



CITY OF NEW BEDFORD  
JONATHAN F. MITCHELL, MAYOR

## *New Bedford Comprehensive Zoning Code Review Code of Ordinances – Chapter-9*

4317 Acushnet Avenue – PLOT: 136A – LOT: 55 – ZONED DISTRICT: MUB

Administrative Appeal for the Denial of the Variance & Site Plan Review Below

Variance Required from the Zoning Board of Appeals

Site Plan Review Required from the Planning Board

*Zoning Code Review as follows:*

### *Administrative Appeal*

### *Zoning Board of Appeals*

#### ❖ SECTION

- 3200 – Sign Regulations
- 3201 – Purpose
- 3210 – General Regulation
- 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 – Power: The Board of Appeals shall have and exercise all the powers granted to it by M.G.L.A. c. 40A, c. 40B, and c. 41 and by this Ordinance. The Board's powers are as follows:
  - 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.

### *Variance*

### *Zoning Board of Appeals*

#### ❖ SECTIONS

- 3200 – Sign Regulations
- 3201 – Purpose
- 3210 – General Regulation
- 3250 – Regulation Governing Particular Types of Signs
  - 3255 – Area restrictions for ground signs – In Mixed-Use Business districts, no ground sign shall exceed one square foot in area for each linear foot of street frontage of the lot upon which it is erected, but in no event shall such sign exceed twenty-five (25) square feet in area, nor shall there be a distance of more than ten (10) feet from the ground to the bottom of the sign and not more than fifteen (15) feet from the ground to the top of the sign.

### *Site Plan Review*

### *Planning Board*

#### ❖ SECTIONS

- 5400 – Site Plan Review
- 5410 – Purpose
- 5420 – Applicability
  - 5427 – Commercial or Industrial Ground Signs
- 5430-5490B

**IX. HOMEOWNER LICENSE EXEMPTION****Supplement #1**

The current exemption for "homeowner" was extended to include owner-occupied dwellings of two units or less and to allow such homeowners to engage an individual for hire who does not possess a license, provided that the owner acts as supervisor. (State Building Code Section 110.5)

**DEFINITION OF HOMEOWNER:**

Person(s) who own a parcel of land on which he/she resides or intends to reside, on which there is, or is intended to be, a one to two family dwelling, attached or detached structures accessory to such use and/or farm structures. A person who constructs more than one home in a two-year period shall not be considered a homeowner. Such "homeowner" shall submit to the Building Official, on a form acceptable to the Building Official, that he/she shall be responsible for all such work performed under the building permit. (Section 110.5)

The undersigned "homeowner" assumes responsibility for compliance with the State Building Code and other applicable codes, ordinance, rules and regulations, and will comply with the City of New Bedford Building Department minimum inspection procedures and requirements.

HOMEOWNERS SIGNATURE \_\_\_\_\_

**X. CONSTRUCTION DEBRIS DISPOSAL****Supplement #2**

In accordance with provisions of Massachusetts General Law C40, S54, debris resulting from this work shall be disposed of in a properly licensed solid waste disposal facility as defined by Massachusetts General Law C111, S150A

The debris will be disposed of in: \_\_\_\_\_

(Location of Facility)

Signature of Permit Applicant \_\_\_\_\_

Date \_\_\_\_\_

**XI. HOME IMPROVEMENT CONTRACTOR LAW AFFIDAVIT**

(Residential Use Only) Supplement to Permit Application

**Supplement #3**

MGLc. 142A requires that the "reconstruction, alteration, renovation, repair, modernization, conversion, improvement, removal, demolition, or construction of an addition to any pre-existing owner-occupied building containing at least one but not more than four dwelling units... or to structures which are adjacent to such residence or building" be conducted by registered contractors, with certain exceptions, along with other requirements.

