



MAYOR
JON MITCHELL

PLANNING DIRECTOR
JENNIFER CARLONI

City of New Bedford Department of City Planning

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ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS
VIRTUAL MEETING
Thursday, March 22, 2022

MINUTES

PRESENT: Laura Parrish, (*Chairperson*)
Celeste Paleologos, (*Vice Chairperson*)
Stephen Brown
Debra Trahan

ABSENT: Robert Schilling
Leo Choquette, Jr.

STAFF: Laura Ryan, *Staff Planner*
Danny Romanowicz, *Commissioner of Buildings, and Inspectional Services*

1. CALL TO ORDER

Chairperson Parrish offered applicants the option to continue hearing to the full board. She called the meeting of the City of New Bedford Zoning Board to order at 6:03 p.m.

Chairperson Parrish then explained the meeting process, protocols and requirements.

2. PUBLIC HEARINGS:

ITEM 1 – CASE #4440: Request for an extension of the Zoning Board of Appeals decision approving Case #4440 for a Special Permit with conditions recorded March 24, 2021; relative to property located at 89 North Water Street, Assessors' Map 53, Lot 102 in an Industrial A [IA] zoned district. The applicant states that due to the effects of the Covid-19 Pandemic, the applicant has been unable to commence the project as anticipated. The applicant seeks an extension of the decision for an additional one-year period in order to allow for the project to commence.

A motion was made (SB) and seconded (DT) to receive and place on file the request for extension communication letter dated 2/16/22, wherein the applicant seeks a one-year extension. Motion passed unopposed.

*Note: These are minutes only. A complete copy of the meeting audio is available on the City of New Bedford website at:
<http://www.newbedford-ma.gov/cable-access/government-access-channel-18/program-schedule/>*

2023 FEB 21 PM 3:30
CITY CLERK

A motion was made (SB) and seconded (CP) to grant extension on Case #4440 for reasons set forth in the letter received.

Motion passed unopposed.

ITEM 2- CASE 4478 Petition of: Abel & Maria Raposo (109 Oakland Street, New Bedford, MA 02740) for a Variance under Chapter 9, Comprehensive Zoning Sections 2300 (accessory buildings and uses), 2310 (general), 2330 (accessory structures), 2331 (private garage), 2700 (dimensional regulation), 2710 (general), 2720 (table of dimensional requirements - Appendix B, side yard ft.), 2750 (yards in residence district) and 2755 (side yard); relative to the property located at 109 Oakland Street, Assessors' Map 82, Lot 62, in a Residential A [RA] zoned district. The petitioner is proposing to construct a garage extension per plans filed.

A motion was made (SB) and seconded (DT) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 3/1/22; staff comments from the Department of City Planning dated 3/2/22; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the board to be the lots affected; and, that the action of the clerk in giving notice of the hearing as stated shall be and is hereby ratified.

Motion passed unopposed.

Chairperson Parrish offered the applicant the opportunity to continue their hearing before a full board. Applicant chose to move forward.

Chairperson Parrish declared the hearing open.

Maria Raposo explained their desire to add a second garage, which will accommodate her wheelchair bound mother's transportation and her own physical difficulties.

Board Member Brown stated he felt the plans appeared reasonable and fit within the neighborhood.

Mr. Raposo explained plans for the pad but confirmed it would be the same footprint.

Board Member Trahan and Board Member Paleologos both agreed with Board Member Brown's comments.

There was no response to Chairperson Parrish's invitation to speak or be recorded in favor.
There was no response to Chairperson Parrish's invitation to speak or be recorded in opposition.

With no further questions or concerns, the hearing was declared closed.

With no further discussion, a motion was made (SB) and seconded (DT) to grant a variance under provisions of the City Code of New Bedford, relative to the property located at 109 Oakland Street, Assessors' Map 82, Lot 62, in a Residential A [RA] zoned district, to allow the petitioner to construct a garage extension per plans filed, which requires a variance under provisions of Chapter 9, Comprehensive Zoning Sections 2300, 2310, 2330, 2331, 2700, 2710, 2720 - Appendix B, 2750 and 2755.

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Having reviewed this petition, including materials submitted and testimony heard, in accordance with the City of New Bedford Code of Ordinances and M.G.L. Chapter 40A, §10, the board finds that the applicable requirements have been addressed and met.

This determination includes consideration of the following: The board finds there are circumstances relating to the soil conditions, shape or topography which especially effect the land or structure in question, but which do not effect generally the zoning district in which the land or structure is located. In this instance, the circumstances are that the garage will be built on the footprint of the existing concrete pad on the site. Due to the circumstances especially effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, the hardship is that literal enforcement of the ordinance would prohibit construction of the garage. In addition, the homeowners are elderly and have difficulty dealing with the ice and snow in winter, and the house is occupied by a wheelchair user, which the additional garage space will accommodate. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning bylaw. And desirable relief may be granted without substantial detriment to the public good.

With no specific conditions, the following general conditions apply: 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 certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the 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 they will lapse.

