



City of New Bedford ZBA VARIANCE APPLICATION

CASE # 4258

1. SUBMITTAL CHECKLIST

The following documentation must be submitted, in duplicate (1 Original and 11 Copies):

Have you included...			Planning staff review finds...	
Yes	No		Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Completed and Signed Application</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	An <u>Existing Conditions Site Plan</u> , drawn to a scale not less than 1 inch: 40 feet, identifying positioning of existing structures must be provided. Your site plan must show footprint and dimensions of rear, front and side distances between structure(s) and boundary lines.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Proposed Site Plan</u> showing all proposed alterations or additions with side, front and rear set property lines identified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Sub-Division Plans</u> if Applicable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Certified Abutter's List</u> prepared by planning staff and certified by the Assessor's Office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Plot Plan</u> as provided through Department of Inspectional Services or through the Assessor's Office (in person or online through parcel lookup).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Filing Fee</u> in check form made payable to the City of New Bedford.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Copy of <u>Building Permit Rejection Packet</u> (Containing Rejected Building Permit and all information submitted with Building Permit Application)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Owner's Verification</u> including owner's signature and parcel deed for all involved parcels.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Official Use Only:

Review of submittal compliance performed by [Signature] of the city's Division of Planning.

Staff review found the application packet to be complete incomplete on this date: _____.

This is page 1 of your ZBA Application.

Please remove the instruction pages when submitting your completed application packet but keep this as your first page.

2. VARIANCE SPECIFICS

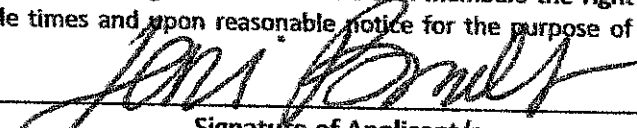
The undersigned petitions the New Bedford Zoning Board of Appeals [ZBA] to grant a VARIANCE in the manner and for the reasons set forth here under the provisions of the city's zoning ordinance to the following described premises:

APPLICATION SUMMARY (PLEASE PRINT)

SUBJECT PROPERTY			
ASSESSOR'S MAP PLOT#	55	LOT(S)#	143
REGISTRY OF DEEDS BOOK:	11555	PAGE #	195
PROPERTY ADDRESS:	141 UNION STREET NEW BEDFORD MA 02740		
ZONING DISTRICT:	MUB		
OWNER INFORMATION			
NAME:	WATERFRONT HISTORIC AREA LEAGUE		
MAILING ADDRESS:	128 UNION ST NEW BEDFORD MA 02740		
APPLICANT/CONTACT PERSON INFORMATION			
NAME (IF DIFFERENT):			
APPLICANT'S RELATIONSHIP TO THE PROPERTY: Check one:	OWNER <input checked="" type="checkbox"/>	CONTRACT VENDEE <input type="checkbox"/>	OTHER Describe <input type="checkbox"/>
MAILING ADDRESS (IF DIFFERENT):			
TELEPHONE #	508-997-1776		
EMAIL ADDRESS:	tbernert@comcast.net		

CITY CLERK'S OFFICE
 NEW BEDFORD, MA
 2016 NOV - 8 A 10:00
 CITY CLERK

By signing below, I/we acknowledge that all information presented herein is true to the best of my/our knowledge. I/we further understand that any false information intentionally provided or omitted is grounds for the revocation of the approval(s). I/we also give planning division staff and ZBA members the right to access the premises (both interior and exterior) at reasonable times and upon reasonable notice for the purpose of taking photographs and conducting other visual inspections.



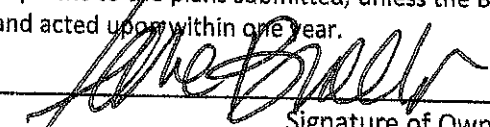
 Signature of Applicant/s

10-25-2016

 Date

If the applicant differs from the owner, this section must be completed/signed by the property owner/s:

I hereby authorize the applicant represented above and throughout this application to apply and to represent my/our interests on my/our behalf for the relief requested herein for the premises I/we own noted as "property address" above and presented throughout this application. Furthermore, by signing this application I/we acknowledge having read and understood this application and the accompanying instructions and information. If petition is granted, I/we understand the approvals are specific to the plans submitted, unless the Board states otherwise and that if granted, that the variance must be recorded and acted upon within one year.