Type of Work: Installation of SignageEst. Cost: \$30,000Address of Work: 4317 Aushnet AveOwner Name: Tetrault Insurance Agency Date of Permit Application: \_\_\_\_\_

I hereby certify that: Registration is not required for the following reason(s):

\_\_\_\_\_ Work excluded by law \_\_\_\_\_ Job under \$1,000 \_\_\_\_\_ Building not owner-occupied \_\_\_\_\_ Owner obtaining own permit

Other (specify) \_\_\_\_\_

Notice is hereby given that:

**OWNERS OBTAINING THEIR OWN PERMIT OR EMPLOYING UNREGISTERED CONTRACTORS FOR APPLICABLE HOME IMPROVEMENT WORK DO NOT HAVE ACCESS TO THE ARBITRATION PROGRAM OF GUARANTY FUND UNDER MGLC. 142A.**

signed under penalties of perjury:

I hereby apply for a permit as the agent of the owner:

Date \_\_\_\_\_

Contractor Signature \_\_\_\_\_

Registration No. \_\_\_\_\_

OR:

Notwithstanding the above notice, I hereby apply for a permit as the owner of the above property:

Date \_\_\_\_\_

Owner Signature \_\_\_\_\_

**XII. BUILDING COMMISSIONERS REVIEW COMMENTS AND CONDITIONS**C. Building Permit Rejected ☒ADMINISTRATIVE APPEAL - VARIANCE ZBA

Fee \_\_\_\_\_

Reason For Rejection:

SITE PLAN REVIEW - GROUND SIGN

Permit # \_\_\_\_\_

"SEE ATTACHMENTS"

Comments and Conditions:

Signed \_\_\_\_\_

Date: 1/1620 17

Title \_\_\_\_\_

Not valid unless signed (not stamped) by Building Commissioner

## SECTION 1000. PURPOSE, AUTHORITY, AND DEFINITIONS.

the visibility of, motorists and pedestrians; ensure the effectiveness of public traffic signs and signals; protect property values by ensuring the compatibility of property with that surrounding it; provide an attractive visual environment throughout the City; protect the character and appearance of the various neighborhoods in the City; attract tourists to the City; protect the public investment in streets, highways, and other public improvements; and protect and improve the public health, safety, and general welfare. Additionally it is intended to protect the Central Business District and Historic District in accordance with the purposes stated in Section 3200AA

- (C) The regulations contained in this Section advance these significant government interests and are the minimum amount of regulation necessary to achieve them.

(Ord. of 12-23-03, § 1)

### 3210. General Regulations.

This sign ordinance shall apply to all City signs and their supporting devices, including signs located within the Chapter 40C Historic District. Signs in the Historic District will require approval from the New Bedford Historical Commission.

This ordinance shall not apply to signs erected by government agencies.

Any sign or any related frame, structure or mounting device, deemed to be abandoned by the Inspector of Buildings must be removed from the premises by the owner of the premises upon cessation of the business, activity, trade, product or service.

Any sign, display or device allowed in this Section may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, and that complies with all other requirements of this Chapter.

(Ord. of 12-23-03, § 1)

### 3220. Prohibited Signs.

The following signs are prohibited:

3221. Any sign which may be confused with or construed as a public safety device or sign or traffic or emergency light because of its color, shape or design.

3222. Any sign which incorporates moving, flashing, animated or intermittent lighting, excluding public service signs such as those that display time and temperature.

3223. Signs mimicking the appearance or copy of traffic signs or signals.

3224. Revolving signs.

3225. Portable signs mounted on wheeled trailers.

3226. Signs constructed, mounted or maintained upon the roof of any building.

3227. Off-Premise Signs—Types Defined: The following words, as used in Section 3228, shall have the following meaning:

**Digital Sign (or) Digital Billboard:** A sign on which the message is electronically or electrically displayed digitally through Light Emitting Diodes (LED), Liquid Crystal Display (LCD) or other

