



CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

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

New Bedford Comprehensive Zoning Code Review

Code of Ordinances – Chapter-9

124 LOCUST ST – PLOT: 70 – LOT: 111 – ZONED DISTRICT: RB

Special Permit Required from the Zoning Board of Appeals

Zoning Code Review as follows:

Special Permit

❖ SECTIONS

- **2400 – NON-CONFORMING USES AND STRUCTURES**
- **2410 - APPLICABILITY**
- **2430- NONCONFORMING STRUCTURES, OTHER THAN SINGLE-AND TWO FAMILY STRUCTURES**
- **2431- RECONSTRUCTED, EXTENDED OR STRUCTURALLY CHANGED**
- **2432- ALTERED TO PROVIDE FOR SUBSTANTIALLY DIFFERENT PURPOSE OR FOR THE SAME PURPOSE IN A SUBSTANTIALLY DIFFERENT MANNER OR TO A SUBSTANTIALLY GREATER EXTENT**

5300 - SPECIAL PERMITS

5310- 5390

IX. HOMEOWNER LICENSE EXEMPTION

Supplement #1

The current exemption for "homeowner" was extended to include owner-occupied dwellings of two units or less and to allow such homeowners to engage an individual for hire who does not possess a license, provided that the owner acts as supervisor. (State Building Code Section 110.5)

DEFINITION OF HOMEOWNER:

Person(s) who own a parcel of land on which he/she resides or intends to reside, on which there is, or is intended to be, a one to two family dwelling, attached or detached structures accessory to such use and /or farm structures. A person who constructs more than one home in a two-year period shall not be considered a homeowner. Such "homeowner shall submit to the Building Official, on a form acceptable to the Building Official, that he/she shall be responsible for all such work performed under the building permit. (Section 110.5)

The undersigned "homeowner assumes responsibility for compliance with the State Building Code and other applicable codes, ordinance, rules and regulations, and will comply with the City of New Bedford Building Department minimum inspection procedures and requirements.

HOMEOWNERS SIGNATURE 

X. CONSTRUCTION DEBRIS DISPOSAL

Supplement #2

In accordance with provisions of Massachusetts General Law C40, S54, debris resulting from this work shall be disposed of in a properly licensed solid waste disposal facility as defined by Massachusetts General Law C111, S150A

The debris will be disposed of in: 124 Lowest St. New Bedford MA 02740
(Location of Facility)

Signature of Permit Applicant 

Date 9/25/15

XI. HOME IMPROVEMENT CONTRACTOR LAW AFFIDAVIT

(Residential Use Only) Supplement to Permit Application

Supplement #3

MGLC, 142 A requires that the "reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, demolition, or construction of an addition to any pre-existing owner-occupied building containing at least one but not more than four dwelling units... or to structures which are adjacent to such residence of building" be conducted by registered contractors, with certain exceptions, along with other requirements.

Type of Work: 3rd Floor Est. Cost 5K

Address of Work 124 Lowest Street

Owner Name: Lindsay Kruehl Date of Permit Application: 9/25/15

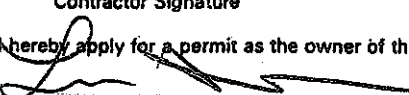

I hereby certify that: Registration is not required for the following reason(s):

Work excluded by law Job under \$1,000 Building not owner-occupied Owner obtaining own permit

Other (specify) _____

Notice is hereby given that: OWNERS OBTAINING THEIR OWN PERMIT OR EMPLOYING UNREGISTERED CONTRACTORS FOR APPLICABLE HOME IMPROVEMENT WORK DO NOT HAVE ACCESS TO THE ARBITRATION PROGRAM OF GUARANTY FUND UNDER MGLC, 142A.

signed under penalties of perjury: I hereby apply for a permit as the agent of the owner:

Date 9/25/15 Contractor Signature  Registration No. _____
OR:
Notwithstanding the above notice, I hereby apply for a permit as the owner of the above property:
Date _____ Owner Signature 

XII. BUILDING COMMISSIONERS REVIEW COMMENTS AND CONDITIONS

C. Building Permit Rejected SPECIAL PERMIT ZBA Fee _____
Reason For Rejection: SEE ATTACHMENTS Permit # _____

Comments and Conditions: _____

Signed James M. Romanowicz Date: _____ 20____
Title Building Commissioner

2339. Barbed Wire. Barbed wire is prohibited in all residential zones, or on property lines abutting residential zones below a height of eight (8) feet above grade.

