



MAYOR
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ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS
NEW BEDFORD CITY HALL – 3rd Floor
WILLIAM STREET
NEW BEDFORD, MA
Thursday, August 15, 2019

MINUTES

PRESENT: Leo Schick (*Chairperson*)
Stephen Brown, *Clerk*
Robert Schilling
Celeste Paleologos

ABSENT: Allen Decker

STAFF: Angela Goncalves, *Assistant Project Manager*
Danny Romanowicz, *Commissioner of Buildings and Inspectional Services*

CITY CLERK
2019 NOV 15 A 12:08
CITY CLERKS OFFICE
NEW BEDFORD, MA

1. CALL TO ORDER

Chairperson Schick called the meeting of the City of New Bedford Zoning Board to order at 6:01 p.m. Chairperson Schick then explained the meeting process and protocol.

Chairperson Schick noted that the board contained only four members this evening and would require applicants receive a unanimous affirmative vote in order to prevail. He offered applicants the opportunity to continue their matters to a full board meeting.

2. PUBLIC HEARINGS:

ITEM 1 – CASE #4357 – Request for Extension. Riverside Lofts Limited Partnership, C/O Winn Company (6 Faneuil Hall Marketplace, Boston, MA 02109) requests an extension of the Zoning Board of Appeals' decision approving Case #4357 for a special permit with conditions recorded January 17, 2019; relative to property located 170 Riverside Avenue, Assessors' map 105, lot 135 & 206. The applicant seeks an extension of the decision for an additional one-year period in order to secure the required financing for the project from the Massachusetts Department of Housing & Community Development (DHCD).

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/>

A motion was made (SB) and seconded (RS) to accept and place on file a notice of extension dated 8/15/2019 wherein the applicant seeks extension for a one year.
Motion passed unopposed.

Att. Chris Saunders, New Bedford, on behalf of Riverside Lofts, covered their past appearance for residential dwelling units in the project's Phase II. He stated a condition on the granted special permit was that it be acted upon within one year. Att. Saunders stated that the announcement of the applied grants awarded would not meet the January 2020 deadline, therefore are requesting the one-year extension.

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

The public hearing was closed.

A motion was made (SB) and seconded (CP) to allow the request for the one-year extension.

Roll-call vote as follows:

Board Member Schick - Yes
Board Member Brown - Yes

Board Member Paleologos - Yes
Board Member Schilling - Yes

Motion passed 4-0

ITEM 2 – CASE #4384 - Petition of: David Sinagra (381 Cummington Street New Bedford, MA 02745) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements – Appendix B, rear yard), 2750 (yards in residence district) and 2753 (rear yard); relative to property located at 381 Cummington Street, Assessors' map 127E lot 365 in a Residential A [RA] zoned district. The petitioner is proposing to construct a 17'x13.5' all season room addition per plans filed. (Continued Agenda Item from July 18, 2019)

A motion was made (SB) and seconded (RS) that the following be received and placed on file: communications from the Commissioner of Buildings and Inspectional Services dated 6/28/19; communication from the Office of the City Planner dated 8/5/19; the appeal package as submitted; the plans as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.
Motion passed unopposed.

David Sinagra, 381 Cummington St., stated he is seeking to put an addition on the back of his home. He stated he currently has an existing 14'x17' deck which he will replace with the addition that he will attach to the rear of the home. He stated he has clearance to the west and east, and 12' to the north. He stated he requires 30' from the property line, so he is requesting a variance. He stated his abutting neighbors, Ann Barlow, Helene Patisteas and Christine Goben, are present and they agree with this project.

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Clerk Brown noted the requirements of the board, such as finding circumstances with the soil or topography that affect the land, et cetera. He stated he did not find any such board consideration in his application. He confirmed with Mr. Sinagra that it appears his lot has a long width and a short length. Mr. Sinagra stated the home itself is 26' from the back-property line and he described the lot setup. Clerk Brown confirmed that Mr. Sinagra only seeks to build the addition over the deck, and that there are similar setups with surrounding houses. Clerk Brown inquired as to any hardship. Mr. Sinagra stated he will not be able to have a new living area and they will replace the old living area with a dining area to accommodate visiting guests.

In response to Chairperson Schick's invitation to speak or be recorded in favor, Ann Barlow, an abutter at 389 Cummington St., stated she is in full favor and has no problem with the proposal.

In response to Chairperson Schick's invitation to speak or be recorded in favor, Peter Goblen, an abutter at 373 Cummington St., stated he drove from Maine to appear. Mr. Goblen mentioned the possibility of Mr. Sinagra expanding his family and thought the variance should be granted.

In response to Chairperson Schick's invitation to speak or be recorded in favor, Helene Patisteas, a rear abutter at 152 Armsby St., stated she approves of the proposal.

In response to Chairperson Schick's invitation to speak or be recorded in favor, Christine Goblen, an abutter, stated their living room/dining room is very small, and what they are requesting is reasonable and will make a difference for their family.

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

The public hearing was closed.

After brief board discussion, including hardship, a motion was made (SB) and seconded (RS) to grant the request for variance relative to property located at 381 Cummington Street, Assessors' map 127E lot 365 in a Residential A [RA] zoned district, to allow the petitioner to construct a 17'x13.5' all season room addition per plans filed, which requires a variance under Chapter 9, Comprehensive Zoning Sections 2700, 2710, 2720 – Appendix B, 2750 and 2753.

Having reviewed this petition, materials and testimony in accordance with the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, and M.G.L. Chapter 40A, §10, the board finds that the applicable sections have been met.

This determination includes consideration of the following:

The board finds there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this instance, circumstances are the narrow length of the lot puts the footprint of the property in violation of the setback requirements. Two, due to those 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 without the variance the dwelling will not accept a dining room area, therefore leaving the petitioner without ample

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living space for an expanding family. Three, the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. Four, the desirable relief may be granted without substantial detriment to the public good.

With no specific conditions, but general conditions are as follows: 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 as follows:

Board Member Brown - Yes

Board Member Paleologos - Yes

Board Member Schilling -Yes

Board Member Schick- Yes

Motion passed 4-0

ITEM 3 –

CASE #4386 - Petition of Golden Arch Limited Partnership, C/O McDonald's Corp. (PO Box 182571, Columbus, OH 43218) and Poyant Signs C/O Bethany Leonard (125 Samuel Barnet Boulevard, New Bedford, MA 02745) for an Administrative Appeal under Chapter 9, Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3220 (prohibited signs), 3222 (any sign which incorporates moving, flashing, animated or intermittent lighting, excluding public service signs such as those that display time and temperature), 5220 (powers) and 5223 (to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A.c.40A, §§7,8 and 15); relative to property located at 480 County Street, Assessors' map 52 lot 125 in a Mixed Use Business (MUB) zoned district. The petitioners are proposing to replace existing menu boards with electronic message boards per plans filed.

CASE #4387 Notice is given of a public hearing on the petition of: Archland Property I LLC, C/O McDonald's Corp. (PO Box 182571, Columbus, OH 43218) and Poyant Signs, C/O Bethany Leonard (125 Samuel Barnet Boulevard, New Bedford, MA 02745) for an Administrative Appeal under Chapter 9, Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3220 (prohibited signs), 3222 (any sign which incorporates moving, flashing, animated or intermittent lighting, excluding public service signs such as those that display time and temperature), 5220 (powers) and 5223 (to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A.c.40A, §§7,8 and 15); relative to property located at 141 Coggeshall Street, Assessors' map 93 lot 276 in an Mixed Use Business (MUB) zoned district. The petitioners are proposing to replace existing browser menu boards with electronic message boards per plans filed.

CASE #4388 Notice is given of a public hearing on the petition of: Cedar-Kings LLC, C/O Cedar Realty Trust Inc. (44 South Bayles Avenue STE 304, Port Washington, NY 11050) and Poyant Signs, C/O Bethany Leonard (125 Samuel Barnet Boulevard, New Bedford, MA 02745) for an Administrative Appeal under Chapter 9, Comprehensive Zoning Sections 3200 (sign

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regulations), 3201 (purpose), 3220 (prohibited signs), 3222 (any sign which incorporates moving, flashing, animated or intermittent lighting, excluding public service signs such as those that display time and temperature), 5220 (powers) and 5223 (to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A. c. 40A, §§ 7, 8 and 15); relative to property located at 1080 Kings Highway, Assessors' map 125 lot 29 in an Industrial A (IA) zoned district. The petitioners are proposing to replace existing menu boards with electronic message boards per plans filed.

A motion was made (SB) and seconded (RS) to consolidate the above cases for presentation as the cases involve the same applicant.

