



**ZONING BOARD of APPEALS**  
City Hall, Room 303  
133 William Street,  
New Bedford, MA 02740  
(508) 979-1488  
[www.newbedford-ma.gov](http://www.newbedford-ma.gov)

CITY OF NEW BEDFORD  
JONATHAN F. MITCHELL, MAYOR

**NOTICE OF DECISION**

Case Number:	#4429			
Request Type:	Variance			
Address:	130 ½ Summer Street			
Zoning:	Residential B (RB) Zoned District			
Recorded Owner:	Howland Place LCC, CO Kevin Welch			
Owner Address:	283 Sawyer Street, Unit 1E, New Bedford, MA 02746			
Applicant:	Howland Place LCC, CO Kevin Welch			
Applicant Address:	283 Sawyer Street, Unit 1E, New Bedford, MA 02746			
Application Submittal Date		Public Hearing Date		Decision Date
October 21, 2020		November 12, 2020		November 12, 2020
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
58	150,151,477,(546)	12849	209	

A Variance under Chapter 9 Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements - Appendix B, minimum lot size, lot frontage, side yard & rear yard), 2750 (yards in residence district), 2753 (rear yard) and 2755 (side yard); relative to property located at **130 ½ Summer Street**, Assessors' map 58 lot 150,151,477 (546) in a Residential B [RB] zoned district. The petitioner proposes to modify a shared lot line between two non-conforming lots to create space for off street parking on the lot which its intended to serve per plans filed.

**Action: GRANTED, WITH CONDITIONS, for the reasons set forth in the attached decision with the Conditions as described therein.**

A copy of this Decision was filed with the City Clerk of the City of New Bedford on November 19, 2020. 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.

November 19, 2020

Date

Stephen Brown, Clerk of the Zoning Board of Appeals

Registry of Deeds/City Clerk Use Only:

NOV 19 2020  
CITY CLERK  
RECEIVED

## **APPLICATION SUMMARY**

The petitioner is proposing to modify a shared lot line between two non-conforming lots to create space for off street parking on the lot which its intended to serve per plans filed, which requires a Variance under Chapter 9 Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements - Appendix B, minimum lot size, lot frontage, side yard & rear yard), 2750 (yards in residence district), 2753 (rear yard) and 2755 (side yard); relative to property located at **130 ½ Summer Street**, Assessors' map 58 lot 150,151,477 (546) in a Residential B [RB] zoned district.

## **1.) MATERIALS REVIEWED BY THE BOARD**

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

- Plan Set, drawn by Grady Consulting, LLC, plans dated October 2, 2020, date stamped October 21, 2020 by City Clerk's Office.
  - Cover Sheet
  - Existing Conditions
  - Existing Conditions Color-Up
  - Construction Layout
  - Construction Layout Color-Up
  - Details

### **Other Documents & Supporting Material**

- Completed Petition for a Variance Form, stamped received by City Clerk's Office October 21, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated October 30, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, dated November 3, 2020.

## **2.) DISCUSSION**

On the evening of the November 12, 2020 meeting, board members Laura Parrish, Celeste Paleologos, Stephen Brown, Allen Decker and Leo Choquette, Jr. were present for the virtual public hearing. City of New Bedford staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Angela Goncalves (Assistant Project Manager) were present during proceedings for the subject case review.

In regard to Case #4428 and Case #4429 Clerk Brown made a motion, seconded by Mr. Decker to hold the public hearings concurrently as they both held in common ownership and were in regard to the same project at 130 & 130 ½ Summer Street. With all in favor, the motion carried.

In regards to Case #4429, Clerk Brown made a motion, seconded by Mr. Decker to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated October 30, 2020; staff comments from the Department of City Planning, dated November 3, 2020; 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.

Chairperson Parrish then declared the hearing open.

The petitioner: Nicholas Leing, Grady Consulting, LLC. (71 Evergreen Street, Kingston, MA) presented the case at the hearing representing the proprietor Howland Place, LLC., CO Kevin Welch (283 Sawyer Street, Unit 1E, New Bedford). Mr. Leing began the presentation by stating the subject property previously hosted two residential structures and was sub-divided last year into two parcels by virtue of an 81L plan. Mr. Leing stated the applicant is now seeking relief to reconfigure the property line between these two parcels to provide off street parking for both structures.

**The proposal is to modify a shared lot line between two non-conforming lots to create space for off street parking on the lot which its intended to serve per plans filed.**

**The applicant proposes to reconfigure the existing lot line to match the installed fence line and to provide parking for both dwellings. The proposed lot lines are as shown on plans submitted. The proposal allows for a parking area to accommodate four (4) vehicles directly adjacent to the 3-family structure (130 Summer Street); and provides a 13' wide driveway to access a parking area adjacent to the rear single family dwelling (130 ½ Summer Street). The single-family driveway is already existing. No changes are proposed to the structures on site.**

Mr. Leing continued the presentation briefly describing the subject parcels. Mr. Leing stated the rear single family has no frontage, inhibiting access to the property, therefore requiring the reconfiguration of the lot lines to allow access to each residential structure and to eliminate the need for an easement.

The project site is located on the east side of Summer Street on the block between Hillman Street (to the south) and Maxfield Street (to the north). The property is currently comprised of two parcels/addresses 130 Summer Street and 130 ½ Summer Street. Combined the parcels are 8,579 SF in area with 64'± of frontage on Summer Street and a depth of 133'±. At the front of the site is a 3-family residential structure (130 Summer Street) and a single-family residential structure (130 ½ Summer Street) is located in the rear.