2339A. Structures used for kennels or the housing of animals. Any structure used for a kennel or for the housing of animals shall be located at least twelve (12) feet from any lot line, street line or dwelling and shall not extend into any front yard or beyond the front sidewall of any dwelling.

(Ord. of 12-23-03, § 1; Ord. of 11-12-04, § 1)

2340. Accessory Dwelling Units. For the purpose of enabling owners of single-family dwellings larger than required for their present needs, particularly elderly homeowners, to share space and the burdens of home ownership, the Board of Appeals may grant a special permit in accordance with the following requirements:

2341. Accessory dwelling units may be allowed on special permit, which shall lapse every two (2) years, in accordance with Section 5300, and provided that each of the following additional criteria are met.

2342. A plot plan, prepared by a registered land surveyor, of the existing dwelling unit and proposed accessory dwelling unit shall be submitted, showing the location of the building on the lot, proposed accessory dwelling unit, location of any septic system and required parking. A mortgage inspection survey, properly adapted by a surveyor, shall be sufficient to meet this requirement;

2343. Certification by affidavit shall be provided that while said accessory dwelling unit is occupied, the primary dwelling until shall be occupied by the owner of the property;

2344. Not more than one accessory dwelling unit may be established on a lot. The accessory dwelling unit shall not exceed one thousand (1,000) square feet in floor space and shall be located in the existing residential structure on the premises;

2345. The external appearance of the structure in which the accessory dwelling unit is to be located shall not be significantly altered from the appearance of a single-family structure, in accordance with the following:

2345.a. Any accessory dwelling unit construction shall not create more than a fifteen (15) percent increase in the gross floor space of the structure existing as of date of enactment, December 23, 2003.

2345.b. Any stairways or access and egress alterations serving the accessory dwelling unit shall be enclosed, screened, or located so that visibility from public ways is minimized.

2345.c. Sufficient and appropriate space for at least one additional parking space shall be constructed by the owner to serve the accessory dwelling unit. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway.

2346. The initial term and subsequent terms of a special permit for an accessory dwelling unit shall expire after two (2) years. In the event such special permit is not renewed, the Board of Appeals shall promptly notify the Inspector of Buildings. Subsequent special permit issuances for existing accessory dwelling unit, if any, shall be granted after certification by affidavit is made by the applicant that the accessory dwelling unit has not been extended, enlarged, or altered to increase its original dimensions, as defined in the initial special permit application, and that the need for the special permit still exists and there has been no change in the use or circumstances for which the special permit was originally granted.

2347. Special permits for an accessory dwelling unit may be issued, after a public hearing, upon a finding that the construction and occupancy of the apartment will not be detrimental to the neighborhood in which the lot is located and after consideration of the factors specified in Section 5300 herein.

(Ord. of 12-23-03, § 1)

2400. - NONCONFORMING USES AND STRUCTURES.

2410. Applicability. This Zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L.A. c. 40A, § 5, at which this Zoning Ordinance, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

(Ord. of 12-23-03, § 1)

2420. Nonconforming Uses. The Board of Appeals may award a special permit to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more

detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

2421. Change or substantial extension of the use;

2422. Change from one nonconforming use to another, less detrimental, nonconforming use.

(Ord. of 12-23-03, § 1)

2430. Nonconforming Structures, Other Than Single- and Two-Family Structures. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

2431. Reconstructed, extended or structurally changed;

2432. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

The reconstruction, extension or structural change of such nonconforming structures so as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

(Ord. of 12-23-03, § 1)

2440. Nonconforming Single- and Two-Family Structures. Nonconforming single- and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Inspector of Buildings that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the issuance of a building permit, where applicable. In the event that the Inspector of Buildings determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by finding (which shall not require a super majority), allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

(Ord. of 12-23-03, § 1)

2450. Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two (2) years, shall lose its protected status and be subject to all of the provisions of this Zoning Ordinance.

