



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

CITY OF NEW BEDFORD  
 JONATHAN F. MITCHELL, MAYOR

**NOTICE OF DECISION**

Case Number:		#4174		
Request Type:		Variance		
Address:		28 Alva Street		
Zoning:		Residential A Zoned District		
Recorded Owner:		Thomas Polvino and Anna G. Polvino		
Applicant:		Thomas Polvino and Anna G. Polvino		
Applicant Address:		28 Alva Street New Bedford, MA 02740		
Application Submittal Date		Public Hearing Date		Decision Date
January 23 <sup>rd</sup> , 2015		February 26 <sup>th</sup> , 2015		February 26 <sup>th</sup> , 2015
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
55	246	10050	175	

2015 MAR 10 AM 10  
 CITY CLERK  
 NEW BEDFORD, MA  
 CITY CLERK'S OFFICE

**Application:**

Variance under provisions of Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulation), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Side Yard), 2570 (Yards in Residence Districts) and 2755 (Side Yard); relative to property located at 28 Alva Street, Assessor's Map Plot 55 Lot 246 in a Residential-A zoned district. To allow the petitioner to remove the carport and shed, then build a 24'x33' attached 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 March 10<sup>th</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.

March 10, 2015  
 Date

Allen Decker  
 Clerk, Zoning Board of Appeals

## 1.) APPLICATION SUMMARY

The petitioner is proposing to remove the carport and shed, then build a 24'x33' attached garage as plans filed, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (Dimensional Regulation), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Side Yard), 2570 (Yards in Residence Districts) and 2755 (Side Yard); relative to property located at 28 Alva Street, Assessor's Map Plot 55 Lot 246 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, showing "Proposed 24'x33' 2 Car Garage"

### Other Documents & Supporting Material

- Photo Images, not dated including
  - Current Layout
  - Proposed Layout
  - Proposed Layout with Dimensions
- Completed Petition for a Variance Form, Stamped Received by City Clerk's Office January 23rd, 2015.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, dated January 26<sup>th</sup>, 2015.
- Letter to ZBA from City Planner Jill Maclean, dated February 25<sup>th</sup>, 2015.

## 2.) DISCUSSION

Board Members I. Comerford, J. Mathes, A. Decker, 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.

A .Decker read and motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated January 26<sup>th</sup>, 2015; to have the appeal be received and placed on file; to have the plan be received and placed on file; that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the Communication from the Office of City Planner dated February 25<sup>th</sup>, 2015 be received and placed on file. Motion seconded by J. Mathes. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open.

The Representative of the Petitioner: Brian Conceicao (92 Oak Street New Bedford, MA)

explained the petition. Mr. Conceicao explained the petitioners have an existing carport that fits only one car. Additionally, there is a shed located at the back and somewhat connected to the carport. The petitioner is proposing to remove the carport and shed to build a 2 car garage. Mr. Conceicao explained in order to accommodate two vehicles in the garage it would have to be 28 feet wide, which they ran into the zoning issue. Mr. Conceicao stated that the garage wall is to be located 19 feet from the neighbors home, as shown in the photo submitted with the application. Mr. Conceicao state that Mr. and Mrs. Polvino moved to New Bedford four years ago to help their daughter with their granddaughter. He further explained the driveway is sloped and becomes slick in the weather , especially the severe weather we've had this year. Currently the cars are parked stacked in line behind one another which has been problematic as Mr. Polvino has a medical condition. He stated it has been difficult to get the cars out to go to medical appointments/therapy.

Following the petitioner's testimony, Chairperson I. Comerford invited to the podium anyone wishing to speak in favor of the application. Ward 6 City Councilor Joseph Lopes (75 Dudley Street New Bedford, MA) spoke on behalf of the petitioners. Mr. Devin Byrnes (71 Grant Street New Bedford, MA), stated son-in-law, said he lives about a block away and this proposal is in line with what you see in neighborhood. He stated there are carports and garages at many of the houses in the neighborhood. Mr. Byrnes reiterated the comments of Mr. Conceicao, that the garage would aid his father-in-law's (Mr. Polvino) ability to get to and from his car in the winter and his medical appointments. At Large City Councilor Linda Morad (4162 Acushnet Avenue New Bedford, MA) was recorded 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.

Chairperson I. Comerford 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, Chairperson I. Comerford declared the hearing closed.

Chairperson Comerford stated he believed the petition was straightforward with good family people trying to stay in their home in New Bedford. He stated he was in favor of the petition.

#### **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 a literal enforcement of the dimensional requirements of the zoning district would constitute a hardship for the applicant.

- 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 2700 (Dimensional Regulation), 2710 (General), 2720 (Table of Dimensional Requirements, Appendix-B-Side Yard), 2570 (Yards in Residence Districts) and 2755 (Side Yard); relative to property located at 28 Alva Street, Assessor's Map Plot 55 Lot 246 in a Residential-A zoned district. To allow the petitioner to remove the carport and shed, then build a 24'x33' attached 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 J. Mathes, seconded by L. Schick to grant the requested Variance, the vote carried 4-0 with members J. Mathes, L. Schick, A. Decker, and I. Comerford voting in the affirmative, no member voting in the negative. (Tally 4-0)

Filed with the City Clerk on:

March 10, 2015

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals