



ZONING BOARD of APPEALS

City Hall, Room 303
133 William Street,
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CITY OF NEW BEDFORD
Registry of Deeds - City Clerk Use Only

OCT 20 2020

CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:	#4423				
Request Type:	Special Permit				
Address:	176 Pine Grove Street				
Zoning:	Residential A (RA) Zoned District				
Recorded Owner:	Antonio M. Pimentel Jr., & Karen Pimentel				
Owner Address:	176 Pine Grove Street, New Bedford, MA 02745				
Applicant:	Antonio M. Pimentel Jr., & Karen Pimentel				
Applicant Address:	176 Pine Grove Street, New Bedford, MA 02745				
Application Submittal Date		Public Hearing Date		Decision Date	
September 23, 2020		October 15, 2020		October 15, 2020	
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number	
127E	328	3016	306		

A Special Permit under Chapter 9 Comprehensive Zoning sections 2300 (accessory buildings and uses), 2310 (general), 2340-2347 (accessory dwelling unit) and 5300-5330 & 5360-5390 (special permit); relative to property located at **176 Pine Grove Street**, Assessors' map 127E lot 328 in a Residential A [RA] zoned district. The petitioner proposes to convert an existing attached garage into an accessory dwelling unit per 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, October 20, 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.

October 19, 2020

Date

Stephen Brown, Clerk of the Zoning Board of Appeals

APPLICATION SUMMARY

The petitioner proposes to convert an existing attached garage into an accessory dwelling unit per plans filed, which requires a Special Permit under Chapter 9 Comprehensive Zoning Sections 2300 (accessory buildings and uses), 2310 (general), 2340-2347 (accessory dwelling unit) and 5300-5330 & 5360-5390 (special permit); relative to property located at **176 Pine Grove Street**, Assessors' map 127E lot 328 in a Residential A [RA] zoned district.

MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, drawn by Zenith Land Surveyors, LLC, plans dated August 7, 2020, date stamped September 23, 2020 by City Clerk's Office.
 - Certified Plot Plan
- Plan Set, drawn by unnamed, date stamped September 23, 2020 by City Clerk's Office.
 - Proposed Site Plan

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office September 23, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 29, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, dated October 5, 2020.

2.) DISCUSSION

On the evening of the October 15, 2020 meeting, board members: Laura Parrish, Stephen Brown, Robert Schilling, Celeste Paleologos and Allen Decker 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 #4423 and Case #4424 Clerk Brown made a motion, seconded by Mrs. Paleologos to hold the public hearings concurrently as they both were in regard to the same project at 176 Pine Grove Street. With all in favor, the motion carried.

In regards to Case #4423 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 September 29, 2020; staff comments from the Department of City Planning, dated October 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.

Acting Chairperson Parrish then declared the hearing open.

The petitioner: Antonio & Karen Pimentel, proprietors, (176 Pine Grove Street) presented the case at the hearing. Mr. Pimentel began the presentation with a visual slide show briefly describing the subject property, history of ownership and the family members who currently reside at 176 Pine Grove Street.

The property is situated in the north end of the city, north of Tarklin Hill Road, east of Pine Grove cemetery, and west of Acushnet Avenue. The 1,794 SF, single family, cape cod style, two story residential property is located on the corner of Pine Grove Street and Pontiac Street in a residential A [RA] zoned district.

The site's parcel encompasses a 5,980 SF corner lot, with 66' of frontage on Pine Grove Street and 81.76' of frontage on the adjacent Pontiac Street. The subject property currently hosts a single family, multi-level, residential dwelling with an attached rear garage.

Mr. Pimentel continued the presentation stating the proposal is to allow for the conversion of an existing 440 SF garage to an accessory dwelling for use as an in-law apartment. Mr. Pimentel notes the attached garage has been used for occupant storage since ownership in March 1993 and there would be no change to the exterior dimensions of the structure. Additionally, Mr. Pimentel states the accessory dwelling would be occupied by his elderly mother, who would be relocating from Florida to be closer to family after the passing of her husband.

The proposal is to convert an existing attached garage into an accessory dwelling unit per plans filed.

Under the zoning ordinance, the conversion of the attached garage into an accessory dwelling unit requires a special permit from the Zoning Board of Appeals.

Additionally, the conversion of the existing garage into an accessory dwelling unit would require a variance, due to the location of the existing driveway. "No open air off street parking space shall be located in front of the dwelling or principal building".

Mr. Pimentel proceeded with his presentation referencing the site plan presentation. Depicted on the plan; Mr. Pimentel provided details relative to an aerial photo of the site, plot plan and the floorplan of the proposed in-law accessory dwelling.

The proposed accessory dwelling unit would include (1) one bedroom, (1) one bathroom and an open concept kitchen/living area. Additionally, (6) six storage/closet spaces are depicted throughout the proposed accessory dwelling unit.

