should note the dimensions and layout of these houses, built in a previous era, in the aerial photo provided. The north and south side abutters are residential dwellings built at or around the same time as this property with a similar size, scale, and little to no front or rear yard. The former Merrimack Street School is located in the rear. The property shares a concrete yard with the north abutter and asphalt yard with the south abutter. The surrounding neighborhood is zoned residential B [RB] and mixed use business [MUB] with single and multifamily dwellings, a parking lot, and a social service program in the school building.

**Proposal:** The petitioner's application states he proposes to enclose an existing 14'x12' deck to turn it into a 3 season room. Inspectional Services has determined the built structure to be an addition. The addition is set back 4.15' from the north side abutter, where 12' is required.

In regards to the criteria necessary to grant the petition, the petitioner writes the "lot is very small and there is no room to expand, not having a yard (front, back, or side) enclosing the deck is the only solution to make it usable". The petitioner indicates the deck gets moldy because the sun does not reach the deck, therefore unusable. The petitioner writes "[he] is not building anything new, just adding to the existing deck by enclosing it and making it an indoor/outdoor space with a roof and lots of windows." He further writes "enclosing the deck will not affect anything or anyone because there are no views to block or obstruct."

**For Board Member Consideration:** The petitioner's lot is significantly undersized as compared with current zoning standards, [roughly 1700 square feet where 8000 is required] and is even undersized when compared against the neighborhood's collection of undersized parcels. The unique size and dimensions of this lot is the result of the time period this parcel and the abutting parcels on Merrimac Avenue were developed. The addition is setback 8.85' from the north property line, and the north side abutter's house is setback 4.3' from the property line, though due to the concrete yards there is little to differentiate the lots.



## 2 Merrimac Avenue Map: 72, Lot: 218

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

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Google earth

41°38'49.69" N 70°55'46.85" W elev 78 ft eye alt 874 ft