



# City of New Bedford

## Department of Planning, Housing & Community Development

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# STAFF COMMENTS

## ZONING BOARD OF APPEALS MEETING October 9<sup>th</sup>, 2015

**Case # 4179:** Variance located at NS Tacoma Street (Map: 130C Lots: 259/260)

**Applicant/Ownership:** The Tacoma Street Realty Trust  
c/o David Pina Fernandes  
47 Medeiros Lane  
Dartmouth, MA 02747

**Overview of Request:** The petitioner has submitted an application for **VARIANCE** under Chapter 9 Comprehensive Zoning relative to property listed above located in a mixed use business zoned district. The petitioner proposes to build a 44'x45' duplex.



**Requested Relief:** The petitioner seeks relief for lot area, frontage, and rear yards. The chart below shows what the petitioner proposes versus what is required under Zoning Ordinance:

	<b>Proposed</b>	<b>Required</b>
<b>Lot Area (sq. ft.)</b>	7,175 sq. ft	10,000 sq. ft
<b>Frontage</b>	80'	100'
<b>Rear Yards</b>	26' 1 1/8"	30'

**Existing Conditions:** The property is currently undeveloped.

### Plan Specifics:

- **Property:** The subject measures 7,175 sq. ft. with 80' frontage on Tacoma Street and 89'± of depth. This is not an unusual residential lot size within the neighborhood.
- **Buildings:** The proposed use as a duplex two-family home is an allowed use in this zone. The proposed duplex is slightly larger than the existing residential dwellings in the surrounding neighborhood yet is of a similar size of retail buildings in the neighborhood in which it is located. A residential dwelling is within the character of the surrounding neighborhood.

**Neighborhood:** The neighborhood has mixed uses. The abutting properties to the north are commercial uses (retail shopping plaza). The abutting property on the west is residential. Two properties abutting on the east side are owned by the petitioner, one is residential, the other is commercial (hair salon). The properties directly south across the street are residential and zoned residential B.

**Chronology of Case #4179 to this point:** This case was first opened on April 23<sup>rd</sup>, 2015 the following is a brief chronology of the Case hearing since that time.

**April 23<sup>rd</sup>, 2015**

- Project designer Armando Pereira presented to the board on behalf of the petitioner. The petitioner was abroad and unable to attend. Petitioner's sister attended to explain his absence.
- Board member Ms. Trahan questioned the hardship as the deed showed four lots purchased together and questioned if the applicant had subdivided the lots and therefore it's a self-made hardship.
- Direct abutters stated concerns for parking, the size of the building, storm water runoff, and stated they are not in favor of a two-family dwelling.
- Continuance granted in order to allow petitioner to be present and answer questions of the board.

**May 28th, 2015**

- Mr. Pereira, Attorney Medeiros, and Mr. Fernandes (petitioner) were present and addressed the board.
- Attorney Medeiros presented a packet including deed information for all the parcels.
- City Counsel Attorney Espinola accepted the information; board asked Attorney Espinola to review. Attorney Espinola advised that the determination whether the lots had merged would have to be made by the Zoning Enforcement Officer, Commissioner Romanowicz.
- Abutters Mr. Rego, Mr. & Mrs. Medeiros, and Mr. Gelais expressed concerns about parking.
- Continuance granted in order to allow Zoning Enforcement Officer, Commissioner Romanowicz to render determination as to lots merging issue.

**June 25th, 2015**

- Zoning Enforcement Officer submitted his decision on the merged lots to the board and the petitioner's attorney before the meeting.
- Petitioner's attorney requested a continuance at this time.
- Continuance granted. No new information was presented or discussed.

**July 30th, 2015**

- Petitioner's attorney requested a continuance at this time. The request referenced new plans were to be submitted.
- Continuance granted. No new information was presented or discussed.

**August 27th, 2015**

- Project Designer, Mr. Perriera requested a continuance at this time. The request stated the petitioner could not be present.
- Continuance granted. No new information was presented or discussed.

**September 15<sup>th</sup>, 2015**

- New plans submitted, date stamped received by City Clerk's Office September 15th, 2015

### **September 17th, 2015**

- A four member quorum was at this meeting.
- Project Designer, Mr. Perriera requested a continuance at this time. The request was made so the case could be heard by a full five member board.
- Continuance granted. No new information was presented or discussed.

### **October 8<sup>th</sup>, 2015**

- The Zoning Enforcement Officer, Commissioner Romanowicz, submitted a correction to his previous decision submitted to the board on June 25<sup>th</sup>, 2015. The correction notes a variance was granted for property 2805 Acushnet Avenue (Case# 3981), this means the petition for Case #4179 may move forward.

