



JONATHAN F. MITCHELL
MAYOR

City of New Bedford
ZONING BOARD OF APPEALS

133 William Street, New Bedford
Massachusetts 02740
Telephone: (508) 979.1488
Facsimile: (508) 979.1576

Registry of Deeds Use Only:

NOTICE OF DECISION

Case Number:		#4214		
Request Type:		Variance		
Address:		235 North Front Street		
Zoning:		Mixed Use Business District		
Recorded Owner:		Roman Catholic Bishop of Fall River		
Owner's Address:		235 North Front Street New Bedford, MA 02746		
Applicant:		Our Lady of Perpetual Help Parish c/o Father Conrad Salach		
Applicant's Address:		235 North Front Street New Bedford, MA 02746		
Application Submittal Date		Public Hearing Date		Decision Date
November 24 th , 2015		December 17 th , 2015		December 17 th , 2015
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
93	81	620	27	

2015 DEC 23 PM 3:00
 CITY CLERK
 NEW BEDFORD, MA

Variance under provisions of Chapter 9 Comprehensive Zoning section 2300 (Accessory Building and Uses) 2310 (General), 2330 (Accessory Structures), 2331 (Private Garage), and 2334; relative to property located at 235 North Front Street, Assessor's Map 93, Lot 81 in a Mixed Use Business zoned district. To allow the petitioner to erect a 12'x24' garage as plans filed with conditions.

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 December 23rd, 2015. 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.

12/23/2015
Date

Acting Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner proposes to erect a 12'x24' garage as plans filed, which requires a variance under provisions of Chapter 9 Comprehensive Zoning section 2300 (Accessory Building and Uses) 2310 (General), 2330 (Accessory Structures), 2331 (Private Garage), and 2334. This petition is relative to property located at 235 North Front Street, Assessor's Map 93, Lot 81 in a Mixed Use Business zoned district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, prepared by Charon Associates, Inc., dated November 19th, 2015.
- Plans from Barnyard Great Country Garages, not dated

Other Documents & Supporting Material

- Completed Petition for a Variance Form, stamped received by City Clerk's Office November 24th, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated November 30th, 2015.
- Staff Comments to ZBA from City Planning Division, dated December 10th, 2015.
- Letter to ZBA from City Councilors Henry Bousquet, David Alves, Steven Martins, and Linda Morad dated December 9th, 2015.

3.) DISCUSSION

On the evening of the December 17th, 2015 meeting, board members: James Mathes, John Walsh, Debra Trahan, Sherry McTigue, and Bob 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.

Acting Clerk Walsh made a motion, seconded by Ms. Trahan, to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated November 30th, 2015; the Communication from the Department of Planning, Housing and Community Development, dated December 10th, 2015; communication from City Councilors Bousquet, Martins, Alves, and Morad dated December 9th, 2015; 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.

Acting Chairperson Mathes then declared the hearing open.

The representative of the petitioner: Mr. Frederick Kalisz Jr. (233 Collette Street New Bedford, MA), parish council member of Our Lady of Perpetual Help Church, presented the petition to the Board. Mr. Kalisz explained the parish is seeking a variance for relief in order to erect a single car residential garage on the parish property. He explained the exact spot on the property is currently an open flat

space parking area. He stated the reason for the request is a matter of safety and security for the parish pastor. The proposed garage provides protection from potential vandalism, winter storms, and greater ease of access to the vehicle at all hours of the day and night as needed for the pastor to do his ministry. There is no direct abutter on either side of the proposed garage location; it is surrounded by the parishioner parking area. He explained the parish property takes up approximately three-quarters of the city block. Describing the neighborhood, Mr. Kalisz noted directly across the street is an ethnic social club and a residence near the corner of North Front Street at Coggeshall Streets.

Ms. McTigue asked the height of the proposed garage. Mr. Kalisz explained it is a single stall garage with an A-frame roof. He further explained there is no room for storage up above, it is intended purely for one car and placed upon an existing spot [the driveway]. Board members wished to see elevation drawings of the proposal. Commissioner Romanowicz provided the elevation drawings for the Board to review.

Mr. Walsh made a motion, seconded by Ms. Trahan, to receive and place on file plans from Barnyard Great Country Garages as submitted to the Building Department. With all in favor the motion passed.

Ms. Trahan inquired if any letters in support had been submitted to the Board. It was confirmed that a letter had been submitted by members of the City Council in support of the petition, which had already been received and placed on file.

Following the petitioner's testimony, Acting Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. Father Conrad Salach (235 North Front Street New Bedford, MA) pastor of Our Lady of Perpetual Help Parish spoke in favor of the application. He reiterated that the safety factor is very important and thanked the board for their consideration of the petition. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chairperson Mathes 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 of concerns, Acting Chairperson Mathes closed the hearing, and opened the floor for discussion amongst board members. 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 the grade change necessitates the proposed location of the garage. The board found the hardship is that presently there is a manicured, landscaped green space located in the rear and the proposed location preserves that green space.

- b.) *That desirable relief may be granted without substantial detriment to the public good;*

The Board found that sufficient information and testimony had been given to determine that granting the required relief would not result in substantial negative impact to the public good. This proposal uses the existing driveway and curb cut, so there would be no effect on the sidewalk or abutting properties.

- 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 the impact of the dimensional relief would be minimal, and would not substantially derogate from the intent of the zoning ordinance.

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 section 2300 (Accessory Building and Uses) 2310 (General), 2330 (Accessory Structures), 2331 (Private Garage), and 2334; relative to property located at 235 North Front Street, Assessor's Map 93, Lot 81 in a Mixed Use Business zoned district. To allow the petitioner to erect a 12'x24' garage as plans filed with conditions.

6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY

- a. The project shall be set forth according to plans submitted with the application, with conditions;
- b. The applicant shall ensure that a copy of this decision, bearing the certification of the City of New Bedford Clerk's Office, is recorded in the Registry of Deeds;
- c. The rights authorized by the granted Variances must be exercised, by issuance of a Building Permit by the Department of Inspectional Services and acted upon within one year from the date they were granted or they will lapse.

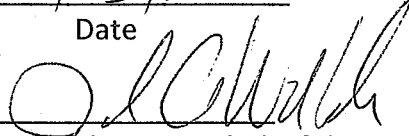
7.) DECISION

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.

On a motion by J. Walsh, seconded by D. Trahan to grant the requested Variance, the vote carried 5-0 with members D. Trahan, S. McTigue, J. Walsh, R. Schilling, and J. Mathes and voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

12/23/2015
Date


John Walsh, Acting Clerk of the Zoning Board of Appeals