 Signature of Owner/s

11-2-2016

 Date

APPLICATION SPECIFICS

DIMENSIONS OF LOT/S:	FRONTAGE 15	DEPTH 102	AREA in SQ.FT 1929 SF		
EXISTING BUILDING/S	# OF BLDGS 1	EXISTING SIZE 4986	TOTAL SQ FT BY FLOOR 1st: 2272 2nd: 1270 3rd: 1270	NUMBER OF FLOORS 3	TOTAL SQ. FT ENTIRE STRUCTURE 4986
	# OF DWELLING UNITS 2		# OF BEDROOMS 2		
PROPOSED BUILDING/S	# OF BLDGS 1	PROPOSED SIZE 4986	TOTAL SQ FT BY FLOOR 1st: 2272 2nd: 1270 3rd: 1270	NUMBER OF FLOORS 3	TOTAL SQ. FT ENTIRE STRUCTURE 4986
	# OF DWELLING UNITS 2		# OF BEDROOMS 4	EXTENT OF PROPOSED ALTERATIONS GUT REHAB	
EXISTING USE OF PREMISES:	VACANT				
PROPOSED USE OF PREMISES:	Mixed-use 2 small restaurants, office, 2 apartments				
EXPLAIN WHAT MODIFICATIONS YOU ARE PROPOSING THAT NECESSITATE THE REQUESTED VARIANCE:	PARKING VARIANCE				

If there's a commercial use existing and/or proposed, please complete the following:

	EXISTING		PROPOSED	
NUMBER OF CUSTOMERS PER DAY	0		110	
NUMBER OF EMPLOYEES	0		4	
HOURS OF OPERATION	0		7 AM - 3 PM	
DAYS OF OPERATION	0		7 days	
HOURS OF DELIVERIES	0		9-5	
FREQUENCY OF DELIVERIES (Check frequency)	<input type="checkbox"/> DAILY	<input type="checkbox"/> WEEKLY	<input type="checkbox"/> DAILY	<input checked="" type="checkbox"/> WEEKLY
	<input type="checkbox"/> MONTHLY	<input type="checkbox"/> OTHER	<input type="checkbox"/> MONTHLY	<input type="checkbox"/> OTHER

If you are also requesting site plan review and special permit/s from the planning board, please specify here:

Complete each item that is relevant to your variance request:

	Existing	Allowed/ Required	Proposed
Lot Area (sq ft)			
Lot Width (ft)			
Number of Dwelling Units			
Total Gross Floor Area (sq ft)			
Residential Gross Floor Area (sq ft)			
Non-Residential Gross Floor Area (sq ft)			
Building Height (ft)			
Front Setback (ft)			
Side Setback (ft)			
Side Setback (ft)			
Rear Setback (ft)			
Lot Coverage by Buildings (% of Lot Area)			
Permeable Open Space (% of Lot Area)			
Green Space (% of Lot Area)			
Off-Street Parking Spaces	0	14	0
Loading Bays			
Number of Ground Signs			
Height of Ground Sign			
Proximity of Ground Sign to Property Line			
Area of Wall Sign (sq ft)			
Number of Wall Signs			

3. PARCEL LEGAL DOCUMENTATION

Title Reference to Property

Deed

(Attach copy of Deed, Certificate of Title & most recent Recorded Plans showing affected lot or lots)

Is the applicant also the owner? Yes No

If no, please attach the following three items to your application and indicate they are attached:

A notarized authorization letter on letterhead from the owner to tenant/buyer for application of this permit.

If the Applicant is Not the Owner, Provide:

A copy of the Purchase & Sale Agreement or lease, where applicable.

A copy of the deed or deeds of abutting parcels if said parcels have been held in common ownership with the subject property at any time since January 1, 1976.

4. REQUIRED FINDINGS FOR GRANTING A VARIANCE

Massachusetts General Law Chapter 40A Section 10 requires the "permit granting authority" (which, in this instance is the Zoning Board of Appeals) to make ALL the following findings before a variance can be granted:

A

That there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located.

B

That due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant.

C

That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw.

D

That desirable relief may be granted without substantial detriment to the public good.

The full text of M.G.L. Chapter 40A, Section 10 can be viewed at: <http://www.mass.gov/legis/laws/mal/>

Because the ZBA must be able to articulate each of these four findings in order to grant a variance, you must make your case as to WHY your application meets each of these four points. *This is an extremely important question and it is recommended that you answer this VERY carefully.* You may use an additional sheet if needed.

A

Describe any circumstances relating to soil conditions, shape or topography which especially affect the land or structure in question but that doesn't generally affect the zoning district in which your premises is located:

NONE. BUILDING TAKES UP THE ENTIRE LOT.

B

Describe how circumstances unique to your land or structure would mean a substantial hardship to you if the city were to literally enforce the zoning ordinance:

THERE IS NO LAND AVAILABLE FOR PARKING. IF THE ORDINANCE IS ENFORCED WHAT CAN IT RESTORE THE BUILDING.

C

Describe how granting you relief would not take away from the purpose of the city's zoning ordinance:

RELIEF WOULD NOT DEROGATE FROM THE ZONING BECAUSE THERE IS NO OPPORTUNITY FOR PARKING.

D

Describe why nobody else would be hurt if the city granted your requested zoning relief:

MOST BUSINESSES DOWNTOWN DO NOT HAVE PARKING. THERE IS PLENTY OF ON-STREET PARKING.

Location: 141 UNION ST

Parcel ID: 53 143

Zoning: MUB

Fiscal Year: 2016

Current Owner Information:

NEPREO INC
 C/O NEW ENGLAND PHOENIX CO INC
 337 FREEPORT STREET

 BOSTON , MA 02122

Current Sales Information:

Sale Date:

11/03/2011

Sale Price:

\$225,000.00

Card No. 1 of 1

Legal Reference:

10194-174

Grantor:

LIMA,JOHN L

This Parcel contains 0.042 acres of land mainly classified for assessment purposes as Mix Res-Com with a(n) MIXED USE style building, built about 1942, having Clapboard exterior, Rubber Sheathing roof cover and 4986 Square Feet, with 2 unit(s), 6 total room(s), 3 total bedroom(s) 2 total bath(s), 0 3/4 baths, and 3 total half bath (s).

Building Value:

129100

Land Value:

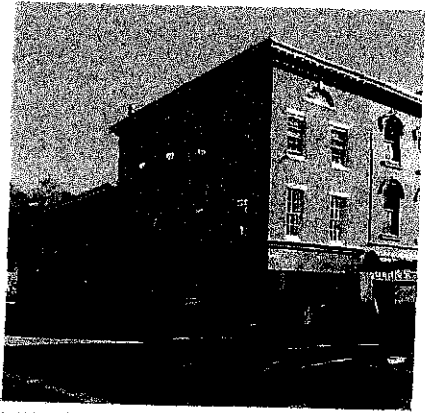
123200

Yard Items Value:

0

Total Value:

252300



Fiscal Year 2016

Tax Rate Res.: 16.49
 Tax Rate Com.: 35.83
 Property Code: 013
 Total Bldg Value: 129100
 Total Yard Value: 0
 Total Land Value: 123200
Total Value: 252300
Tax: \$6,112.22

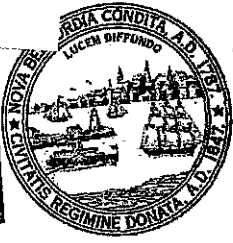
Fiscal Year 2015

Tax Rate Res.: 15.73
 Tax Rate Com.: 33.56
 Property Code: 013
 Total Bldg Value: 129100
 Total Yard Value: 0
 Total Land Value: 109100
Total Value: 238200
Tax: \$5,445.74

Fiscal Year 2014

Tax Rate Res.: 15.16
 Tax Rate Com.: 31.08
 Property Code: 013
 Total Bldg Value: 136000
 Total Yard Value: 0
 Total Land Value: 122900
Total Value: 258900
Tax: \$5,573.60

39 (702)	SFL FFL BMT
18	
29	SFL FFL BMT (522)
47	AT1 TFL SFL FFL BMT (846)



City of New Bedford REQUEST for a CERTIFIED ABUTTERS LIST

This information is needed so that an official abutters list as required by MA General Law may be created and used in notifying abutters. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

SUBJECT PROPERTY	
MAP #	53
LOT(S)#	143, 144
ADDRESS:	139 Union and 141 Union Street
OWNER INFORMATION	
NAME:	WHALE
MAILING ADDRESS:	128 UNION ST NEW BEDFORD, MA 02740
APPLICANT/CONTACT PERSON INFORMATION	
NAME (IF DIFFERENT):	TERI BERNERT, WHALE
MAILING ADDRESS (IF DIFFERENT):	
TELEPHONE #	508-997-1776
EMAIL ADDRESS:	bernernt@waterfrontleisure.org
REASON FOR THIS REQUEST: Check appropriate	
<input checked="" type="checkbox"/>	ZONING BOARD OF APPEALS APPLICATION
<input type="checkbox"/>	PLANNING BOARD APPLICATION
<input type="checkbox"/>	CONSERVATION COMMISSION APPLICATION
<input type="checkbox"/>	LICENSING BOARD APPLICATION
<input type="checkbox"/>	OTHER (Please explain):

PLANNING
OCT 21 2016
DEPARTMENT

CITY CLERKS OFFICE
NEW BEDFORD, MA

2016 NOV - 8
CITY CLERK

Once obtained, the Certified List of Abutters must be attached to this Certification Letter.

This sheet is NOT part of your ZBA application but you will need to submit this form to the Planning Division Room 303 in City Hall, 133 William Street. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

Official Use Only:

As Administrative Assistant to the City of New Bedford's Board of Assessors, I do hereby certify that the names and addresses as identified on the attached "abutters list" are duly recorded and appear on the most recent tax.

Carlos Amado

Printed Name

Carlos Amado
Signature

10/27/2016
Date

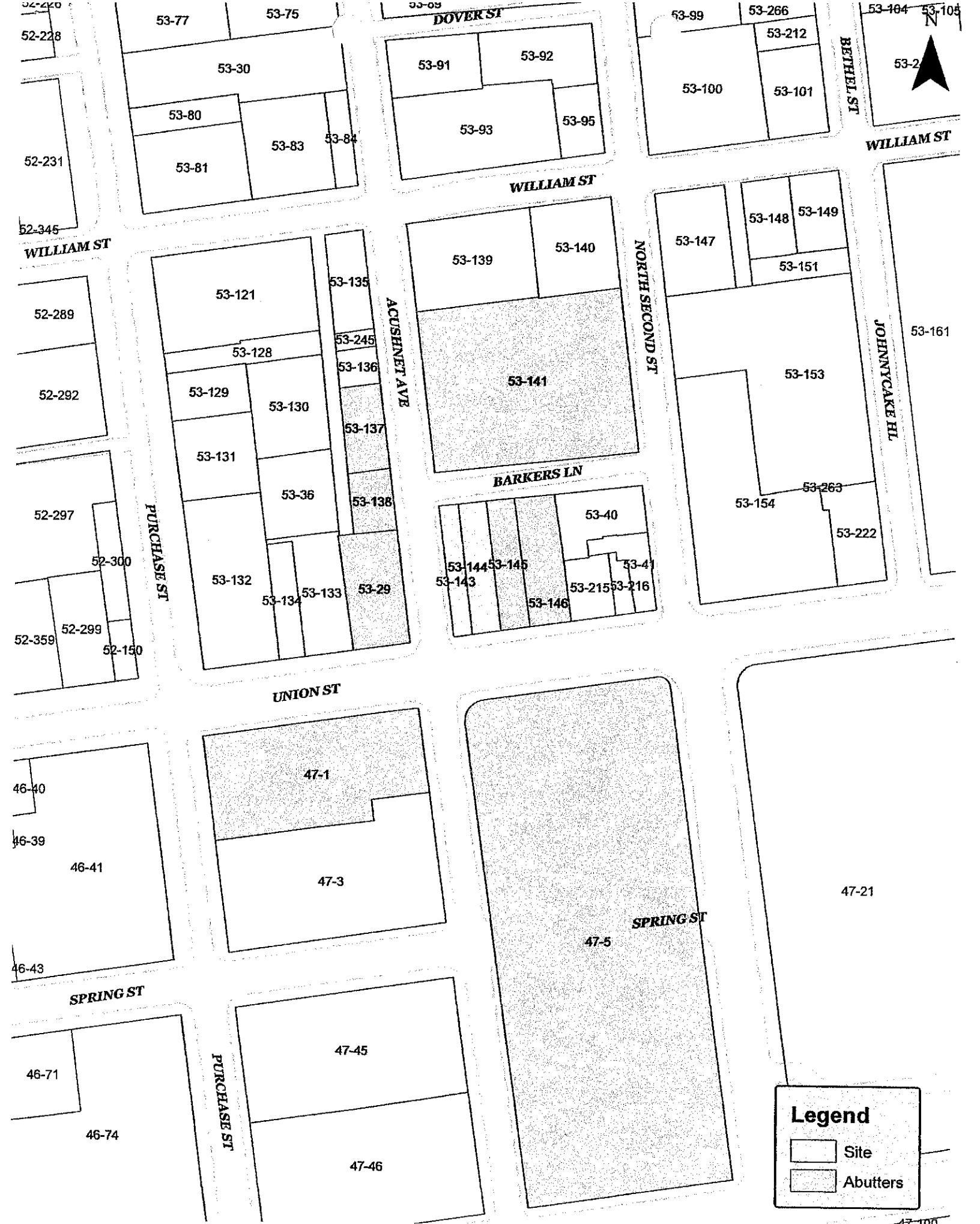
October 25, 2016

Dear Applicant,

Please find below the List of Abutters within 300 feet of the property known as 139 Union Street and 141 Union Street (53-143 and 53-144) The current ownership listed herein must be checked and verified by the City of New Bedford Assessor's Office. Following said verification, the list shall be considered a Certified List of Abutters.

Please note that multiple listed properties with identical owner name and mailing address shall be considered duplicates, and shall require only 1 mailing. Additionally, City of New Bedford-Owned properties shall not require mailed notice.

Parcel	Location	Owner and Mailing Address
53-141 <i>ns</i>	BARKER'S LN	CITY OF NEW BEDFORD, PARKING LOT & GARAGE 131 WILLIAM ST NEW BEDFORD, MA 02740
53-138	343 ACUSHNET AVE	NEWBEDFORD ACUSHNET LLC, C/O LAW OFFICE OF STEVE ROSS 83 SPEEN STREET NATICK, MA 01760
53-29	143 UNION ST	MUSE PETER J 'TRS', BUDDYMAX REALTY TRUST 149 BRANDT ISLAND ROAD MATTAPOISETT, MA 02739
53-143	141 UNION ST	NEPREO INC, C/O NEW ENGLAND PHOENIX CO INC <i>Waterfront Historic Area</i> 337 FREEPORT STREET <i>128 Union St.</i> BOSTON, MA 02122 <i>New Bedford, MA 02740</i>
53-144	139 UNION ST	CELTIC COFFEE HOUSE LLC, <i>Waterfront Historic Area</i> 42 NORTH WATER STREET <i>128 Union St</i> NEW BEDFORD, MA 02740
53-145	133 UNION ST	LAJOIE MICHAEL P "TRUSTEE", M B M REALTY TRUST 28 WATERFALL ROAD ACUSHNET, MA 02743
53-146	127 UNION ST <i>-129</i>	PIVA PAUL A, 10 PEQUOD ROAD FAIRHAVEN, MA 02719
53-137	355 ACUSHNET AVE <i>-357</i>	FLOOD DANIEL "TRUSTEE", 355 ACUSHNET AVENUE REALTY TRUST 355 ACUSHNET AVENUE NEW BEDFORD, MA 02740
47-1	174 UNION ST	S BNK NB UNION LLC, C/O WHELAN ASSOCIATES 70 N SECOND STREET NEW BEDFORD, MA 02740
47-5	128 UNION ST	COMPASS BANK FOR SAVINGS, C/O TRAMMELL CROW/SOVEREIGN BANK <i>128 Union Street LLC</i> P.O. BOX 14115 <i>117 Hathaway Road</i> READING, PA 19612-4115 <i>North Dartmouth MA</i> <i>02747</i>



