



**ZONING BOARD OF APPEALS**

City Hall, Room 303  
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CITY OF NEW BEDFORD  
 JONATHAN F. MITCHELL, MAYOR

CITY CLERKS OFFICE  
 NEW BEDFORD, MA  
 2015 SEP 23 A 9:01  
 CITY CLERK

**NOTICE OF DECISION**

Case Number:		#4198		
Request Type:		Variance		
Address:		3532 Acushnet Avenue		
Zoning:		Residential A Zoned District		
Recorded Owner:		Cameron A. Crooks		
Applicant:		Cameron A. Crooks		
Applicant Address:		3532 Acushnet Avenue New Bedford, MA 02745		
Application Submittal Date		Public Hearing Date		Decision Date
July 14 <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
134	297	10581	69	

**Application:**

Variance under provisions of Chapter 9 Comprehensive Zoning sections 2330-2334 (Accessory Structure) and 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B, Side Yards), 2730 (Dimensional Variation), (22750 Yards in Residential Districts), and 2753 (Side Yards); relative to property located at 3532 Acushnet Ave., Assessor's Map 134 Lot 297 in a Residential-A Zoned District. To allow the petitioner to erect a 18'x30' garage 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.

Sept. 23, 2015  
 Date

*Allison Decker*  
 Clerk, Zoning Board of Appeals

### 1.) APPLICATION SUMMARY

The petitioner is proposing to erect a 18'x30' garage as plans filed, which requires a Variance under Chapter 9 Comprehensive Zoning sections 2330-2334 (Accessory Structure) and 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B, Side Yards), 2730 (Dimensional Variation), (22750 Yards in Residential Districts), and 2753 (Side Yards). The petition is relative to property located at 3532 Acushnet Ave., Assessor's Map 134 Lot 297 in a Residential-A Zoned District.

### 2.) MATERIALS REVIEWED BY THE BOARD

#### Plans Considered to be Part of the Application

- Site Plan drawn by unknown, not dated

#### Other Documents & Supporting Material

- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office July 14<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.
- Photo submitted by petitioner, Dated received by Zoning Board of Appeal September 10<sup>th</sup>, 2015.

### 3.) DISCUSSION

Board Members: J. Mathes, A. Decker, R. Schilling, J. Walsh, and L. Schick were present on the evening of the public hearing. 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. Decker 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. Cameron Crooks (3532 Acushnet Avenue New Bedford, MA) explained the variance request is due to the layout of the lot and the location of his house and existing carport. He cannot place the garage anywhere else. He stated the garage, as proposed, will be three (3) feet from his neighbor on the north side of the property.

Mr. Schick asked if the garage proposed was metal. Mr. Crooks stated yes and that the garage comes in a variety of colors. He submitted a photo to the board as an example of what it would look like.

Mr. Decker made a motion to receive and place on file the photo submitted. Motion seconded by Mr. Schick. With all in favor the motion passed.

Following the petitioner's testimony, Acting Chairperson Mathes invited to the podium anyone wishing to speak in favor of the application. Mr. Arthur Glassman (3540 Acushnet Avenue New Bedford, MA) explained he is the only abutter affected by the relief from setbacks sought by the applicant. He stated there would be no negative effect and would give him more privacy at his property. Mr. Glassman said Mr. Crooks was a good neighbor who took care of his property since he bought the home in 2012. Mr. Glassman also stated Mr. Crooks was leaving enough room for Mr. Glassman to be able to maintain his fence. For these reasons Mr. Glassman was in favor 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.

#### 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 shape and layout of the property and its dwelling are such that placement of the garage only works in the location as planned. The Board found the hardship is the prevention of the applicant's ability to improve or enhance the property in order to provide additional coverage for vehicles and/or other items.

- 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 sections 2330-2334 (Accessory Structure) and 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B, Side Yards), 2730 (Dimensional Variation), (22750 Yards in Residential Districts), and 2753 (Side Yards); relative to property located at 3532 Acushnet Ave., Assessor's Map 134 Lot 297 in a Residential-A Zoned District. To allow the petitioner to erect an 18'x30' garage 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 A. Decker, seconded by J. Walsh to grant the requested Variance, the vote carried 5-0 with members J. Mathes, A. Decker, L. Schick, R. Schilling, and J. Walsh. voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

Sept. 23, 2015

Date



Allen Decker, Clerk of the Zoning Board of Appeals