



ZONING BOARD OF APPEALS

City Hall, Room 303
 133 William Street,
 New Bedford, MA 02740
 (508)979-1488
 www.newbedford-ma.gov

Registry of Deeds Use Only:

CITY OF NEW BEDFORD
 JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number: #4211				
Request Type: Special Permit				
Address: 1024 Sheffield Street				
Zoning: Residential B Zoned District				
Recorded Owner: Victor C. Marques and Dina Marques				
Owner Address: 1024 Sheffield Street New Bedford, MA 02745				
Applicant: Robert Pires				
Applicant Address: 936 Tradewind Street New Bedford, MA 02740				
Application Submittal Date	Public Hearing Date	Decision Date		
October 22 nd , 2015	November 19 th , 2015	November 19 th , 2015		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
132H	182	8893	56	

Special Permit under provisions of Chapter 9 Comprehensive Zoning section 2460 (catastrophe) and 5300-5330 & 5360-5390 (special permits); relative to property located at 1024 Sheffield Street, assessor's map 132H, lot 182, in a residential B zoned district. To allow the petitioner to rebuild a three car garage with storage above 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 November 25th, 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.

Nov. 25, 2015
 Date

Allen Decker
 Clerk, Zoning Board of Appeals

CITY CLERK
 2015 NOV 25 P 12:47
 CITY CLERK'S OFFICE
 NEW BEDFORD, MA

1.) APPLICATION SUMMARY

The petitioner is proposing to rebuild a three car garage with storage above as plans filed, which will require a Special Permit under provisions of Chapter 9 Comprehensive Zoning section 2460 (catastrophe) and 5300-5330 & 5360-5390 (special permits). This petition is relative to property located at 1024 Sheffield Street, assessor's map 132H, lot 182, in a residential B zoned district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, drawn by Eduardo Borges, including:
 - Site Plan, dated 9/23/15
 - Floor plans, dated 8/19/15
 - Floor and roof framing plans, dated 8/19/15
 - Framing section plan, dated 8/19/15
 - Elevation plans, dated 8/19/15

Other Documents & Supporting Material

- Completed Petition for a Variance Form, stamped received by City Clerk's Office October 22nd, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated October 30th, 2015.
- Staff Comments to ZBA from the Office of Planning, Housing and Community Development, dated November 12th, 2015.

3.) DISCUSSION

On the evening of the November 19th, 2015 meeting, board members: James Mathes, Allen Decker, John Walsh, Sherry McTigue, and Leo Schick 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 Mr. Walsh, to receive and place on file the communication from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated October 30th, 2015; the communication from the Office of Planning, Housing and Community Development, dated November 12th, 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 hearings open.

Representative of the Petitioner: Mr. Robert Pires (936 Tradewind Street New Bedford, MA) the general contractor for the project explained the proposal is to build a new garage where the old garage was. The old garage collapsed in a snow storm. The petition requires a special permit due to the increased height of the building. Mr. Pires explained the proposal is to build upon the same footprint but with increased height for a second floor storage area.

Mr. Decker asked if the building had to be that tall. Mr. Pires stated the proposed building is about ten (10) feet taller than the previous building. He explained the previous building was 2'x6' framing, which is no longer applicable. The height is increased due to the framing requirements and in order to provide more head room on the second floor. Mr. Decker asked if the second floor is to remain unfinished. Mr. Pires confirmed it is to be unfinished, strictly storage space. He expressed nothing livable, just an open area, perhaps a pool table at most. Mr. Pires stated there will not be any plumbing, just electric in the space.

Ms. McTigue and Mr. Decker inquired about the amount of parking and the need for two garages on the property for a single family house. Mr. Pires explained the petitioner, Mr. Marques, has three vehicles currently and a daughter soon to have a driver's license, for a total of four vehicles. Ms. McTigue commented that the proposal looks like another home on the property. Ms. McTigue inquired if this space is intended to be a living unit. Mr. Pires stated the board can stipulate that the garage may not be used for a residential use. He reiterated that the garage will not have any plumbing, only electric. It is just a garage and storage area.