Mr. Leing concluded the presentation by briefly explaining the proposal had been reviewed and granted by the Planning Board. Mr. Leing indicated the Planning Board had one revision to the plans submitted: that the proposed driveway be composed of compacted crushed stone, as opposed to asphalt. Mr. Leing then welcomed questions from the board.

**The project also required Site Plan Review (Case # 20-29) and a Special Permit (Case #20-30) for a parking reduction from the Planning Board. The applications were granted on November 4, 2020 by the Planning Board via Zoom.**

In response to an inquiry from Mr. Brown relative to ownership and accessibility for emergency vehicles, Mr. Leing replied the parcels are in common ownership. Nonetheless, they do not have the same entity ownership. Mr. Leing indicated Kevin Welch does manage Howland LLC. Additionally, Mr. Leing notes the proposal would improve emergency accessibility, while providing off street parking for each parcel.

Following the petitioner's testimony, Chairperson Parrish invited anyone wishing to speak in favor or be recorded in favor of the petition of the application. There was no response to Chairperson Parrish's invitation to speak or be recorded in favor.

Chairperson Parrish invited anyone wishing to speak in opposition of the petition. There was no response to Acting Chairperson Parrish's invitation to speak or be recorded in opposition.

Chairperson Parrish asked the Board if there were any further questions.

With no further questions, Chairperson Parrish closed the hearing.

The Board had a brief discussion. Chairperson Parrish stated she is in favor of the petition, stating the proposal would increase the accessibility for emergency vehicles.

Board member Decker engaged with the Commissioner of Building and Inspectional Services, Danny D. Romanowicz regarding the common ownership; Mr. Romanowicz explained the property previously had a dwelling that burnt down, the tear down property was sold to Kevin Welch. The purpose of dividing the parcels was to allow for each structure to be sold separately in the future.

In response to an inquiry from Board Member Decker relative to the 81L Plan, Mr. Leing replied an 81L Plan allows you to separate a piece of property that currently hosts two structures: eliminating the need for a subdivision plan.

**The current lot configuration was the result of an 81L plan previously recorded. An 81L plan allows an existing nonconforming property, with more than one structure on the lot, to be divided so that each structure may be located on its own lot without meeting the current zoning requirements. The 81L process may only be done once. Therefore, the current proposal, which proposes to change the lot lines once more, requires the variance relief from the Zoning Board of Appeals and relevant permits from the Planning Board.**

With no further questions. The board indicated their readiness to vote.

### **3.) 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 due the configuration of the existing structure on the parcel; restricts the ability to provide off street parking.

The Board found that if the city were to literally enforce the Zoning Ordinance due to circumstances unique to this land or structure, it would mean a substantial hardship to the petitioner. In this case, without the relief; the enforcement would inhibit the ability to provide off-street parking for each parcel.

- b.) *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 relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

- c.) *That desirable relief may be granted without substantial detriment to the public good;*

The board found that relief may be granted without substantial detriment to the public good.

#### **4.) 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.

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, minimum lot size, lot frontage, side yard & rear yard), 2750 (yards in residence district), 2753 (rear yard) and 2755 (side yard); relative to property located at **130 ½ Summer Street**, Assessors' map 58 lot 150,151,477,(546) in a Residential B [RB] zoned district.

#### **5.) 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.

A motion to approve was made by Clerk Brown and seconded by Mrs. Paleologos as follows:

In regard to Case #4429 **Howland Place LCC, CO Kevin Welch** (283 Sawyer Street, Unit 1E, New Bedford, MA 02746); relative to property located at **130 ½ Summer Street**, Assessors' map 58 lot 150,151,477, (546) in a Residential B [RB] zoned district. The petitioner proposes to modify a shared lot line between two non-conforming lots to create space for off street parking on the lot which its intended to serve per plans filed, which requires a **Variance** under Chapter 9 Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements - Appendix B, minimum lot size, lot frontage, side yard & rear yard), 2750 (yards in residence district),

2753 (rear yard) and 2755 (side yard). Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9 Comprehensive Zoning sections as cited; the board finds that in respect to these sections the application has made sufficient arguments.

In addition to the foregoing section this petition has been found to be in accordance with Massachusetts General Law Chapter 40A section 10 relative to the granting of variances because the board found:

- That there are circumstances relating to the soil conditions, shape or topography especially affecting the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located;
- And due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant;
- And that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw;
- And that desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

**With the following (specific) conditions (if any):**

**Specific Conditions on this decision shall include:**

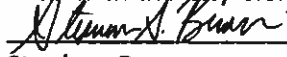
- **This proposal required Site Plan Review & a Special Permit by the Planning Board. Any conditions imposed by the Planning Board decisions shall also be conditions of this Variance.**

General Conditions on this decision shall include:

- That the project be set forth according to the plans submitted with the application.
- That the applicant shall ensure a copy of the Notice of Decision bearing the certification of the city of New Bedford City Clerk's Office be recorded at the Registry of Deeds.
- The rights authorized by the granted variance must be exercised by issuance of a Building Permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted, or the approval will lapse.

On a motion by S. Brown seconded by C. Paleologos to grant the requested Variance, the vote carried 5-0-0 with members A. Decker, S. Brown, C. Paleologos, L. Choquette, Jr. and L. Parrish voting in the affirmative; no members voting in the negative or abstaining. (Tally 5-0-0).

Filed with the City Clerk:

  
\_\_\_\_\_  
Stephen Brown  
Clerk of the Zoning Board of Appeals

November 19, 2020

\_\_\_\_\_  
Date