



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

Registry of Deeds/City Clerk Use Only:

CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:	#4422			
Request Type:	Variance			
Address:	381 Cummington Street			
Zoning:	Residential A (RA) Zoned District			
Recorded Owner:	David Sinagra			
Owner Address:	381 Cummington Street, New Bedford, MA 02745			
Applicant:	David Sinagra			
Applicant Address:	381 Cummington Street, New Bedford, MA 02745			
Application Submittal Date	Public Hearing Date	Decision Date		
August 21, 2020	September 17, 2020	September 17, 2020		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
127E	365	12639	97	

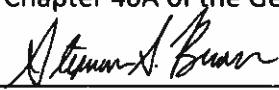
A Variance under Chapter 9 Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2750 (yards in residence district), 2755 (side yard), 3100 (parking & loading), 3110 (applicability), 3140 (Location and layout of parking and loading facilities) and 3145 (no driveway in a residential district shall exceed (18) ft in width); relative to property located at **381 Cummington Street**, Assessors' map 127E lot 365 in a Residential A [RA] zoned district. The petitioner proposes to expand the width of the existing driveway from 12' to 24', exceeding the 18' limit by 6' with no greenspace buffer westerly between the property line and the driveway, reduced from the required 4' buffer 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 September 23, 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.

9/23/20

Date


Stephen Brown, Clerk of the Zoning Board of Appeals

CITY CLERK
SEP 23 P 1:59
CITY CLERK'S OFFICE
NEW BEDFORD, MA

APPLICATION SUMMARY

The petitioner is proposing to expand the width of the existing driveway from 12' to 24', exceeding the 18' limit by 6' with no greenspace buffer westerly between the property line and the driveway, reduced from the required 4' buffer per plans filed, which requires a Variance under Chapter 9 Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2750 (yards in residence district), 2755 (side yard), 3100 (parking & loading), 3110 (applicability), 3140 (Location and layout of parking and loading facilities) and 3145 (no driveway in a residential district shall exceed (18) ft in width); relative to property located at 381 Cummington Street, Assessors' map 127E lot 365 in a Residential A [RA] zoned district.

1.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, drawn by unnamed, plans dated August 11, 2020, date stamped August 21, 2020 by City Clerk's Office.
 - S-1 Existing Conditions
 - S-2 New Work Renovation
 - S-3 Final Project

Other Documents & Supporting Material

- Completed Petition for a Variance Form, stamped received by City Clerk's Office August 21, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated August 27, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, dated September 4, 2020.

2.) DISCUSSION

On the evening of the September 17, 2020 meeting, board members Leo Schick, Stephen Brown, Allen Decker, Celeste Paleologos and Leo Choquette, Jr. were present for the virtual public hearing which was held remotely via Zoom teleconference in accordance with the Governors emergency order for board and commission proceedings. 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 regards to Case #4422, Clerk Brown made a motion, seconded by Mrs. Paleologos to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated August 27, 2020; staff comments from the Department of City Planning, dated September 4, 2020; letter in support of the proposal by Ann Barlow, dated June 5, 2020; the appeal packet as submitted; 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 Schick then declared the hearing open.

The petitioner: David Sinagra, Proprietor, (381 Cummington Street, New Bedford) presented the case at the hearing. Mr. Sinagra began his presentation by stating he is seeking relief for the extension of his

existing driveway. Mr. Sinagra notes the extension would provide additional off street parking, while alleviating the burden of tandem parking.

The petitioner proposes to expand the existing driveway width from 12' to 24', exceeding the 18' limit by 6' with no greenspace buffer westerly between the property line and the driveway, reduced from the required 4' buffer per plans filed.

The expansion of the parking area would not comply with side yard, parking and loading requirements and "no driveway in a residential district shall exceed eighteen in width" requirements, and therefore, requires a variance.

Mr. Sinagra continued the presentation with a visual presentation of the existing driveway. Mr. Sinagra described the retaining wall westerly in correlation to the expansion. Depicted in the plans submitted; the expansion would extend westerly alongside the existing structure to the end of the property line abutting a stone wall with no greenspace buffer, eliminating the existing lawn. The proposal would include the installation of a new asphalt driveway that would commence with a 24' width opening and taper to a 10' wide closure abutting the existing structure and westerly property line.

Mr. Sinagra concluded his presentation by expressing to the Board, granting the relief would not substantially derogate or nullify the intent of the zoning by-law or pose a detriment to the public good.

In response to an inquiry from Board Member Decker relative to hardship, Mr. Sinagra explained the proposal would add off-street parking and alleviate the moving of vehicles during certain hours of the day, due to tandem parking. Additionally, Mr. Sinagra mentioned he has a young child, and would like to install a Basketball hoop at the rear of the driveway, away from the street.

Board member Choquette stated he resides in Ward 1 and is pondering the same proposal for his property. Mr. Choquette also expressed his appreciation for the letter of support from the abutting neighbor.

Chairperson Schick inquired about drainage concerns; Mr. Sinagra explained that the stone wall is encompassed with peat moss to prevent any drainage onto the neighbor's property.

Additionally, Mr. Schick engaged with the Commissioner of Building and Inspectional Services, Danny Romanowicz regarding drainage. Mr. Romanowicz stated the proposal supplies sufficient drainage flow onto the applicant's parcel, with minimal runoff onto the city street.

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

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

Chairperson Schick asked the Board if there were any further questions. With no further questions, Chairperson Schick closed the hearing.

The Board had a brief discussion. Clerk Brown noted similar asphalt driveways to the expansion proposal depicted in an aerial plan submitted.

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 to the small size of the existing driving being only 12' wide, the extension would provide additional off street parking, while alleviating the burden of tandem 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 homeowner would be left without ample off street parking for their vehicles during city mandated snow bans. Therefore, impeding snow removal and traffic flow.

- 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), 2750 (yards in residence district), 2755 (side yard), 3100 (parking & loading), 3110 (applicability), 3140 (Location and layout of parking and loading facilities) and 3145 (no driveway in a residential district shall exceed (18) ft in width); relative to property located at **381 Cummington Street**, Assessors' map 127E lot 365 in a Residential A [RA] 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 #4422 **David Sinagra**, (381 Cummington Street, New Bedford, MA 02745); relative to property located at **381 Cummington Street**, Assessors' map 127E lot 365 in a Residential A [RA] zoned district. The petitioner proposes to expand the width of the existing driveway from 12' to 24', exceeding the 18' limit by 6' with no greenspace buffer westerly between the property line and the driveway, reduced from the required 4' buffer per plans filed, which requires a **Variance** under Chapter 9 Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2750 (yards in residence district), 2755 (side yard), 3100 (parking & loading), 3110 (applicability), 3140 (Location and layout of parking and loading facilities) and 3145 (no driveway in a residential district shall exceed (18) ft in width). 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.

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 and L. Schick voting in the affirmative; no members voting in the negative or abstaining. (Tally 5-0-0).

Filed with the City Clerk:

9/23/20



Stephen Brown

Date

Clerk of the Zoning Board of Appeals