



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:	#4210			
Request Type:	Variance			
Address:	SS Farm Street			
Zoning:	Residential B Zoned District			
Recorded Owner:	Philip and Susan Medeiros			
Owner's Address:	36 Bluebird Lane Westport, MA			
Applicant:	Jason Braz			
Applicant's Address:	42 Bush Street Dartmouth, MA			
Application Submittal Date	Public Hearing Date	Decision Date		
October 21 st , 2015	November 19 th , 2015	November 19 th , 2015		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
39	7	8192	244	

Variance under provisions of Chapter 9, Comprehensive Zoning Section 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional regulations appendix-B-minimum lot size, lot frontage, side yards), 2750 (yards in residential districts), 2755 (side yards), 3000 (parking & loading), 3140 (location & layout of parking & loading facilities), and 3145 (no open off street parking space shall be located in front of the dwelling principle building); relative to property located at SS Farm Street, assessor's map 39, lot 7, in a residential-B zoned district. To allow the petitioner to erect a single family dwelling 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 12:48
CITY CLERKS OFFICE
NEW BEDFORD, MA

1.) APPLICATION SUMMARY

The petitioner is proposing to erect a single family dwelling as plans filed, which requires a Variance under provisions of Chapter 9 Comprehensive Zoning Section 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional regulations appendix-B-minimum lot size, lot frontage, side yards), 2750 (yards in residential districts), 2755 (side yards), 3000 (parking & loading), 3140 (location & layout of parking & loading facilities), and 3145 (no open off street parking space shall be located in front of the dwelling principle building). This petition is relative to property located at SS Farm Street, assessor's map 39, lot 7, in a residential-B zoned district.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, prepared by Romanelli Associates Inc., dated July 22nd, 2015
- 1st & 2nd Floor Plans, Sheet A-1, drawn by JB, dated September 30th, 2015
- Elevations, Sheet A-2, drawn by JB, dated September 30th, 2015

Other Documents & Supporting Material

- Completed Petition for a Variance Form, stamped received by City Clerk's Office October 21st, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated October 30th, 2015.
- Staff Comments to ZBA from City Planning Division, dated November 12th, 2015.
- Letter to ZBA from Ward Five City Councilor, Kerry Winterson, dated November 6th, 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 communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated October 30th, 2015; the Communication from the Department 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 hearing open.

The Representative of the petitioner: Mr. Jason Braz (42 Bush Street Dartmouth, MA), project contractor, presented the petition to the Board. Mr. Braz described the lot in question as running from Allen Street to Farm Street. He explained petitioners are seeking relief for lot size, frontage, side dimensions and for the existing driveway that would be in front of the proposed dwelling. Mr. Braz

commented that when the property owners, Mr. and Mrs. Medeiros, purchased the lot there was a foundation permit. He explained the current proposal is smaller in scale and scope and expressed it is better than the previously permitted plan. He explained the proposed home is better positioned on the lot for the neighbors than on the previous plan. He stated it is designed of a similar shape and scale of the houses in the neighborhood, so it would fit in and seem as if it were there the whole time.

Mr. Braz stated in regard to the reason for the requested relief the lot is an odd shaped lot. He pointed out a house was previously on the lot but was razed due to deteriorating conditions, and he reiterated the petitioner previously had a permit issued before to rebuild a home on the lot. Mr. Braz turned the presentation over to the property owner for more information on the property history.

Mr. Philip Medeiros (36 Bluebird Lane Westport, MA), the property owner, addressed the Board. Mr. Medeiros explained he previously lived next door to this property and had bought the property with a foundation permit in place with the intention to build a home on it in 2007. He had renewed that permit once; however, due to the economic recession that hit at the time they could not afford to build at that time. He stated compared to other lots in the neighborhood the lot is actually larger but it has an odd shape. He explained it is longer than it is wide, running from street to street. His intention is to be able to return a home to the lot which would increase the tax payment of the property.

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 Chairman Mathes noted the board was in receipt of a communication in support of the petition from Ward Five City Councilor, Kerry Winterson, who was unable to attend the meeting. Mr. Decker made a motion, seconded by Mr. Schick, to receive and place on file the communications from Ward Five City Councilor, Kerry Winterson, dated November 6th, 2015. With all in favor, the motion carried.

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. Mr. Schick expressed because the petitioner previously had a permit for this location and this proposal is smaller in scale, he was in favor of the request.

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 size and shape of the lot are unusual if not unique for the surrounding neighborhood. The board found the hardship is that without the variance the property would be unbuildable.

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.

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 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional regulations appendix-B-minimum lot size, lot frontage, side yards), 2750 (yards in residential districts), 2755 (side yards), 3000 (parking & loading), 3140 (location & layout of parking & loading facilities), and 3145 (no open off street parking space shall be located in front of the dwelling principle building); relative to property located at SS Farm Street, assessor's map 39, lot 7, in a residential-B zoned district. To allow the petitioner to erect a single family dwelling 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. 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;
- c. And that 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 A. Decker, seconded by J. Walsh to grant the requested Variance, the vote carried 5-0 with members J. Walsh, A. Decker, L. Schick, S. McTigue, and J. Mathes and 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