## **3200. - SIGN REGULATIONS.**

### **3201. Purpose.**

- (A) Signs constitute a separate and distinct use of the land upon which they are placed and affect the use of adjacent streets sidewalks and other public places and adjacent private places open to the public. The unregulated construction, placement and display of signs constitute a public nuisance detrimental to the health, safety, convenience and welfare of the residents of the City.
- (B) The purpose of article 3200 is to establish reasonable and impartial regulations for all exterior signs and those interior signs designed to attract the attention of persons located outdoors in order to: reduce traffic hazards caused by such unregulated signs which may distract and confuse, and impair the visibility of, motorists and pedestrians; ensure the effectiveness of public traffic signs and signals; protect property values by ensuring the compatibility of property with that surrounding it; provide an attractive visual environment throughout the City; protect the character and appearance of the various neighborhoods in the City; attract tourists to the City; protect the public investment in streets, highways, and other public improvements; and protect and improve the public health, safety, and general welfare. Additionally it is intended to protect the Central Business District and Historic District in accordance with the purposes stated in Section 3200AA.
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3226. Signs constructed, mounted or maintained upon the roof of any building.

3227. Off-Premise Signs—Types Defined: The following words, as used in Section 3228, shall have the following meaning:

Digital Sign (or) Digital Billboard: A sign on which the message is electronically or electrically displayed digitally through Light Emitting Diodes (LED), Liquid Crystal Display (LCD) or other means of electronic or other illumination to display and or change messages of words and numbers.

Dynamic Display: Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

Commercial Electronic Variable Message Sign (or) CEVMS: An off-premise self luminous advertising sign utilizing Light Emitting Diodes (LED), Liquid Crystal Display (LCD), Organic Light Emitting Diodes (OLED), plasma or other electronic media or technology that electronically or digitally depicts any kind of light, color, or message change which ranges from static images to image sequences to full motion video. Also may be referred to as an Electronic Billboard (EBB) or a Digital Billboard (DBB).

Electronic Sign: A sign, display, or device that changes its messages or copy at intervals by programmable electronic, digital, or mechanical processes or by remote control.

3228. Off-Premise Signs Prohibited: The construction of new off-premise signs, including billboards, electronic signs, digital billboards, CEVMS or Dynamic Displays is prohibited throughout the City and the City may not issue permits for their construction or relocation. This prohibition shall include the

construction, reconstruction, enhancement, upgrading or conversion of an existing off-premise sign to an off-premise Dynamic Display Sign, Electronic Sign, or Commercial Electronic Variable Message Sign (CEVMS) such that no off-premise Dynamic Display Signs, Electronic Signs, or CEVMS are permitted.

(Ord. of 12-23-03, § 1; Ord. of 6-15-11, § 1)

**3230. Permit Required.** The following types of signs require a permit:

**3240. Signs Extending Over a Street Layout.** No person shall attach to or maintain on any building, structure or other support or otherwise locate or maintain any sign, board or other device in the nature of a notice, designation or other advertisement, so that it shall extend or project over the sidewalk of any street in the City, except under a permit therefor and in compliance with this Section.

**3241. Display of banners.** No banner shall be displayed across a street without the application to and issuance by the City Clerk, who shall consult with the Fire Department prior to the issuance of a permit.

**3242. Awning, shade; minimum height; maximum projection.** No awning or shade shall be placed or maintained on any building so as to project into the sidewalk area of a street, without a permit from the City clerk. All such awnings or shades shall be supported from above, and shall not be less than eight (8) feet above the level of the sidewalk over which they are placed, and shall not reach within twenty-four (24) inches of a line perpendicular to the outer edge of the curbing of said sidewalk. Nothing herein shall be construed to prohibit any marking or printing upon any awning constructed and maintained according to law.

(Ord. of 12-23-03, § 1)

**3250. Regulations Governing Particular Types of Signs.**

**3251. Wall signs.** Wall sign shall mean and include any sign attached to or erected against a building or other structure with the face of the sign in a plane parallel to such building or other structures and not projecting more than twelve (12) inches therefrom. Individual letters or devices cut into masonry or so affixed as to form an integral part of an exterior wall, shall not be considered wall signs if they are cut into or project out of said wall for a depth of one-fourth ( $\frac{1}{4}$ ) of an inch or less.