### **October 22<sup>nd</sup>, 2015**

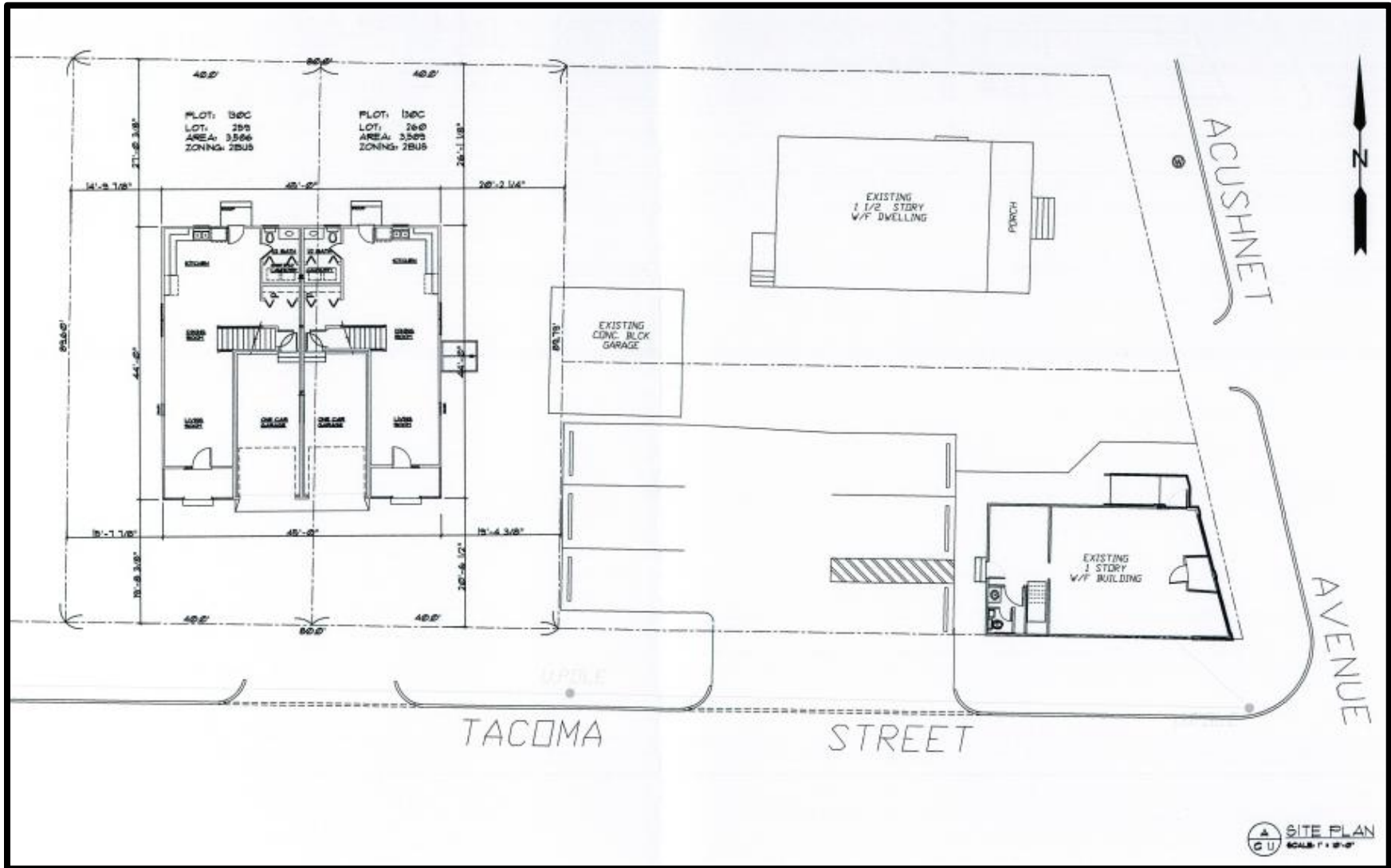
- Scheduled hearing date.

**For Board Member Consideration.** The petitioner has submitted new plans for the Board's consideration. The new plans have increased the rear yard setback from 25'-7 7/8" to 26'-1 1/8". The petitioner also shows a proposed increased parking area to be installed on an abutting parcel (Map: 130C Lot: 261) which is held in common ownership. The Board must first vote to accept the new plans as submitted before making a determination on the Variance request.

**Standards:** As with all requests for Variances the petitioner must demonstrate that there are circumstances related to the soil conditions, shape, or topography affecting the subject land or structure, and due to these circumstances a literal enforcement of the zoning ordinance would involve a substantial hardship, financial or otherwise to the petitioner. The Board must determine if relief is granted, it is without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance and without substantial detriment to the public good.

**Stated hardship:** The application states the hardship is that the lot is undersized.

New plans submitted September 15<sup>th</sup>, 2015:







**Case #4179 NS Tacoma Street (Map: 130C Lots: 259 & 260)**

Note: Property line is approximate, for discussion purposes only.