



MAYOR  
JON MITCHELL  
PLANNING DIRECTOR  
TABITHA HARKIN

## City of New Bedford Department of City Planning

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### ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS  
NEW BEDFORD CITY HALL – 3<sup>rd</sup> Floor  
WILLIAM STREET  
NEW BEDFORD, MA  
Thursday, July 18, 2019

#### MINUTES

<b>PRESENT:</b>	Leo Schick ( <i>Chairperson</i> ) Stephen Brown, <i>Clerk</i> Robert Schilling Celeste Paleologos Laura Parrish
<b>ABSENT:</b>	Allen Decker
<b>STAFF:</b>	Angela Goncalves, <i>Assistant Project Manager</i> Danny Romanowicz, <i>Commissioner of Buildings and Inspectional Services</i>

CITY CLERK  
2019 SEP 20 A 9 05  
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 6:00 p.m. Chairperson Schick then explained the meeting process and protocol.

Board Member Brown notified the board with regard to Case #4384, Cummington Street, that a request to continue the case to the 8/15/19 hearing had been received. A motion was then made (SB) and seconded (RS) to place the case on the August agenda.

Motion passed unopposed.

#### 2. PUBLIC HEARINGS:

##### ITEM 1 - CASES #4378/Case #4379/Case #4380/Case #4382 -

**Case #4378** - Notice is given of a public hearing on the petition of: MIH1, LLC (401 County Street, New Bedford, MA 02740), Kevin Burgess (2904 Acushnet Avenue, New Bedford, MA 02745), Neil A. & Erica S. Meunier (2914 Acushnet Avenue, New Bedford, MA02745) and T.M. Crowley

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& Associates, C/O Michael A. Kehoe, Esq., Partridge Snow & Hahn, LLP (128 Union Street Suite 500, New Bedford, MA 02740) for an Administrative Appeal under Chapter 9, Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3210 (general regulations) 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), 5200 (Zoning Board of Appeals) 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 2904, 2914 & ES Acushnet Avenue, Assessors' map 130D lots 117, 247, 248, & 447 in a Mixed Used Business [MUB] & Residential A [RA] zoned district. The petitioners are proposing to install a ground sign with an electronic message board per plans filed. Continued Agenda Item from June 20, 2019.

**CASE #4379** Notice is given of a public hearing on the petition of: MIH1, LLC (401 County Street, New Bedford, MA 02740), Kevin Burgess (2904 Acushnet Avenue, New Bedford, MA 02745), Neil A. & Erica S. Meunier (2914 Acushnet Avenue, New Bedford, MA 02745) and Michael A. Kehoe, Esq., Partridge Snow & Hahn, LLP (128 Union Street Suite 500, New Bedford, MA 02740) for a Special Permit under Chapter 9, Comprehensive Zoning Sections 3100 (parking and loading), 3130 (table of parking & loading requirements- Appendix C), 3140 (location and layout of parking & loading facilities), 3149 (special permit for commercial parking in residential districts) and 5300-5330 & 5360-5390 (special permit); relative to property located at 2904, 2914 & ES Acushnet Avenue, Assessors' map 130D lots 117, 247, 248, & 447 in a Mixed Used Business [MUB] & Residential A [RA] zoned district. The petitioners are proposing to construct a convenience store, fuel island and car wash which are on two lots per plans filed. Continued Agenda Item from June 20, 2019.

**CASE #4380** Notice is given of a public hearing on the petition of: MIH1, LLC (401 County Street, New Bedford, MA 02740), Kevin Burgess (2904 Acushnet Avenue, New Bedford, MA 02745), Neil A. & Erica S. Meunier (2914 Acushnet Avenue, New Bedford, MA 02745) and T.M. Crowley & Associates, C/O Michael A. Kehoe, Esq., Partridge Snow & Hahn, LLP (128 Union Street Suite 500, New Bedford, MA 02740) for a Variance under Chapter 9, Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3210 (general regulation), 3250 (regulation governing particular types of signs), 3254 (ground signs) and 3255 (area restrictions for ground signs); relative to property located at 2904, 2914 & ES Acushnet Avenue, Assessors' map 130D lots 117, 247, 248, & 447 in a Mixed Used Business[MUB] & Residential A [RA] zoned district. The petitioners are proposing to install signage per plans filed. Continued Agenda Item from June 20, 2019.

**CASE #4382** Notice is given of a public hearing on the petition of: MIH1, LLC (401 County Street, New Bedford, MA 02740), Kevin Burgess (2904 Acushnet Avenue, New Bedford, MA 02745), Neil A. & Erica S. Meunier (2914 Acushnet Avenue, New Bedford, MA 02745) and T.M. Crowley & Associates, C/O Michael A. Kehoe, Esq., Partridge Snow & Hahn, LLP (128 Union Street Suite 500, New Bedford, MA 02740) for an Administrative Appeal under Chapter 9, Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3210 (general regulations) 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), 5200 (Zoning Board of Appeals) 5220 (powers) and 5223 (to hear and decide appeals taken by any

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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 2904, 2914 & ES Acushnet Avenue, Assessors' map 130D lots 117, 247, 248, & 447 in a Mixed Used Business [MUB] & Residential A [RA] zoned district. The petitioners are proposing to install a 29" high x 71" wide 1' deep electronic message board per plans filed.

Case #4378 - A motion was made (SB) and seconded (LP) that the following be received and placed on file: communications from the Commissioner of Buildings and Inspectional Services dated 5/30/19; communication from the Office of the City Planner dated 6/7/19; 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.

Case #4379 - A motion was made (SB) and seconded (LP) that the following be received and placed on file: communications from the Commissioner of Buildings and Inspectional Services dated 5/30/19; communication from the Office of the City Planner dated 6/7/19; 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.

Case #4380 - A motion was made (SB) and seconded (LP) that the following be received and placed on file: communications from the Commissioner of Buildings and Inspectional Services dated 5/30/19; communication from the Office of the City Planner dated 6/7/19; 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.

Case #4382 - A motion was made (SB) and seconded (LP) 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 7/5/19; a letter from Allen Wolstenholme received July 17, 2019; 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 (LP) that the documents from the above cases be brought forward and merged together and voted on separately.

Motion passed unopposed.

Chairperson Schick noted that Board Member Paleologos was recusing herself and therefore offered the applicant the opportunity to postpone until a full quorum is available. Applicant declined.

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Att. Kehoe, on behalf of the applicant, stated their proposal is to raze two single family homes and a barn to be replaced with a Cumberland Farms convenience store, a fuel island and a car wash. He explained the locations and setting of the existing structures sitting on two lots created with a FORM A. He then explained the plans and locations for the proposed structures. He noted that the applicant had been through site plan review and extensive peer and DPI reviews. He stated the developer in light of comments, including those from the community, has agreed to offsite improvements for the city, such as traffic improvements, pedestrian walkways, et cetera totaling between \$400,000 - \$600,000, and he detailed the same.

Att. Kehoe stated they expect to employ 20 employees and bring increased tax revenue to the city. He stated they are compliant with the as of right use, dimensional setbacks, et cetera. He stated they are seeking signage, which has already been reduced in area and height to comply with the planning board recommendations. He stated they seek relief on the height, area and message board. He then displayed the same in plans.

In response to Board Member Brown, Att. Kehoe stated the sign will not display moving, flashing, intermittent or animated lettering, noting the sign will not display changes quickly. Att. Kehoe stated that while the sign would not display time and temperature, it could provide an Amber alert or other public service messages in response to a community request. He stated they seek two pylon signs, having two lots as they do. He responded to Board Member Brown that the original four lots had been merged into two approved Form A lots. Att. Kehoe clarified that the two lots will not be merged into one. There was discussion on the convex nature of the lot and the shared parking in the lots, which the applicant believes will give a harmonious look to the full project.

There was discussion regarding the new traffic signals and the fact that their main entrance will be directly across from Belair Street. He noted the planned synchronization of the traffic lights, and the re-visitation of the effectiveness of the same within the year.

Chairperson Schick inquired as to the clearing of green space, which Att. Kehoe clarified would largely be kept as green space. Board Member Brown clarified the special permit requested regarding the share parking on the two lots. Att. Kehoe reported car wash hours as 5:00 a.m. – 10:00 p.m., with the Cumberland Farms operating 24/7. He also discussed subdued lighting.

In response to Board Member Brown, Att. Kehoe visited the social, economic and community needs to be served.

Board Member Brown commented on his various considerations as a zoning board member and inquired as to any environmental considerations of the applicant. Att. Kehoe mentioned storm water management and drainage, green space and landscaping, and site safety/internal traffic circulation.

In response to Chairperson Schick's invitation to speak or be recorded in favor was Christian Farland, owner of the 27-lot subdivision behind the subject property.

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

In response to Chairperson Schick's invitation to speak or be recorded in opposition Allen Wolstenholme, 353 Whitelow Street, stated he objects to the operation of the electronic message board. He seeks the operation of the same should be clearly specified so that its brightness and flashing is not excessive. Mr. Wolstenholme spoke on his belief in the proliferation of LED signs in the city without adequate controls of brightness, flashing and scrolling. He stated he proposes regulations be specified for the sign's luminance on Page 3 of his report. He continued to speak on the protection for the city's aesthetics and safety, referenced other area signs and made brightness, image and time change recommendations.

In response to Board Member Brown, Mr. Wolstenholme stated his property did not abut the subject property. Board Member noted for Mr. Wolstenholme his job as a board member, stating his considerations by ordinance on the proposed sign were whether the sign incorporates moving, flashing, animations or intermittent lighting, unless it's a public service sign. He commended Mr. Wolstenholme on his report/submission and suggested he seek legislative changes. Mr. Wolstenholme noted his previous unsuccessful recommendations to city council and the planning department and was disappointed not to speak further this evening but wanted it clear that he supports the business development.

Att. Kehoe spoke on the sign details, including frequency of change, illuminations in compliance with city regulations, and the intensity.

Chairperson Schick inquired as to whether the sign builders had supplied information, such as on the nits. Mr. Farland responded that they did not but had shown foot candles that do not extend beyond the property line.

Chairperson Schick reiterated that the board has no control over the lumens or nits, which would need to be changed through legislation.

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

The public hearing was declared closed.

After substantial board discussion, to include signage time changes, other Cumberland Farms and their benefit to the city, a motion was made (SB) and seconded (RS) relative to Case #4378 to grant the appeal under the City Code of New Bedford relative to property located at 2904-2914 Acushnet Ave and ES Acushnet Ave, Assessors ' Map 131D, Lots 117, 247, 248 447 in a mixed use business and Residential A zoned district to allow the petitioner to install a ground sign with an electronic message board per plans filed. Motion to approve the Administrative Appeal under provisions of chapter 9, comprehensive Zoning Sections 3200, 3201, 3210, 3220, 3222, 5200, 5220, 5223 under MGL Chapter 40A § 7,8, and 15.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances under Chapter 9, sections as cited, the board finds the following facts:

The sign will not display moving flashing, intermittent or animated lettering and on average the sign's message will change 3-4 times per day. At any rate, it will not change more than at twenty-

minute intervals. The proposed required ground sign and site plan was reviewed by the planning board and was granted on 5/8/19 with specific conditions.

Roll-call vote as follows:

Board Member Schick – Yes	Board Member Schilling - Yes
Board Member Brown - Yes	Board Member Parrish - Yes

**Motion passed 4-0**

A motion was made (SB) and seconded (LP) regarding Case #4379 to grant a special permit under provisions of the City Code of New Bedford relative to property located at 2904-2914 Acushnet Ave and ES Acushnet Ave, Assessor's Map 131D, Lots 117, 247, 248 447 in a mixed use business and Residential A zoned district to allow the petitioner to construct a convenience store, fuel islands and car wash per plans filed, which requires a special permit under provisions of Chapter 9 Comprehensive Zoning Sections 3100, 3130 - Appendix C, 3140, 3149 and 5300-5330 & 5360-5390.

In accordance with the City of New Bedford Chapter 9 Comprehensive Zoning Sections as cited, the board has found 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 includes consideration of the following:

Social, economic or economic needs served by the proposal includes that the proposal offers a variety of options on site. Regarding traffic flow and safety including parking and loading, the board notes the petitioner went before planning for a ground sign and site plan review and its proposal was granted on 5/8/19 with specific conditions. With regard to the adequacy of utilities and other public services it is found there are adequate utilities servicing the area. Regarding neighborhood character and social structures, it is found that the neighborhood is characterized by commercial uses. Regarding impact on the natural environment, there is no anticipated change on the impact on the natural environment. Regarding the potential fiscal impact, including impact on city serve tax base and employment, the proposal adds employment and services.

With the following specific conditions: Any conditions imposed by the planning board's granted decision of May 8, 2019 shall be conditions of this special permit.

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 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 they will lapse.

Roll-call vote as follows:

Board Member Brown - Yes	Board Member Parrish - Yes
Board Member Schick - Yes	Board Member Schilling - Yes

**Motion passed 4-0**

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A motion was made (SB) and seconded (LP) regarding Case #4380 to grant a variance under provisions of the City Code of New Bedford relative to property located at 2904-2914 Acushnet Ave and ES Acushnet Ave, Assessor's Map 131D, Lots 117, 247, 248, 447 in a Mixed Use Business and Residential A zoned district to allow the petitioner to install signage per plans filed, which requires a variance under provisions of Chapter 9, Comprehensive Zoning Sections 3200, 3210, 3250, 3254, 3255.

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 with respect to these sections, the applicable sections have been addressed. In addition to the foregoing sections, the petition has been found to be in accordance with M.G.L. Chapter 40A, Section 10 relative to the granting of variances. This determination includes consideration of the following:

The board finds that, one, 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, the circumstances are the joining of four lots and the convex shape of the lot line against the road. 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 said sign is necessary for operation of the proposed business use of the shape of the lot and the norm in the industry. 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.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinances, the findings subsequently made 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: Any conditions imposed by the planning board on their granting of site plan on 5/8/19 shall be conditions of this approval.

The 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 Parrish - Yes

Board Member Schilling - Yes

Board Member Schick - Yes

**Motion passed 4-0**

A motion was made (SB) and seconded (LP) regarding Case #4382 to grant the appeal relative to property located at 2904, 2914 and ES Acushnet Avenue, Assessors' Map 131D, Lots 117, 247, 248, 447 in Mixed Use Business and Residential A zoned district to install a 29" high and 71" wide 1' deep electronic message board per plans filed. Motion to grant the Administrative Appeal under provisions of Chapter 9 Comprehensive Zoning Sections 3200, 3201, 3210, 3220, 3222, 5200, 5220 and 5223 under provisions of MGL Chapter 40A § 7,8 and 15.

Having reviewed the petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that the proposed sign would not be using moving flashing animated or intermittent lighting, and on average changes to the sign message would occur 3-4 times daily, but no more often than at twenty minutes intervals.

Roll-call vote as follows:

Board Member Brown - Yes

Board Member Parrish - Yes

Board Member Schick - Yes

Board Member Schilling - Yes

**Motion passed 4-0**

At Chairperson Schick's request, a motion was made (SB) to approve the minutes of the June 25, 2019 meeting.

Motion passed unopposed.

#### **ITEM 2 – Case #4383**

**#4383 Notice is given of a public hearing on the petition of: Coastline Elderly Services, Inc. (1646 Purchase Street, New Bedford, MA 02740) and R.P. Valois & Co., C/O Tim Howland (39 Russells Mill Road, South Dartmouth, MA 02748) for a Special Permit under Chapter 9, Comprehensive Zoning Sections 3100 (parking and loading), 3110 (applicability), 3140 (location and layout of parking & loading facilities), 3149 (special permit for commercial parking in residential districts) and 5300-5330 & 5360-5390 (special permit); relative to property located at 2104-2110 Acushnet Avenue & 859 Belleville Avenue, Assessors' map 119 lots 258 & 46 in a Mixed Used Business [MUB] & Residential B [RB] zoned district. The petitioners are proposing to open Coastline Elderly Services Headquarters with general office setting and conference meeting spaces and associated parking.**

A motion was made (SB) and seconded (LP) that the following be received and placed on file: communication from the Commissioner of Buildings and Inspectional Services dated 6/28/19; communication from the Office of the City Planner dated 7/5/19; 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.

Att. Murray Lukoff, County Street, representing Coastline Elderly, stated the plans were reviewed by the planning board and changes are being made and per their comments for a meeting on 8/7/19. He stated they are seeking a special permit for residential parking in residential district. Att. Lukoff provided the site history and description of this abandoned office building and

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abandoned house. He noted the house will be razed to provide additional parking and site access. He detailed the planned access circulation.

Att. Lukoff described the parcels with frontage on Harwich Street and Belleville Avenue not involving the CVS or laundry projects. He stated they will add landscaping. He noted the area contains commercial uses with residential use on Belleville Avenue. He explained the proposal to rehabilitate the existing building and detailed the 6 million expected in financing. He noted handicap accessibility with a south side main entrance. He stated the parking will consist of 111 parking spaces, explaining that the 113 Coastline employees are not all present at all times. He again detailed traffic circulation flow and access, noting pavement marking and new asphalt. He addressed storm water and drainage plans.

Att. Lukoff spoke on the legal requirements per zoning bylaw Section 3149. He then addressed the board requirements to be found in order to grant the proposal. He explained the need for this project as Coastline has outgrown their current space.

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

The public hearing was closed.

After board discussion, a motion was made (SB) and seconded (LP) to grant a special permit under provisions of the City Code of New Bedford relative to property located at 2104-2110 Acushnet Avenue & 859 Belleville Avenue, Assessors' map 119 lots 258 & 46 in a Mixed Used Business [MUB] & Residential B [RB] zoned district to allow the petitioners to open Coastline Elderly Services Headquarters with general office setting and conference meeting spaces and associated parking per plans filed which requires a special permit under Chapter 9, Comprehensive Zoning Sections 3100, 3110, 3140, 3149, 5300 – 5330 and 5360-5390. In accordance with the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Section 5320, the benefit to the city and to the neighborhood outweighs the adverse effect of the proposed use, taking into account the characteristics of the site and the proposal in relation to that site. This determination includes consideration of the following: social, economic and community needs served by the proposal regarding the proposed use would offer and general office setting with conference meeting spaces on site. Regarding traffic flow and safety, including parking and loading, which requires site plan approval for which there are specific conditions. Regarding the adequacy of utilities and other public services, which there are adequate utilities and services in the area. Regarding neighborhood character and social structures, the surrounding area has commercial uses and residential uses. Regarding impact on the natural environment, there is anticipated to be no substantial effects on the natural environment. Regarding potential fiscal impact, including impact on city services tax base and employment, the proposal adds employment and services. With the following specific conditions: This proposal requires site plan approval by the Planning Board and any conditions imposed will also be conditions of this approval.

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

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the rights authorized by the granting of the 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 they will lapse.

Roll-call vote as follows:

Board Member Brown - Yes	Board Member Parrish - Yes
Board Member Schick - Yes	Board Member Schilling - Yes
Board Member Paleologos - Yes	

**Motion passed 5-0.**

**ITEM 3 – Case # 4385:**

Notice is given of a public hearing on the petition of: SB Realty, LLC (92 Kilburn Street New Bedford, MA 02740), and Bohler Engineering, C/O William Lucas (352 Turnpike Road, Southborough, MA 01772) 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 159 Hathaway Road, Assessors' map 101 lot 14 in an Industrial B (IB) zoned district. The petitioners are proposing to replace an existing menu board with an electronic message menu board per plans filed.

A motion was made (SB) and seconded (LP) 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 7/5/19; 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.

Bill Lucas, Bohler Engineering, representing McDonalds, provided background on the proposed project and the McDonalds rebranding. He noted their site plan application will be heard in August. He stated they simply seek to replace the existing menu board with a more modern digital LED menu board. He described the same. He addressed the proposal in relation to public safety as relates to the location, as the board is in the back of the building with surrounding shrub growth.

In response to Board Member Brown, Mr. Lucas agreed the menu board is enclosed in the drive-thru lane, noting it is nearly behind the trash enclosure. Mr. Lucas also agreed with Board Member Brown that the sign will not incorporate moving, flashing or intermittent changes but for the screen change to display the order made and will not be obtrusive or distracting.

In response to Chairperson Schick's further invitation to speak or be recorded in favor, Allen Wolstenholme stated the proposed location looks very suitable and is an improvement for McDonalds.

There being no public audience left in attendance, there was no response to Chairperson Schick's further invitation to speak or be recorded in favor or opposition.

The public hearing was closed.

There being no further board discussion a motion was made (SB) and seconded (LP) to grant appeal #4385 relative to property located at 159 Hathaway Road, Assessors' map 101 lot 14 in an Industrial B (IB) zoned district to grant the appeal to replace existing menu board with an electronic message board per plans filed. Administrative Appeal granted under provisions of Chapter 9, Comprehensive Zoning Sections 5220, 5223 under provisions of MGL Chapter 40A, § 7,8 and 15 relative to the above-mentioned property.

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 the following facts: That the proposed sign will not incorporate moving, flashing or intermittent lighting other than displaying the order of the customer, that said menu board would not be obtrusive or distracting to the surrounding environment, that it is a digital menu board and its location is more or less enclosed, and that one member of the community approves of it

Roll-call vote as follows:

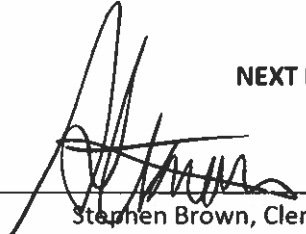
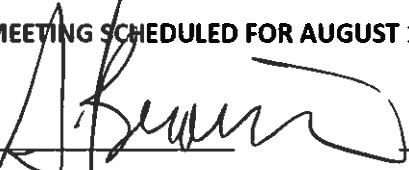
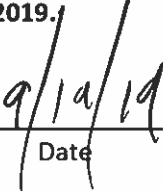
Board Member Brown - Yes	Board Member Parrish - Yes
Board Member Schilling - Yes	Board Member Paleologos - Yes
Board Member Schick - Yes	

**Motion passed 5-0**

**3. ADJOURNMENT:**

Proceedings were declared adjourned at 7:40 p.m.

**NEXT MEETING SCHEDULED FOR AUGUST 15, 2019.**

 Stephen Brown, Clerk		 9/12/19 Date
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