



CITY OF NEW BEDFORD  
 JONATHAN F. MITCHELL, MAYOR

**ZONING BOARD OF APPEALS**

City Hall, Room 303  
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 New Bedford, MA 02740  
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 www.newbedford-ma.gov

Registry of Deeds Use Only:

2015 SEP 23 A 9 17  
 CITY CLERK  
 CITY CLERKS OFFICE  
 NEW BEDFORD, MA

**NOTICE OF DECISION**

Case Number: #4197				
Request Type: Variance				
Address: 1018 Shelburne Street				
Zoning: Residential A Zoned District				
Recorded Owners: Thaddeus Haggerty and Heather Haggerty				
Applicant: Thaddeus Haggerty and Heather Haggerty				
Applicant Address: 1018 Shelburne Street New Bedford, MA 02745				
Application Submittal Date	Public Hearing Date	Decision Date		
July 10 <sup>th</sup> , 2015	September 10 <sup>th</sup> , 2015	September 10 <sup>th</sup> , 2015		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
127E	436	2390	16	

Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Rear Yard) and 2753 (Rear Yards); relative to property at 1018 Shelburne Street, Assessor's Map 127E, Lot 436 in a Residential A Zoned District. To allow the petitioner to erect a 16' x14' sunroom as plans filed.

**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 September 23<sup>rd</sup>, 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.

9/23/2015  
 \_\_\_\_\_  
 Date

*[Signature]*  
 \_\_\_\_\_  
 Acting Clerk, Zoning Board of Appeals

## 1.) APPLICATION SUMMARY

The petitioner filed a petition for a Variance under Ch. 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Rear Yard) and 2753 (Rear Yards). The petitioner is proposing to erect a 16'x14' sunroom as plans filed; relative to property at 1018 Shelburne Street, Assessor's Map 127E, Lot 436 in a Residential A Zoned District.

## MATERIALS REVIEWED BY THE BOARD

### Plans Considered to be Part of the Application

- Site Plan drawn by unknown, not dated
- Specification drawings, drawn by TMR, dated 6/26/15

### Other Documents & Supporting Material

- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office July 10<sup>th</sup>, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated August 5<sup>th</sup>, 2015.
- Staff Comments to ZBA from the City Planning Department, dated September 9<sup>th</sup>, 2015.

## 2.) DISCUSSION

Board Members: J. Mathes, A. Decker, R. Schilling, J. Walsh, and L. Schick were present on the evening of the public hearing. Mr. Decker recused himself from the subject case hearing and left the room. City of New Bedford Staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

Mr. Walsh motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated August 5<sup>th</sup>, 2015; the Communication from the Office of City Planner dated September 9<sup>th</sup>, 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. Motion seconded by Mr. Schick. With all in favor, the motion carried.

Acting Chairperson Mathes then declared the hearing open.

Petitioner: Mr. Ted Haggerty (1018 Shelburne Street New Bedford, MA) described the proposed three-season room and explained the reason for the variance request. Mr. Haggerty stated under code he needs thirty (30) feet in the rear yard but proposes nineteen (19). He stated there is a deck already located on the property that does not meet the rear yard requirement. The proposed three-season room is to be built in the same location.

Following the petitioner's testimony, Acting Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. Mr. Alvin Silvia (21 Ethel Street New Bedford, MA) stated owner of the property abutting in the rear, stated he is in support 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 stated questions or concerns, Acting Chairperson Mathes declared the hearing closed.

The Board members discussed amongst themselves the criteria necessary to grant the variance. Mr. Walsh asked the petitioner what it is about the land or structure that a variance is necessary. Mr. Haggerty explained when he purchased the house it already had a 12'x14' deck, which he now needs to replace and it doesn't have the setback anyway. So, when they decided to rebuild they would get more use of out a three season room. He further explained the dimensions of the proposed sunroom we more cost effective than if built on the smaller footprint of the existing deck. He explained he never had the required 30 feet; currently he has 23 feet and is proposing 19 feet. Mr. Schilling stated it would be an improvement at the property.

#### 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 there was insufficient area to build upon the existing deck. The Board found the hardship is the applicants are unable to improve their property without the variance.

- 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 in Section 6 of this Decision.

The Board grants the Applicant's request for relief from Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Rear Yard) and 2753 (Rear Yards); relative to property at 1018 Shelburne Street, Assessor's Map 127E, Lot 436 in a Residential A Zoned District. To allow the petitioner to erect a 16'x14' sunroom as plans filed.

**6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY**

- a. The project shall be set forth according to plans submitted with the application;
- 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.

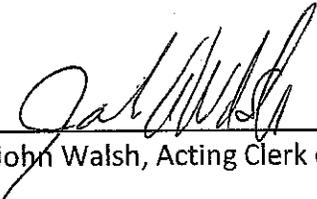
**7.) DECISION**

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 J. Walsh, seconded by L. Schick to grant the requested Variance, the vote carried 5-0 with members J. Mathes, L. Schick, R. Schilling, and J. Walsh, voting in the affirmative, no member voting in the negative. (Tally 4-0)

Filed with the City Clerk on:

9/23/2015  
Date

  
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John Walsh, Acting Clerk of the Zoning Board of Appeals