Acting Chairman Mathes indicated concerns were raised in the planning staff comments about the the need for two garages and the large driveway for the proposed garage on a single family property. He asked the petitioner for an explanation of the need. Mr. Pires stated the size of the driveway in front of the proposed garage was in order to make the turns into the garage. He stated the other garage is filled with stuff at the moment that will be put into the second floor storage area once built.

Following the petitioner's testimony, Acting Chairperson Mathes 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.

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 or concerns, Acting Chairperson Mathes closed the hearing, and opened the floor for discussion amongst board members.

Mr. Decker expressed his interest in Ms. McTigue's questions and staff concerns about the use of the property. He asked if the board members thought they should condition the approval not to be used as a residence. Agreement was indicated among the board members.

Ms. McTigue expressed that she would like to see it lower in height. She stated she understood the concerns about the roof truss, but the angle could be changed to bring it down. Ms. McTigue expressed she thought the roof height is too tall, referencing the max height for ancillary structures is eighteen (18) feet where this proposal is almost 30 feet. She suggested a lower slope of the roof.

Acting Chairman Mathes invited Mr. Pires back to the podium to address the question raised by Ms. McTigue. Mr. Pires explained the height is a result of building code regulations starting at the

foundation, which must be out of the ground a certain number of feet height, the height required for the garage doors, the floor trusses have to span about 22-24 inches to carry the load and then the height of the roof trusses. He expressed with the building codes things keep getting higher and higher so that structures don't collapse. Acting Chairman Mathes asked if it was possible to alter the angle of the truss system to reduce the peak of the roof.

Mr. Pires referred to his plans and conferred with the property owner, Mr. Marques about any changes. After discussion with the property owner, Mr. Pires offered the second floor wall height could be reduced from nine (9) feet to seven (7) feet. The current 8/12 pitch could be reduced to 6/12. These modifications he stated would bring the project down from about 28 feet to 22-23 feet. Ms. McTigue stated that would be more reasonable. Mr. Pires explained the pitch of the roof was to be able to handle the snow load and match the pitch with the house. Mr. Walsh confirmed the current pitch on the house as 8/12. Ms. McTigue indicated keeping it uniform was a good point raised by the petitioner.

The board members briefly discussed how to condition the height of the structure. It was agreed to condition the height at no larger than twenty-five (25) feet.

Mr. Pires asked if the petitioner may have a $\frac{3}{4}$ inch water line to allow the washing of the cars in the garage. Acting Chairman Mathes indicated that would be reasonable, as the petitioner had indicated no plumbing, and as long as it will not be used as living space.

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 proposal keeps vehicles off the public way.
- *Traffic flow and safety, including parking and loading;*
 - The Board found the proposal keeps vehicles from parking on the public way.
- *Adequacy of utilities and other public services;*
 - The Board found that the adequacy of utilities and other public service were neutral as proposed.
- *Neighborhood character and social structures;*
 - The Board found that the building will be a better fit with the neighborhood character.
- *Impacts on the natural environment;*
 - The Board found impacts on the natural environment are neutral as proposed, as the proposed structures footprint is no larger than the previous buildings footprint.

- *Potential fiscal impact, including impact on City services, tax base, and employment*
 - The Board found that the proposal increases the value of property resulting in more property tax revenue and is otherwise neutral on City services.

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 2460 (catastrophe) and 5300-5330 & 5360-5390 (special permits); relative to property located at 1024 Sheffield Street, assessor's map 132H, lot 182, in a residential B zoned district. To allow the petitioner to rebuild a three car garage with storage above as plans filed with conditions.

6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY

- a. That the structure not be used as living space or in a residential capacity;
- b. The height of the structure is not to exceed twenty-five (25) feet;
- c. The project shall be set forth according to plans, submitted with the application, with conditions;
- d. That 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;
- e. And that the rights authorized by the granted Special Permit 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 Special Permit.

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

Filed with the City Clerk on:

Nov. 25, 2015
Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals