

**NEW BEDFORD PLANNING BOARD**

New Bedford City Hall  
133 William Street  
New Bedford, MA

July 11, 2018

**MEETING MINUTES**

**PRESENT:** Kathryn Duff, *Chairperson*  
Arthur Glassman, *Vice-Chairperson*  
Alex Kalife, *Clerk*  
Kamile Khazan  
George Smith

**ABSENT:** Peter Cruz

**STAFF:** Kirsten Bryan, *Acting City Planner*  
Jennifer Carloni

CITY CLERKS OFFICE  
NEW BEDFORD, MA  
2018 NOV 15 A 10:18  
CITY CLERK

**1. CALL TO ORDER**

Chairperson Duff called the meeting to order at 6:05p.m.

**2. ROLL CALL**

A formal roll call was conducted confirming members present as listed above. Chairperson Duff introduced the newest member of the board Kamile Khazan.

**3. APPROVAL OF MINUTES**

Chairperson Duff noted that the board had not received the June 2018 meeting minutes. With regard to the April 11, 2018 meeting minutes, a motion was made (AG) and seconded (GS) to approve said minutes. Motion passed unopposed.

**4. CONTINUED HEARINGS:**

Case #18-21: 804-812 Brock Avenue - Request by applicant for Site Plan approval for the conversion of an existing mixed use structure from four (4) residential units and three (3) commercial units to six (6) residential units and one (1) commercial unit, on a .10+ acre site, located at 804-812 Brock Avenue (Map 14 Lot 232) in a Mixed Use Business [MUB] zoned district.

Case #18-22: 804-812 Brock Avenue - Request by applicant for a Special Permit for a reduction in the number of parking spaces required for six (6) residential units and one (1) commercial unit, on a .10+ acre site, located at 804-812 Brock Avenue (Map 14 Lot 232) in a Mixed Use Business [MUB] zoned district.

Chairperson Duff reported that the above cases had been continued at the May 2018 meeting to the scheduled board meeting of October 10, 2018.

**5. PUBLIC HEARINGS**

ITEM 1 -Case #18-30: 93 Union Street - Request by applicant for Site Plan approval for the installation of a Drive-up ATM and canopy, on a 0.43+ acre site, located at 93 Union Street (Map: 53, Lot: 154) in an Industrial A [IA] and

*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>*

**Downtown Business Overlay District [DBOD] zoned district. Applicant: St. Anne Credit Union (93 Union Street New Bedford, MA). Applicant's Agent: Mount Vernon Group Architects, Inc. (47 N. 2nd Street New Bedford, MA).**

Paul Pacheco, on behalf of the applicant, drew the board's attention to drawings with their request. Chairperson Duff reminded the applicant that they need to go before the Historic Commission as well.

After brief board discussion on the proposal, a motion was made (GS) and seconded (AK) to open the public hearing. Motion passed unopposed.

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

A motion was made (GS) and seconded (AG) to close the public hearing.  
Motion passed unopposed.

With no further board discussion, a motion was made (AG) and seconded (GS) to approve the site plan for installation of a Drive-up ATM and canopy, on a 0.43+ acre site, located at 93 Union Street (Map: 53, Lot: 154) in an Industrial A [IA] and Downtown Business Overlay District [DBOD] zoned district, with the following conditions:

- The project shall be completed according to the plans, notes, reports and specifications submitted for consideration and final approval by the planning board;
- The project shall be undertaken in a manner consistent with the memorandum from the Department of Infrastructure received and placed on file;
- The planning board incorporates the DPI memo as part of these conditions;
- That the applicant shall submit final plan revisions to the Planning Division in the following format: One 11x17 plan set and one CD or USB of plan set in PDF format, and shall ensure that these same plans are properly submitted to the Department of Inspectional Services;
- The applicant shall ensure that a copy of the Notice of Decision, bearing the certification of the New Bedford City Clerk, signifying no appeal has been made against the project's approval, be provided for the planning division case file folder;
- The applicant shall present any proposed modification from the approved plan for consideration to the city planner for determination as to whether the modified plan must return before this board for further review;
- The rights authorized by the granted approval 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;
- Also subject to Historic Commission review.

**ROLL CALL VOTE:**

Chairperson Duff – Yes	Vice Chairperson Glassman – Yes
Board Member Kalife – Yes	Board Member Smith – Yes
Board Member Khazan – Yes	

**ITEM 2-Case #18-31: 1155 Purchase Street - Request by applicant for New Ground Sign Site Plan approval on a 0.38+ site, located at 1155 Purchase Street (Map: 59, Lot: 204) in a Mixed Use Business [MUB] zoned district. Applicant: South Coast Endodontics, P.C. (1155 Purchase Street New Bedford, MA). Applicant's Agent: Poyant Signs, Inc. (125 Samuel Barnett Blvd. New Bedford, MA).**

Stephanie Poyant Moran, of Poyant Signs, stated the existing free standing sign had come down in the heavy March rainstorms, and as such they are requesting installation of a new non-illuminated ground sign within codes, to be placed right next to the old sign foundation. She noted the sign is not near any driveways and will be installed to meet setback requirements.

In response to inquiries from Board Member Glassman and Chairperson Duff, Ms. Moran stated the proposed sign was slightly smaller, and that the light on the side of the sign is to illuminate the parking lot for employees working past the general business hours.

There being no other board questions, a motion was made (AK) and seconded (AG) to open the public hearing. Motion passed unopposed.

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

A motion was made (GS) and seconded (AK) to close the public hearing.  
Motion passed unopposed.

There being no further board discussion, a motion was made (AG) and seconded (GS) to approve the site plan for a New Ground Sign on a 0.38+ site, located at 1155 Purchase Street (Map: 59, Lot: 204) in a Mixed Use Business [MUB] zoned district, with the following general conditions previously listed.

**ROLL CALL VOTE:**

Chairperson Duff – Yes	Vice Chairperson Glassman - Yes
Board Member Kalife- Yes	Board Member Smith – Yes
Board Member Khazan - Yes	

**ITEM 3- Case #18-32: 4317 Acushnet Avenue - Request by applicant for New Ground Sign Site Plan approval on a 0.22+ acre site, located at 4317 Acushnet Avenue (Map: 136A, Lot: 55) in a Mixed Use Business [MUB] zoned district. Applicant: Tetrault Insurance Agency, Inc. c/o Paul T. Tetrault (4317 Acushnet Avenue New Bedford, MA). Applicant's Agent: Poyant Signs, Inc. (125 Samuel Barnet Blvd. New Bedford, MA).**

Stephanie Poyant Moran, of Poyant Signs, stated they are seeking location approval for the existing sign 23 year old sign to be refurbished. She noted they had already sought and received zoning approval. The refurbished sign will maintain its use and location. She described the surrounding distances relative to the placement. She also noted that the property's overall signage square footage will be reduced.

In response to Chairperson Duff, Ms. Moran stated the applicant had received relief on the square footage requirements, as well as changing from a manual to digital sign.

Chairperson Duff noted for the board that the applicant received conditioned approval relative to the electronic portion of the sign regarding hours of operation, as well as message change timing at no less than every 30 seconds. She inquired as to whether the sign lighting would be from 7:00 a.m. to 8:00 p.m. as well. Ms. Moran stated the sign will light approximately an hour after closing, comes on in the morning until daylight. She noted the sign does not flash. Chairperson Duff recommended sign hours be consistent with other approvals by this board, namely an hour before opening and an hour after closing.

There being no further board questions, a motion was made (GS) and seconded (AG) to open the public hearing. Motion passed unopposed.

In response to Chairperson Duff's invitation to speak or be recorded in favor, Paul Tetrault, owner of the business/building, stated they are looking to redo the 1984 sign. He stated the far north end of the city has no public signs displaying city messages. He stated he will display such messages, namely Amber alerts, school closings, et cetera. He reiterated the ample setback from Acushnet Avenue.

In response to Chairperson Duff's invitation to speak or be recorded in favor was Councilor Joseph Lopes as recorded in favor.

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

A motion was made (AG) and seconded (GS) to close the public hearing.  
Motion passed unopposed.

After brief discussion, including message timing, a motion was made (AG) and seconded (GS) to approve the site plan for a new ground sign on a 0.22+ acre site, located at 4317 Acushnet Avenue (Map: 136A, Lot: 55) in a Mixed Use Business [MUB] zoned district, subject to all previously stated conditions, subject to ZBA findings, subject to being lit from 7:00 a.m. to 8:00 p.m., and subject to allowing city public safety messages to be displayed.

ROLL CALL VOTE:

Chairperson Duff – Yes	Vice Chairperson Glassman - Yes
Board Member Kalife- Yes	Board Member Smith – Yes
Board Member Khazan - Yes	

**ITEM 4 - Case #18-33: Rezoning Request by City Councilor Joseph P. Lopes for recommendation by the Planning Board for rezoning of the following lots: 438 Dartmouth Street (Map: 18, Lot: 1), 105 Rockdale Avenue ( Map: 18, Lot: 69), 110 Jenkins Street (Map: 18, Lot: 74), WS Hemlock Street (Map:18, Lot: 84), WS Hemlock Street (Map: 18 Lot: 102), 470 Dartmouth Street (Map:18 Lot: 103), 137-141 Rockdale Street (Map:18 Lot: 105), 446 Dartmouth Street (Map: 18 Lot: 107), 119 Rockdale Avenue (Map: 18, Lot:108), 117 Rockdale Avenue (Map: 18, Lot: 109), 109 Rockdale Avenue (Map: 18, Lot: 112), 123 Rockdale Avenue (Map: 18, Lot: 113), 404 Dartmouth Street (Map: 18, Lot: 115); from Industrial B [IB] to Mixed Use Business [MUB].**

Chairperson Duff noted a letter of 7/11/18 received by the board from Christopher Saunders representing Torman Realty Trust.

A motion was made (GS) and seconded (AG) to receive and place on file.  
Motion passed unopposed.

The letter was read into the record.

Councilor Joseph Lopes made his presentation to the board, explaining that some 2.5 years ago when a pharmacy previously operating on the site had two interested buyers which were lost due to the zoning change delay. He stated it is now Blue Bird Taxi, a less consistent presence on the street than the two potential lost buyers. He listed area businesses in favor of the change, also noting there are no industrial businesses left in the area. He also noted the single residential house behind Stop & Shop.

Chairperson Duff confirmed that all business present could fall under mixed use business.

Board Member Smith noted the master plan goal to make the areas similar and walkable.

In response to Board Member Kalife, Councilor Lopes noted the availability of other properties within the south end available for the cannabis establishments.

Chairperson Duff noted the school and residential area setbacks.

A motion was made (GS) to open the public hearing.  
Motion passed unopposed.

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

In response to Chairperson Duff's invitation to speak or be recorded in opposition, Jeff Pepi, 170 Elm Street, stated there are buffer zones, but areas under discussion are not within a buffer zone, but within the Industrial AB &C. He asked the board to consider the areas actually available for dispensaries or marijuana establishments.

Chairperson Duff stated her understanding is that there is a 200' setback from residential areas, this parcel being surrounded by them.

Mr. Pépi stated the Moose Lodge is past the 200', along with several others, including a chiropractor office. He felt there were many potential properties within the zone that could be excluded. He noted all of downtown is excluded due to the buffer zones restrictions. He stated he just wanted to note that this could eliminate one of the eight possible spots they could fit in due to zoning.

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

A motion was made (GS) and seconded (AG) to close the public hearing.  
Motion passed unopposed.

After board discussion, including the goals of the master plan and spot zoning, integrated uses with MUB, and the difference between use as a medical office/clinic, et cetera, and a medical dispensary, a motion was made (AG) and seconded (GS) to recommend rezoning of the following lots: 438 Dartmouth Street (Map: 18, Lot: 1), 105 Rockdale Avenue (Map: 18, Lot: 69), 110 Jenkins Street (Map: 18, Lot: 74), WS Hemlock Street (Map:18, Lot: 84), WS Hemlock Street (Map: 18 Lot: 102), 470 Dartmouth Street (Map:18 Lot: 103), 137-141 Rockdale Street (Map:18 Lot: 105), 446 Dartmouth Street (Map: 18 Lot: 107), 119 Rockdale Avenue (Map: 18, Lot:108), 117 Rockdale Avenue (Map: 18, Lot: 109), 109 Rockdale Avenue (Map: 18, Lot: 112), 123 Rockdale Avenue (Map: 18, Lot: 113), 404 Dartmouth Street (Map: 18, Lot: 115); from Industrial B [IB] to Mixed Use Business [MUB].

ROLL CALL VOTE:

Chairperson Duff – Yes	Vice Chairperson Glassman - Yes
Board Member Kalife- Yes	Board Member Smith – Yes
Board Member Khazan - Yes	

Motion passed 5-0

**ITEM 5 - Case #18-34: Zoning Ordinance Text Amendment for the Planning Board to review and make a recommendation to the City Council for its consideration of amending City of New Bedford Zoning ByLaws, Chapter 9- Comprehensive Zoning, by adding a new Section 4100B. Marijuana Establishments and Medical Marijuana Treatment Centers. The purposes of this new section are to: 1.) Allow state licensed marijuana establishments and medical marijuana treatment centers to operate in the City of New Bedford in accordance with applicable state laws and regulations. 2.) Minimize the adverse impacts that marijuana establishments and medical marijuana treatment centers might have on adjacent properties, residential neighborhoods, dwellings, schools, substance abuse treatment centers, churches, and other sensitive land uses. 3.) Provide standards for the placement, design, siting, safety, security, monitoring, modification, and discontinuance of marijuana establishments and medical marijuana treatment centers that will protect the public health, safety, welfare, and the natural environment. The full text of the proposed amendment is available for review at the Planning Office, Room 303 of City Hall, 133 William Street, New Bedford, MA between the hours of 8:00AM to 4:00PM Monday through Friday.**

Chairperson Duff displayed the enlarged zoning map showing all the restricted areas, with the exception of 200' buffer from residential areas, thereby showing available and unavailable areas.

Chairperson Duff shared that her stance this "first time" proposal consideration is conservative and cautious. Board Member Kalife and Board Member Glassman shared their thoughts and concerns.

After further board discussion, which included buffers, as well as controlled licensing and boundaries which apply even for liquor establishments, Patrick Sullivan stated that the city council had adopted a cannabis committee to look at regulations. The committee presented a moratorium until 9/30/18 which allows the city to adopt the ordinance in greater detail. This moratorium was passed. He stated the city had worked collaboratively with the cannabis committee and the city council and arrived at the drafts for the ordinance, resulting in the language so contained, as well as the buffer zones as shown.

In response to Chairperson Duff's inquiry regarding permissible areas and potential client access, Mr. Sullivan stated his recollection is that none of this was seen as an impediment to permitting. He stated the parties addressed in the buffers and described how he sought to insure the welfare of children potentially impacted by such uses by creating the buffer zones.

Board Member Glassman confirmed the potential for eight licenses, and requested an opinion on whether they could fit in the available areas. Mr. Sullivan believed so, noting large tracks of land available in industrial areas.

In response to an inquiry by Chairperson Duff, Mr. Sullivan stated a license could only be awarded with a secured/approved location. He noted the process of approvals, host agreements, evaluations of proposed locations, et cetera, outlined within the proposed ordinance.

In response to Board Member Smith, Mr. Sullivan stated the ordinance is being amended to add the text. He also confirmed that medical and recreational are not separate, there being nothing previously in the ordinance regarding medical marijuana dispensaries. Board Member Smith confirmed that no store, et cetera, could be located in the red areas delineated on the map. Mr. Sullivan noted that churches had been included, but whether such churches, schools, et cetera, are open or closed would be part of the location evaluation, along with 200' buffers.

In response to Chairperson Duff, Mr. Sullivan confirmed that there had been several inquiries into the availability of different locations.

Board Member Glassman noted that many of the industrial areas contain schools and residences, eliminating many areas.

Board Member Smith noted it seems the planning board will be charged with considering the applicants, including safety, public welfare, et cetera. His questioned legal remedies in the event of a planning board rejection. Mr. Sullivan compared the board's decision making process in these instances to site plan review, looking at community impact, traffic, et cetera.

Chairperson Duff again expressed her feeling that the proposal was conservative, but noted the board is being asked to do something that has no precedence and will require careful consideration for the effects on the community as well as avoiding undue access impacts.

Board Member Glassman and Chairperson noted the voters and stated approval of the issue.

Councilor Abreu, who chaired the city council subcommittee, addressed the board on the process undertaken regarding the matter. He drew the board's attention to the map provided and discussed the same, and noted the positive revenue impacts to the city. In response to Board Member Glassman, Councilor Abreu stated he felt they could accommodate 7-8 establishments, supported the regulation suggestion, and noted some areas that will be grandfathered in.

Board Member Khazan expressed that she does not consider the proposal especially conservative. Councilor Abreu clarified the establishments must get a host agreement with the city first prior to getting their license, and then appear again before the planning board.

In response to Board Member Smith, Assistant City Solicitor stated the mayor's office felt comfortable with the proposal for recommendation.

A motion was made (GS) and seconded (AG) to open the public hearing.  
Motion passed unopposed.

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

In response to Chairperson Duff's invitation to speak or be recorded in opposition, Christian Smith stated he had three liquor stores in his neighborhood and was supportive of having a recreational marijuana retailer in his neighborhood. He stated there are exclusions not shown due to waterfront areas and residential setbacks. While appreciating the need to be cautious, he felt the map reflects an old view about marijuana usage and was somewhat discriminatory, despite the vote for it. He felt it should be treated like alcohol. He felt the buffer zones were excessive, especially the churches. He agreed with being cautious, but felt availability should be broadened.

In response to Chairperson Duff's invitation to speak or be recorded in opposition, Erica Kennedy, who holds two economic empowerment licenses with the state's cannabis control commission, noted the states application for people in disproportionate areas.

A motion was made (GS) and seconded (AG) to accept and place on file.  
Motion passed unopposed.

Ms. Kennedy directed the board to Page 3 and noted who is covered by the licenses. She discussed the effects of the war on marijuana and asked for different zoning that won't eliminate the downtown area. She inquired if there were any public meetings posted for people.

In response to Chairperson Duff's invitation to speak or be recorded in opposition, the CEO of Treebeard Inc., referenced an article regarding their seeking approval for an economic empowerment license. He stated they have driven around the city looking at the available buildings and property. He noted that the board was cautious with tattoo establishments, which worked out well, and added that artists go with cannabis. He referenced an ideal site excluded by a cemetery. He informed the board of the numerous manufacturers associated with the cannabis industry, which he suggests would revitalize empty factories. He strongly suggested the board remove cemetery and church buffer zones to make more available locations.

In response to Chairperson Duff's invitation to speak or be recorded in opposition, Job Roach, COO of Treebeard, spoke. He noted original locations they found that have been eliminated, when investors were already onboard. He noted the second round of locations have made investors less enthusiastic. He reiterated the suggestion that buffers be reduced.

In response to Chairperson Duff, the Assistant City Solicitor explained that economic empowerment was a license category at the state level with an expedited approval process. Chairperson Duff inquired if there was precedence where economic empowerment provided any dispensation or a level of leniency regarding zoning. The Assistant City Solicitor stated she did not presently know that answer for certain.

In response to Chairperson Duff's invitation to speak or be recorded in opposition, Hans Doherty representing Treebeard as well, noted the map as shown seems to indicate the city feels the outskirts are the best locations. He stated areas closer to downtown and the economic activity are more amenable to them. He also suggested buffer zones going from 500' to 300' or 250'.



There being no further response to Chairperson Duff's invitation to speak or be recorded in opposition, a motion was made (GS) and seconded (AG) to close the public hearing.  
Motion passed unopposed.

After substantial board discussion, a motion was made (AG) and seconded (GS) to recommend to the city council for its review and consideration of amending City of New Bedford Zoning By-laws Chapter 9- Comprehensive Zoning, by adding a new Section 4100B, Marijuana Establishments and Medical Marijuana Treatment Centers. The purposes of this new section are to: 1.) Allow statelicensed marijuana establishments and medical marijuana treatment centers to operate in the City of New Bedford in accordance with applicable state laws and regulations. 2.) Minimize the adverse impacts that marijuana establishments and medical marijuana treatment centers might have on adjacent properties, residential neighborhoods, dwellings, schools, substance abuse treatment centers, churches, and other sensitive land uses. 3.) Provide standards for the placement, design, siting, safety, security, monitoring, modification, and discontinuance of marijuana establishments and medical marijuana treatment centers that will protect the public health, safety, welfare, and the natural environment. We include that we recommend a review of the economic empowerment letter and a review of the buffer zone.

**ROLL CALL VOTE:**

Chairperson Duff – Yes	Vice Chairperson Glassman - Yes
Board Member Kalife- Yes	Board Member Khazan – Yes
Board Member Smith - Yes	

Motion passed 5-0

**6. OLD/NEW BUSINESS:**

Chairperson Duff addressed the needed for the signing of mylars regarding approval of Farland Estates Subdivision and the Audrey Rose Subdivision, to also correct the name of the street from Audrey Lane to Audrey Rose Lane. The board also noted the stone walls to be retained being on the site plan.

In addition, the approval of Farland Estates Subdivision needs an established time line. A timeline of two years was negotiated by the Planning Office to 2/14/20.

A motion was made (GS) and seconded (AG) to add the 2/14/20 completion date to the covenant.  
Motion passed unopposed.

Chairperson Duff reported the work being conducted on planning initiatives.

Kirsten Bryan reported on notices of planning and zoning received from abutting towns, and their availability for review in the planning office.

There was discussion with Board Member Glassman regarding status of the Community Preservation Committee.

**7. ADJOURNMENT:**

A motion was made (GS) and seconded (AG) to adjourn at 8:20 p.m.  
Motion passed unopposed.

THE NEXT PLANNING BOARD MEETING IS SCHEDULED FOR AUGUST 8, 2018

  
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Alexander J. Kalife, Clerk

  
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Date