ROLL CALL VOTE:

Board Member Paleologos - Yes

Chairperson Parrish – Yes

Board Member Brown - Yes

Board Member Trahan - Yes

MOTION PASSED 4-0

ITEM 3 – CASE #4479 - Petition of: Storage Cap Bravo New Bedford JV LP (330 East Crown Point Road, Winter Garden, FL 34787) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulation), 2710 (general), 2720 (table of dimensional requirements – appendix B, front yard ft., side yard ft., rear yard ft. and green space); relative to the property located at 40 Edison Street Assessors' Map 107, Lot 109, in an Industrial B [IB] zoned district. The petitioner is proposing to convert the existing building into a self-storage facility per plans filed.

A motion was made (SB) and seconded (DT) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 3/1/22; staff comments from the Department of City Planning dated 2/25/22; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the board to be the lots affected; and, that the action of the clerk in giving notice of the hearing as stated shall be and is hereby ratified.

Motion passed unopposed.

Chairperson Parrish declared the hearing open.

After providing the applicant with the opportunity to continue his hearing to a full board, Ira Katz, Illinois, elected to address the board. He described the subject building, a 1900's-built mill, which has been in disrepair for some 15-20 years. He explained their conversion/renovation plans for the same, to include roof, interior, parking lot, et cetera. He explained their request for a setback variance, which is a situation he cannot change. Mr. Katz complimented the city and then addressed his request for a green space variance. He provided the history of their design, noting the green space decrease down to 18.1% was as result of an easement. He noted neighborhood participation at their planning board appearance.

Trey Smith, Illinois, added to Mr. Katz's comments on the green space decrease due to the easement not shown on the original title commitment.

Board Member Brown commented that he believes the green space 1.8 % shortfall to be a non-issue, and believed they qualified for the hardship especially for a downtown grandfathered location. He suggested they obtain all permits and continue doing business in New Bedford.

Board Member Trahan inquired as to hours of operation/access. Mr. Katz represented they had agreed to hours with the planning board, but neither Mr. Katz nor Mr. Smith could be certain of that information, believing access to end at 11:00 p.m. with workers there from 9:00-7:00, in addition to the 32 security cameras and coded access.

There was no response to Chairperson Parrish's invitation to speak or be recorded in favor.
There was no response to Chairperson Parrish's invitation to speak or be recorded in opposition.

John Swierk, architect for the applicants, offered the planning board approval listing hours as 7:00am-9:00pm. Applicant explained they expect no problems with those hours, after and before which entry is denied by a timeout device.

With no further questions or concerns, the hearing was declared closed.

The board discussed conditions and a motion was made (SB) and seconded (DT) to grant a variance under provisions of the City Code of New Bedford, relative to the property located at 40 Edison Street Assessors' Map 107, Lot 109, in an Industrial B [IB] zoned district, to allow the petitioner to convert the existing building into a self-storage facility per plans filed, which requires a Variance under Chapter 9, Comprehensive Zoning Sections 2700, 2710, 2720– appendix B.

Having reviewed this petition, including materials submitted and testimony heard, in accordance with the City of New Bedford Code of Ordinances and M.G.L. Chapter 40A, §10, the board finds that the applicable requirements have been addressed and met. This determination includes consideration of the following: The board finds there are circumstances relating to the soil conditions, shape or topography which especially effect the land or structure in question, but which do not effect generally the zoning district in which the land or structure is located. In this instance, the circumstances are that the building is over 100 years old, and construction predates zoning and there is no additional land to accommodate the setback requirements. Due to the circumstances especially effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, the hardship is that the property could not be developed if

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zoning were literally enforced. Note is made that while green space requirements are not met, the applicant had made efforts to significantly increase the green space onsite. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And desirable relief may granted without substantial detriment to the public good.

With the following specific conditions:

- That the hours of operation approved by the Planning Board shall be a condition of this variance.

The following general conditions also apply: 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 certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the 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 they will lapse.

ROLL CALL VOTE:

Board Member Paleologos - Yes

Chairperson Parrish – Yes

Board Member Brown - Yes

Board Member Trahan - Yes

MOTION PASSED 4-0

Mr. Katz offered complimentary comments on the quality of the staff they worked with.

3. OTHER BUSINESS:

Laura Ryan raised the additional agenda items, one being the extension of virtual meetings to July 15.

A motion containing that language was made (SB) and seconded (CP) to accept the same.

Motion passed unopposed.

A motion was made (SB) and seconded (DT) to approve the November 18, 2021, meeting minutes.

Motion passed unopposed.

ROLL CALL VOTE:

Board Member Paleologos - Yes

Chairperson Parrish – Yes

Board Member Trahan – Yes

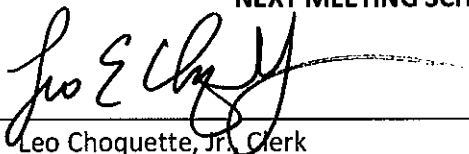
Board Member Brown - Yes

Motion passes 4-0

4. ADJOURNMENT:

Chairperson Parrish declared the meeting adjourned at 6:32 p.m.

NEXT MEETING SCHEDULED APRIL 21, 2022



Leo Choquette, Jr., Clerk

2/21/23
Date