A motion was made (SB) and seconded (RS) regarding Case # 4386 that the following be received and placed on file: communications from the Commissioner of Buildings and Inspectional Services dated 7/26/19; communication from the Office of the City Planner dated 8/5/19; the appeal package as submitted; the plans as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

A motion was made (SB) and seconded (CP) regarding Case # 4387 that the following be received and placed on file: communications from the Commissioner of Buildings and Inspectional Services dated 7/26/19; communication from the Office of the City Planner dated 8/5/19; the appeal package as submitted; the plans as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

A motion was made (SB) and seconded (CP) regarding Case # 4388 that the following be received and placed on file: communications from the Commissioner of Buildings and Inspectional Services dated 7/26/19; communication from the Office of the City Planner dated 8/5/19; the appeal package as submitted; the plans as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Stephanie Poyant Moran, Poyant Signs, stated all three applicants are seeking the same relief, as they look to remove existing static menu boards and replace them with digital menu boards on the same foundations currently in place at the above McDonald's locations in conjunction with a McDonald's New England program. She described the planned boards, noting there is no video on the proposed boards. She stated the only board action that will occur is a menu change from breakfast to lunch. She stated this change increases safety and efficiency for all their sites and eliminates the manual change of the menu boards in high traffic hours. She stated the boards include no moving, flashing, animation or intermittent lighting, and will not be lit at night. With regard to light output, Ms. Moran stated it is a 2,500-nit light output and is no brighter than the existing static boards.

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Clerk Brown confirmed the new signs would go in the exact same place. Clerk Brown stated he did not believe the unnecessary bureaucracy should require this appearance before the board.

In response to Chairperson Schick, Ms. Moran stated she did not have hours of operation for the three sites, but would provide them, noting there will be no change from the current hours. She confirmed that a single board will be replaced with the same, and likewise for an existing double board. She stated the digital screens have the advantage of adjusting to the brightness and will dim down at night.

There being no further public audience present, the public hearing was closed.

A motion was made (SB) and seconded (CP) to grant Appeal #4386, under the City Code of New Bedford relative to property located at 480 County Street, Assessors' map 52 lot 125 in a Mixed Use Business (MUB) zoned district, to allow the petitioners to replace existing menu boards with electronic message boards per plans filed, under the provisions of Chapter 9, Comprehensive Zoning Sections 3200, 3201, 3220, 3222, 5220 and 5223 (to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A.c.40A, §§7, 8 and 15).

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, and M.G.L. Chapter 40A, §7, 8 and 15, the board finds the following facts: The proposed menu board would change menus electronically once a day and that the proposed boards are a digital display. Nonetheless the images will only change at set intervals, being breakfast menu to lunch menu.

Roll-call vote as follows:

Board Member Brown - Yes

Board Member Schick - Yes

Board Member Schilling - Yes

Board Member Paleologos - Yes

Motion passed 4-0

A motion was made (SB) and seconded (CP) to grant Appeal #4387, under the City Code of New Bedford relative to property located at relative to property located at 141 Coggeshall Street, Assessors' map 93 lot 276 in a Mixed Use Business (MUB) zoned district, to allow the petitioners to replace existing browser menu boards with electronic message boards per plans filed, regarding the appeal process under the provisions of Chapter 9, Comprehensive Zoning Sections 3200, 3201, 3220, 3222, 5220 and 5223 (to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A.c.40A, §§7, 8 and 15).

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, and M.G.L. Chapter 40A, §7, 8 and 15, the board finds the following facts: The proposed menu board will change menus once a day and LED screens will not incorporate moving, flashing or intermittent lighting, and will not be obtrusive or distracting to the surrounding environment.

Roll-call vote as follows:

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Board Member Brown - Yes
Board Member Paleologos - Yes

Board Member Schick - Yes
Board Member Schilling - Yes

Motion passed 4-0

A motion was made (SB) and seconded (CP) to grant Appeal #4388, under the City Code of New Bedford relative to property located at relative to property located at 1080 Kings Highway, Assessors' map 125 lot29 in an Industrial A (IA) zoned district, to allow the petitioners to replace existing browser menu boards with electronic message boards per plans filed, regarding the appeal process under the provisions of Chapter 9, Comprehensive Zoning Sections 3200, 3201, 3220, 3222, 5220 and 5223 (to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A.c.40A,§§7,8and15).

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, and M.G.L. Chapter 40A, §7, 8 and 15, the board finds the following facts: The proposed menu board will change menus once a day and LED screens will not incorporate moving, flashing or intermittent lighting and will not be obtrusive to the surrounding environment.

Roll-call vote as follows:

Board Member Brown - Yes
Board Member Paleologos - Yes

Board Member Schick - Yes
Board Member Schilling - Yes

Motion passed 4-0

A motion was made (LS) and seconded (SB) to accept the minutes of April 25, 2019.
Motion passed unopposed.

A motion was made (LS) and seconded (SB) to accept the minutes of May 9, 2019.
Motion passed unopposed.

A motion was made (LS) and seconded (SB) to accept the minutes of June 20, 2019.
Motion passed unopposed.

3. ADJOURNMENT:

This Zoning Board meeting was declared adjourned at 6:50 p.m.

NEXT MEETING SCHEDULED FOR September 19, 2019.


Stephen Brown, Clerk


Date