(Ord. of 12-23-03, § 1)

2460. Catastrophe. Any nonconforming structure may be reconstructed after a fire, explosion or other catastrophe, provided that such reconstruction is completed within twelve months after such catastrophe, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure unless a larger volume or area is authorized by special permit from the Board of Appeals. Such time for reconstruction may be extended by the Board of Appeals for good cause.

(Ord. of 12-23-03, § 1)

2470. Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

(Ord. of 12-23-03, § 1)

2500. - HOME OCCUPATIONS.

2510. Home Occupations as of Right. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by the owner of that dwelling; provided, however, that all of the following conditions shall be satisfied:

2511. The occupation or profession shall be carried on wholly within the principal building.

2512. Not more than thirty (30) percent of the floor area of the residence shall be used in the home occupation.

2513. No person not a member of the household shall be employed on the premises in the home occupation.

2514. The home occupation shall not serve clients, customers, pupils, salespersons, or the like on the premises.

2515. There shall be no sign, exterior display, no exterior storage of materials, and no other exterior indication from the residential character of the premises.

per meeting attended, but in no event shall any member receive in excess of five hundred dollars (\$500.00) in any fiscal year.

5211. In case of a vacancy, inability to act, or interest on the part of a member of the Board of Appeals, such member's place shall be taken by an associate member designated by the presiding member of the Board. There shall be five (5) associate members of the Board of Appeals, who shall be appointed by the mayor and confirmed by the City Council. Annually in the month of January, one member shall be appointed for a term of five (5) years. Vacancies shall be filled in the manner as provided for original appointments. All associate members of the Board of Appeals shall be residents of the City. Each associate member shall be paid at the rate of twenty dollars (\$20.00) per meeting attended, as a member replacing an absent member, and only when acting in that capacity according to the first sentence of this subsection; but in no event shall any associate member receive in excess of five hundred dollars (\$500.00) in any fiscal year.

(Ord. of 12-23-03, § 1)

5220. **Powers.** The Board of Appeals shall have and exercise all the powers granted to it by M.G.L.A. c. 40A, c. 40B, and c. 41 and by this Ordinance. The Board's powers are as follows:

5221. To hear and decide applications for special permits. Where specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 5300, or as otherwise specified.

5222. To hear and decide appeals or petitions for variances from the terms of this Ordinance, with respect to particular land or structures, as set forth in M.G.L.A. c. 40A, § 10. The Board of Appeals may not grant use variances.

5223. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A. c. 40A, §§ 7, 8 and 15.

5224. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in M.G.L.A. c. 40B, §§ 20—23.

(Ord. of 12-23-03, § 1)

5230. **Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers.

(Ord. of 12-23-03, § 1)

5240. **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

(Ord. of 12-23-03, § 1)

State law reference— Zoning board of appeals, M.G.L.A. c. 40A, § 14 et seq.

5300. - SPECIAL PERMITS.

5310. **Special Permit Granting Authority.** The Zoning Board of Appeals, the Planning Board or the City Council shall act as the Special Permit Granting Authority under this Chapter as specifically designated in a particular Section or in accordance with the Specific Designations in the Table of Principal Use Regulations under Appendix A of this Chapter.

(Ord. of 12-23-03, § 1; Ord. of 12-8-05, § 1)

5320. **Criteria.** Special permits shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the benefit to the City and the neighborhood outweigh 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 addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:

5321. Social, economic, or community needs which are served by the proposal;

5322. Traffic flow and safety, including parking and loading;

5323. Adequacy of utilities and other public services;

5324. Neighborhood character and social structures;

5325. Impacts on the natural environment; and

5326. Potential fiscal impact, including impact on City services, tax base, and employment.

(Ord. of 12-23-03, § 1)

5330. Procedures. Applications for special permits shall be filed in accordance with the rules and regulations of the various special permit granting authorities, as may be applicable.

(Ord. of 12-23-03, § 1)

5340. Plans. An applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 5400, herein.

(Ord. of 12-23-03, § 1)

5350. Development Impact Statement (DIS). At the discretion of the special permit granting authority, the submittal of a development impact statement (DIS) may be required. The DIS shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a Registered Professional or Civil Engineer, and a Registered Surveyor.