**3252. Area Restrictions for wall signs.** In Mixed-Use Business districts, no wall sign shall have an area in square feet in excess of the product of the width of the building or storefront, as may be appropriate, times two (2). Such allowable area shall also include the length of the building, if on a corner lot, times two (2). This section shall not apply in the Central Business District (CBD) which is controlled by Section 3200A.

**3253. Diagonal Walls.** Where a wall upon which a wall sign is located is not parallel to the street toward which it faces, the length of the wall shall be calculated as the length of street frontage between two (2) lines developed perpendicular to the street line from the ends of the diagonal wall.

3254. Ground Signs. Ground sign shall mean and include any sign having as supports wood or metal columns, pipes, angle iron framing, masonry, plastic or any combination of these materials unattached to any building or other structure.

3255. Area restrictions for ground signs. In Mixed-Use Business districts, no ground sign shall exceed one square foot in area for each linear foot of street frontage of the lot upon which it is erected; but in no event shall such sign exceed twenty-five (25) square feet in area, nor shall there be a distance of more than ten (10) feet from the ground to the bottom of the sign and not more than fifteen (15) feet from the ground to the top of the sign.

3256. Location restrictions. No ground sign shall project over a public way, nor shall a ground sign be located closer than six (6) feet from a lot line. Only one ground sign shall be permitted per lot in a Mixed-Use Business district.

3257. Deleted.

3258. Shopping Center signs. Each shopping center in a Mixed-Use Business district is authorized to have a ground sign of the size allowed in Section 3212. This sign may identify the shopping center or list the several businesses therein, or a combination of the two. Separate ground signs identifying separate establishments are prohibited.

3259. Signs on nonconforming buildings. When a building used for business or industrial purposes exists in a residential district as a nonconforming use, wall signs in existence on the date of enactment of this Ordinance may be maintained, repaired or replaced provided in the latter case that the sign area is neither increased nor larger than would be allowed in a Mixed-Use Business district, whichever is smaller. Projecting, roof or ground signs are prohibited and cannot be replaced.

(Ord. of 12-23-03, § 1)

3260. **Application for and Issuance of Permits.** Upon application, the City Clerk may issue permits to the owner, lessee, or occupant of a building, structure or other support, for activities regulated by Section 3203, subject to the conditions, limitations and requirements of this Section. Every applicant for a permit shall sign an agreement on the application blank to observe and conform with the conditions, limitations and requirements, subject to which the permit is granted. The City Clerk shall not grant any such permit until such Clerk shall have submitted the application therefor to the Inspector of Buildings, and such Inspector shall have approved the definite location and construction thereof. In each application the specifications of the proposed construction shall be stated and said superintendent may require a plan thereof to be filed along with the application.

3261. Permit fee. A fee of one dollar (\$1.00) shall be charged by the City Clerk upon the issuance of any permit as required by the provisions of this Section.

**5200. - ZONING BOARD OF APPEALS.**

**5210. Establishment.** The Zoning Board of Appeals (sometimes referred to as the Board of Appeals herein) shall consist of five (5) persons who shall be appointed by the mayor and confirmed by the City Council. One member shall be appointed annually in the month of January to serve for a term of five (5) years or until a successor is duly appointed, confirmed and qualified. Vacancies shall be filled in the manner as provided for original appointments. All members of the Board shall be residents of the City. Each member shall be paid at the rate of twenty dollars (\$20.00) per meeting attended, but in no event shall any member receive in excess of five hundred dollars (\$500.00) in any fiscal year.

5211. In case of a vacancy, inability to act, or interest on the part of a member of the Board of Appeals, such member's place shall be taken by an associate member designated by the presiding member of the Board. There shall be five (5) associate members of the Board of Appeals, who shall be appointed by the mayor and confirmed by the City Council. Annually in the month of January, one member shall be appointed for a term of five (5) years. Vacancies shall be filled in the manner as provided for original appointments. All associate members of the Board of Appeals shall be residents of the City. Each associate member shall be paid at the rate of twenty dollars (\$20.00) per meeting attended, as a member replacing an absent member, and only when acting in that capacity according to the first sentence of this subsection; but in no event shall any associate member receive in excess of five hundred dollars (\$500.00) in any fiscal year.

(Ord. of 12-23-03, § 1)

**5220. Powers.** The Board of Appeals shall have and exercise all the powers granted to it by M.G.L.A. c. 40A, c. 40B, and c. 41 and by this Ordinance. The Board's powers are as follows:

5221. To hear and decide applications for special permits. Where specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 5300, or as otherwise specified.

5222. To hear and decide appeals or petitions for variances from the terms of this Ordinance, with respect to particular land or structures, as set forth in M.G.L.A. c. 40A, § 10. The Board of Appeals may not grant use variances.

**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.**

5224. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in M.G.L.A. c. 40B, §§ 20—23.

(Ord. of 12-23-03, § 1)

**5230. Regulations.** The Board of Appeals may adopt rules and regulations for the administration of its powers.

(Ord. of 12-23-03, § 1)



5240. **Fees.** The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

(Ord. of 12-23-03, § 1)

**State Law reference—** Zoning board of appeals, M.G.L.A. c. 40A, § 14 et seq.

## **5400. - SITE PLAN REVIEW.**

**5410. Purpose.** The purpose of this Section is to provide for individual detailed review of development proposals which have an impact on the natural or built environment of the City in order to promote the health, safety and general welfare of the community; to ensure adequate parking, safe and accessible pedestrian and vehicular circulation; and to minimize traffic impact on City streets.

(Ord. of 12-23-03, § 1)

**5420. Applicability.** The following types of activities and uses require site plan review by the Planning Board:

5421. Any new industrial or commercial construction or expansion over two thousand (2,000) gross square feet or any new industrial or commercial construction or expansion requiring more than five (5) additional parking spaces;

5422. New multiple-family residential construction of three (3) or more units or expansion of existing multifamily residential structures resulting in the creation of one or more additional units.

5423. Any new construction or expansion of existing construction where a drive-thru window for any service including self-service is proposed; and any expansion of a structure presently containing a drive-thru; or any facility currently containing a drive-thru, at which the owner or operator of the drive-thru is altered or changed; or at which the drive-thru is closed for a period of 10 days or more and to be reopened.

5424. Any residential subdivision which is submitted under the subdivision control process;

5425. New industrial or commercial construction or additions less than two thousand (2,000) square feet if requiring a new curb cut or driveway or if substantially affecting existing internal circulation.

5426. Driveways in residential areas which require more than one new curb cut.

**5427. Commercial or industrial ground signs.**

(Ord. of 12-23-03, § 1; Ord. of 12-31-08, § 1)

**5430. Procedures.** Applicants for site plan approval shall submit seventeen (17) copies of the site plan to the Planning Board for distribution to City departments and commissions for their review. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate and notify the applicant of its decision. In the event two (2) meetings have lapsed after the application for site plan approval is filed, without the Planning Board taking action on said site plan said Applicant may file a statement with the Board that the Board has received complete information in accordance with this Ordinance and has had adequate time to consider the Site Plan. Upon receiving said statement, the Planning Board shall act on said Site Plan at its next meeting, if said Board determines that the Board has, in fact, received complete information in accordance with this Ordinance. The decision of the Planning Board

shall be a vote of a majority of the members of the Planning Board and shall be in writing. No building permit, for activities requiring site plan approval, shall be issued by the Inspector of Buildings without the written approval of the site plan by the Planning Board.

5431. Application for Building Permit. An application for a building permit to perform work as set forth in Section 5410 available as of right shall be accompanied by an approved site plan.

5432. Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section 5420 shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in Section 5420 shall contain the following condition and cause the same to be written on such special permit or variance:

The work described herein requires the approval of a site plan by the New Bedford Planning Board pursuant to Section 5400 of the Zoning Ordinance. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

5433. Where the Planning Board approves a site plan "with conditions", and said approved site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

5434. Where the Planning Board serves as the special permit granting authority for proposed work, it shall consolidate its site plan review and special permit procedures.

5435. The applicant may request, and the Planning Board may grant by majority vote of its' membership, an extension of the time limits set forth herein.

5436. No deviation from an approved site plan shall be permitted without modification thereof.

5437. Site plan approval does not constitute a certification that the proposed plan conforms to applicable zoning regulations, wetland regulations and/or any other City, state or federal requirements that must be obtained prior to implementation the of elements of the site plan.

(Ord. of 12-23-03, § 1)

**5440. Preparation of Plans.** Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Department and are encouraged to schedule a pre-submission meeting with the Planning Department. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1" = 40'.

(Ord. of 12-23-03, § 1)

**5450. Contents of Plan.** The contents of the site plan are as follows:

5451. Plan sheets prepared at a scale of one inch equals forty (40) feet or such other scale as may be approved by the Planning Board. The plans are as follows:

5451.a. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, general circulation plan for vehicles and pedestrians, drive-thru windows, curb cut locations, parking, fences, walls, walks, outdoor lighting including proposed fixtures, loading facilities, solid waste storage locations, and areas for snow storage after plowing. The first sheet in this plan shall be a locus plan, at a scale of one inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.

5451.b. Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling stormwater runoff drainage.

5451.c. Utility plan, which shall include all facilities for refuse and sewerage disposal or storage of all these wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.

5451.d. Architectural plan, which shall include the ground floor plan, proposed exterior building materials, treatments and colors and architectural elevations of all proposed buildings and a color rendering where necessary to determine the proposal's affect on the visual environment.

5451.e. Landscaping plan, showing the limits of work, existing tree lines as well as those tree lines to remain, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures during construction.

5451.f. Lighting plan showing the location and orientation of all existing and proposed exterior lighting, including building and ground lighting. The plan shall note the height, initial foot-candle readings on the ground and the types of fixtures to be used.

5452. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

5453. A written summary of the contemplated project shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership

contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this Ordinance.

5454. The site plan shall be accompanied by drainage calculations by a registered professional engineer as well as wetland delineations, if applicable. Storm drainage design must conform to City of New Bedford subdivision regulations.

5455. The Planning Board may require a DIS as set forth in Section 5300, above.

5456. Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

(Ord. of 12-23-03, § 1)

**5460. Waivers.** The Planning Board may, upon written request of the applicant, waive any of the submittal or technical requirements of Section 5430 and 5440 where the project involves relatively simple development plans.

(Ord. of 12-23-03, § 1)

**5470. Approval.** Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives: The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

5471. Minimize: the volume of cut and fill, the number of removed trees six-inch caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and the threat of air and water pollution;

5472. Maximize: pedestrian and vehicular safety to and from the site;

5473. Minimize obstruction of scenic views from publicly accessible locations;

5474. Minimize visual intrusion by controlling the layout and visibility of parking, storage, or other outdoor service areas viewed from public ways or premises which are residentially used or zoned;

5475. Minimize glare from vehicle headlights and lighting fixtures;

5476. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

5477. Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of solid and liquid wastes and hazardous substances;

5478. Ensure compliance with the provisions of this Zoning Ordinance.

5479. Minimize damage to existing adjacent public ways.

5479A. Promote orderly and reasonable internal circulation within the site so as to protect public safety and not unreasonably interfere with access to a public way or circulation of traffic on a public way in general.

(Ord. of 12-23-03, § 1)

**5480. Lapse.** Site plan approval shall lapse after one year from the final approval if a substantial use in accordance with such approved plans has not commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant, within this one-year period.

(Ord. of 12-23-03, § 1)

**5490. Regulations.** The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

(Ord. of 12-23-03, § 1)

**5490A. Fee.** The Planning Board may, from time to time, adopt reasonable administrative fees and technical review fees for site plan review.

(Ord. of 12-23-03, § 1)

**5490B. Appeal.** Any person aggrieved by a decision of the Planning Board rendered pursuant to Section 5400 may appeal such decision to the Zoning Board of Appeals as provided in M.G.L.A. c. 40A, § 8.

(Ord. of 12-23-03, § 1)