Mr. Pimentel concluded the presentation by briefly summarizing the relief needed to grant the special permit and variance. Mr. Pimentel notes there are no exterior changes proposed, no new utilities required and no impact in traffic and parking. Additionally, Mr. Pimentel mentions a signed affidavit that the accessory dwelling will not be made available for rent, during home ownership. Mr. Pimentel noted that they are long-time residents of New Bedford and the proposal would allow for the care of their elderly mother. Mr. Pimentel thanks the board for their support and approval of the petition.

In response to an inquiry from Board Member Decker relative to the frontage of the proposed accessory dwelling, Mr. Pimentel replied it is located on Pontiac Street.

Following the petitioner's testimony, Acting Chairperson Parrish invited anyone wishing to speak in favor or be recorded in favor of the petition of the application. Ward 1, Councilor Brad Markey (1520 Morton Avenue) spoke in favor of the proposal. Councilor Markey stated he drove by the subject property and that the proposal would not negatively impact the neighborhood. Councilor Markey also notes the proposal would allow the family to take care of their elderly mother.

Councilor Linda Morad (4162 Acushnet Avenue) also spoke in favor of the proposal. Councilor Morad supports the project and commends steps taken to sign an affidavit.

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

Acting 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.

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

The Board had a brief discussion. Board member Brown entertained the notion to include a special condition for the accessory dwelling to not be used as a rental. Board member Schilling inquired if the affidavit would be sufficient. Acting Chair Parrish and board member Decker agree with the special condition proposed by clerk Brown.

The Commissioner of Building and Inspectional Services, Danny D. Romanowicz, noted the special condition would not be necessary and referenced the Special Permit under Chapter 9 Comprehensive Zoning Section 2346.

2346. The initial term and subsequent terms of a special permit for an accessory dwelling unit shall expire after two (2) years. In the event such special permit is not renewed, the Board of Appeals shall promptly notify the Inspector of Buildings. Subsequent special permit issuances for existing accessory dwelling unit, if any, shall be granted after certification by affidavit is made by the applicant that the accessory dwelling unit has not been extended, enlarged, or altered to increase its original dimensions, as defined in the initial special permit application, and that the need for the special permit still exists and there has been no change in the use or circumstances for which the special permit was originally granted.

Additionally, Board member Decker engaged with the Commissioner of Building and Inspectional Services, Danny Romanowicz regarding the Variance. Mr. Romanowicz stated the variance is due to the location of the existing driveway.

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

3.) FINDINGS

The Board found that in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 5320, the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site including consideration of the following: social, economic, or community needs which are served by the proposal; traffic flow and safety, including parking and loading; adequacy of utilities and other public services; neighborhood character and social structures; and impacts on the natural environment.

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 2300 (accessory buildings and uses), 2310 (general), 2340-2347 (accessory dwelling unit) and 5300-5330 & 5360-5390 (special permit); relative to property located at 176 Pine Grove Street, Assessors' map 127E lot 328 in a Residential A [RA] zoned district. The petitioner proposes to convert an existing attached garage into an accessory dwelling unit per plans filed.

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 special permit.

A motion to approve was made by Mr. Brown and seconded by Mr. Schilling as follows:

In regard to Case #4423 for **Antonio M. Pimentel, Jr. & Karen Pimentel**, (176 Pine Grove Street, New Bedford, MA 02745) relative to property located at **176 Pine Grove Street**, Assessors' map 127E lot 328 in a Residential A [RA] zoned district, to allow the petitioner to convert an existing attached garage into an accessory dwelling unit per plans filed, which requires a **Special Permit** under Chapter 9 Comprehensive Zoning Sections 2300 (accessory buildings and uses), 2310 (general), 2340-2347 (accessory dwelling unit) and 5300-5330 & 5360-5390 (special permit). 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 board finds in regard to the criteria as follows:

The board finds that in respect to these sections 5300-5330 and 5360-5390 relative to the granting of Special Permits, that the benefit to the city and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination included consideration of each of the following:

- *Social, economic, or community needs which are served by the proposal;*

- *Traffic flow and safety, including parking and loading;*
- *Adequacy of utilities and other public services;*
- *Neighborhood character and social structures;*
- *Impacts on the natural environment;*
- *Potential fiscal impact, including impact on City services, tax base, and employment*

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.

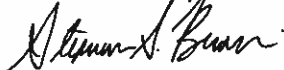
Specific Conditions on this decision shall include:

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 special permit 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 R. Schilling to grant the requested Special Permit, the vote carried 5-0-0 with members S. Brown, C. Paleologos, R. Schilling, A. Decker and L. Parrish voting in the affirmative; with no members voting in the negative; and no one abstaining. (Tally 5-0-0).

Filed with the City Clerk:



Stephen Brown
Clerk of the Zoning Board of Appeals

October 19, 2020

Date