5351. Physical Environment.

- (a) Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, location of significant viewpoints, stone walls, trees over sixteen (16) inches in diameter, trails and open space links, and indigenous wildlife.
- (b) Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

5352. Surface Water and Subsurface Conditions.

- (a) Describe location, extent, and type of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the site.
- (b) Describe any proposed alterations of shore lines, marshes, or seasonal wet areas.
- (c) Describe any limitations imposed on the project by the site's soil and water conditions.
- (d) Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.

5353. Circulation Systems.

Project the number of motor vehicles to enter depart the site per average day and peak hour. Also state the number of motor vehicles to use streets adjacent to the site per average day and peak hour. Such data shall be sufficient to enable the special permit granting authority to evaluate (i) existing traffic on streets adjacent to or approaching the site, (ii) traffic generated or resulting from the site, and (iii) the impact of such additional traffic on all ways within and providing access to the site. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

5354. Support Systems.

- (a) **Water Distribution:** Discuss the types of wells or water system proposed for the site, means of providing water for firefighting, and any problems unique to the site.
- (b) **Sewage Disposal:** Discuss the type of on-site or sewer system to be used, suitability of soils, procedures and results of percolation tests, and evaluate impact of disposal methods on surface and groundwater.
- (c) **Refuse Disposal:** Discuss the location and type of facilities, the impact on existing City refuse disposal capacity, hazardous materials requiring special precautions.
- (d) **Fire Protection:** Discuss the type, location, and capacity of fuel storage facilities or other flammables, distance to fire station, and adequacy of existing firefighting equipment to confront potential fires on the proposed site.
- (e) **Recreation:** Discuss the distance to and type of public facilities to be used by residents of the proposed site, and the type of private recreation facilities to be provided on the site.
- (f) **Schools:** Project the increase to the student population for nursery, elementary, junior high school, and high school levels; also indicating present enrollment in the nearest public schools serving these categories of students.

5355. Phasing. Where development of the site will be phased over more than one year, indicate the following:

- (a) Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be cleared at any given time and length of time of exposure.
- (b) Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.

(Ord. of 12-23-03, § 1)

5360. Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the special permit granting authority may deem necessary to serve the purposes of this Ordinance.

(Ord. of 12-23-03, § 1)

5370. Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within twelve (12) months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in M.G.L.A. c. 40A, § 17, from the grant thereof) with the City Clerk.

(Ord. of 12-23-03, § 1)

5380. Regulations. The special permit granting authority may adopt rules and regulations for the administration of this Section.

(Ord. of 12-23-03, § 1)

5390. Fees. The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

(Ord. of 12-23-03, § 1)

State law reference— Special permits, M.G.L.A. c. 40A, § 9.

400. - SITE PLAN REVIEW.

5410. Purpose. The purpose of this Section is to provide for individual detailed review of development proposals which have an impact on the natural or built environment of the City in order to promote the health, safety and general welfare of the community; to ensure adequate parking, safe and accessible pedestrian and vehicular circulation; and to minimize traffic impact on City streets.

(Ord. of 12-23-03, § 1)

5420. Applicability. The following types of activities and uses require site plan review by the Planning Board:

5421. Any new industrial or commercial construction or expansion over two thousand (2,000) gross square feet or any new industrial or commercial construction or expansion requiring more than five (5) additional parking spaces;

5422. New multiple-family residential construction of three (3) or more units or expansion of existing multifamily residential structures resulting in the creation of one or more additional units.

5423. Any new construction or expansion of existing construction where a drive-thru window for any service including self-service is proposed; and any expansion of a structure presently containing a drive-thru; or any facility currently containing a drive-thru, at which the owner or operator of the drive-thru is altered or changed; or at which the drive-thru is closed for a period of 10 days or more and to be reopened.

5424. Any residential subdivision which is submitted under the subdivision control process;

5425. New industrial or commercial construction or additions less than two thousand (2,000) square feet if requiring a new curb cut or driveway or if substantially affecting existing internal circulation.

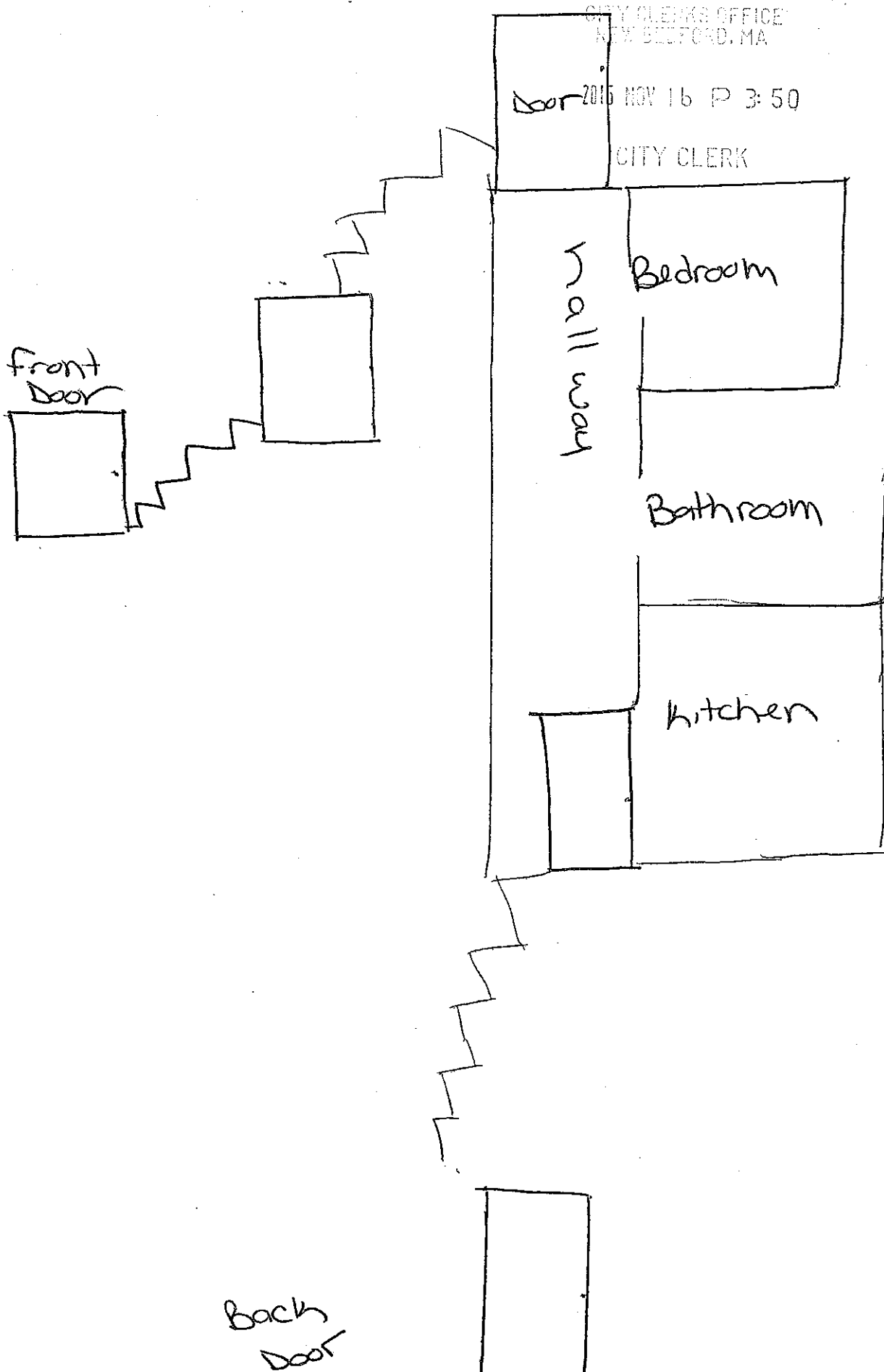
5426. Driveways in residential areas which require more than one new curb cut.

5427. Commercial or industrial ground signs.

(Ord. of 12-23-03, § 1; Ord. of 12-31-08, § 1)

5430. Procedures. Applicants for site plan approval shall submit seventeen (17) copies of the site plan to the Planning Board for distribution to City departments and commissions for their review. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate and notify the applicant of its decision. In the event two (2) meetings have lapsed after the application for site plan approval is filed, without the

Third Floor



CITY CLERK'S OFFICE
NEW BEDFORD, MA

door 2015 NOV 16 P 3:50

CITY CLERK

front
door

hallway

Bedroom

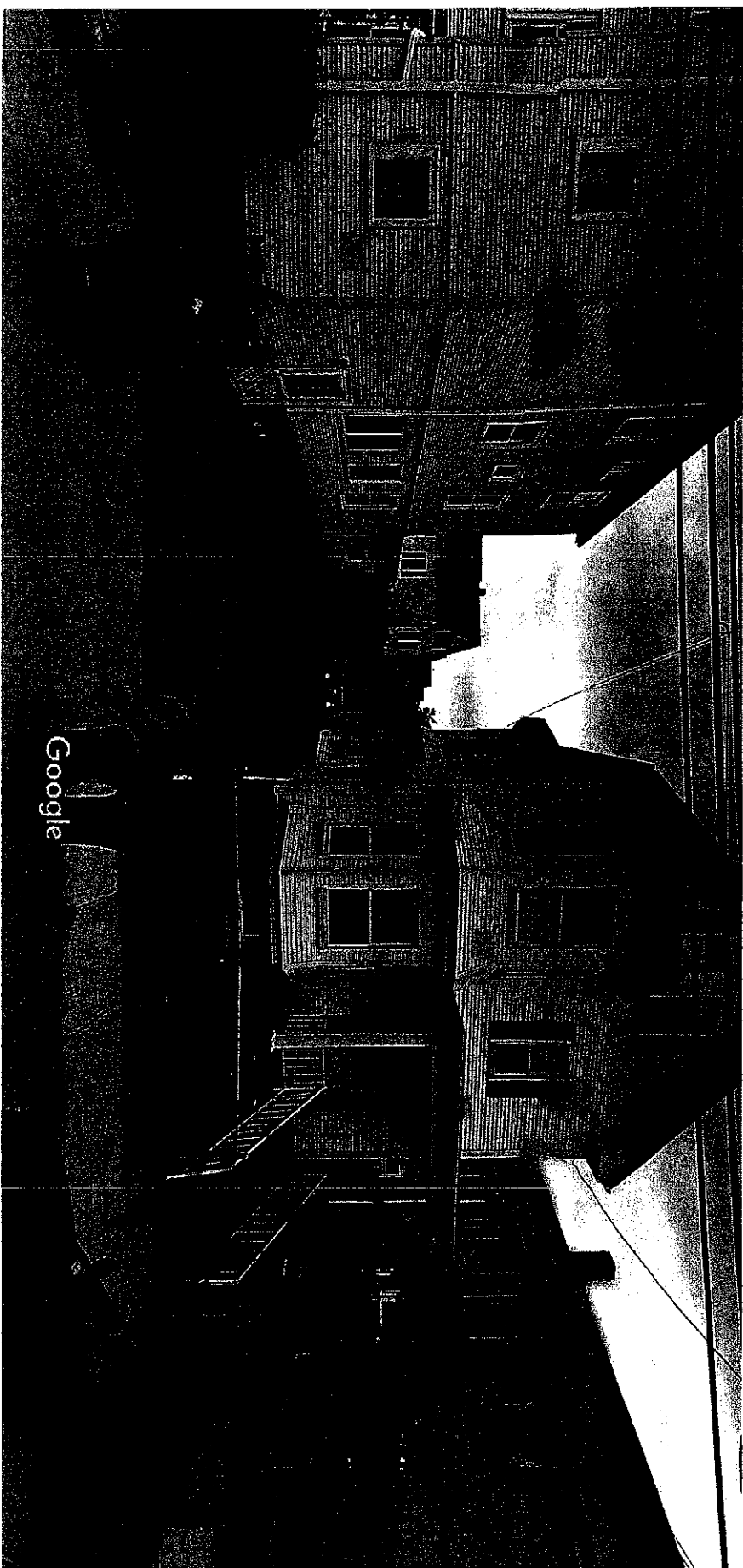
Bathroom

kitchen

Back
door

Google Maps

124
Locust St



New Bedford, Massachusetts
Street View - Sep 2012

Image capture: Sep 2012 © 2015 Google