53-105

53-2



WILLIAM ST

BETHEL ST

53-99

53-266

53-212

53-100

53-101

DOVER ST

53-91

53-92

53-93

53-95

WILLIAM ST

53-77

53-75

53-30

53-80

53-83

53-84

53-81

52-228

52-231

52-345

WILLIAM ST

52-289

52-292

52-297

52-300

52-299

52-150

46-40

46-39

46-41

46-43

SPRING ST

46-71

46-74

PURCHASE ST

PURCHASE ST

ACUSHNET AVE

NORTH SECOND ST


JOHNNYCAKE HL

BARKERS LN

UNION ST

SPRING ST

Legend

-  Site
-  Abutters

47-100

COPY

QUITCLAIM DEED

WHALE DEVELOPMENT, CORP., a Massachusetts Domestic Profit Corporation with an address of 128 Union Street, New Bedford, Bristol County, Massachusetts 02740, in consideration of **One Dollar and 00/100 (\$1.00)**, the receipt of which is hereby acknowledged, grants to **WATERFRONT HISTORIC AREA LEAGUE OF NEW BEDFORD, INC.**, a Massachusetts Nonprofit Corporation with an address of 128 Union Street, New Bedford, MA 02740,

with **QUITCLAIM COVENANTS**

The land, with any building(s) thereon, located in New Bedford, Bristol County, Massachusetts, more particularly bounded and described as follows:

BEGINNING at a point in the Northerly line of Union Street at land now or formerly of Mary B. Eddy; thence running

NORTHERLY by last named land, One Hundred Sixteen (116) feet to a twenty foot way called Barker's Lane; thence

WESTERLY in the south line of said Lane, Twenty-five and 35/100 (25.35) feet to land now or formerly of Charles W. Read; thence

SOUTHERLY in the line of last named land, One Hundred Sixteen (116) feet to said northerly line of Union Street; and thence

EASTERLY therein, Twenty-five and 35/100 (25.35) feet to the place of beginning.

CONTAINING ten and 80/100 square rods, more or less.

This conveyance does not constitute a sale of all or substantially all of the assets of the Grantor located within the Commonwealth of Massachusetts.

Being the same premises conveyed to the herein named grantor by deed recorded with the Bristol South Registry of Deeds at Book 11462, Page 244.

PROPERTY ADDRESS: 139 UNION STREET, NEW BEDFORD, MA 02740

Title not examined by preparer of this Deed.

After recording, return to:

WHALE
128 Union Street
New Bedford, MA 02740

Witness my hand and seal this 4th day of March, 2016.

Whale Development, Corp.

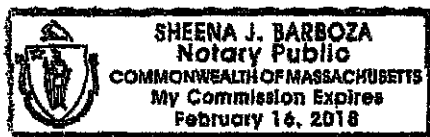
By: *Danielle N. Poyant*
Danielle N. Poyant, Treasurer

By: *Andrew P. Burnes*
Andrew P. Burnes, Vice-President

COMMONWEALTH OF MASSACHUSETTS

Bristol, s.s.

On this 4th day of March, 2016, before me, the undersigned notary public, personally appeared Danielle N. Poyant, Treasurer and Andrew P. Burnes, Vice-President of Whale Development, Corp., proved to me through satisfactory evidence of identification, which were there a State driver's license or personal knowledge, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily as their free act and deed for its stated purpose.



Sheena J. Barboza
Notary Public:
My Commission Expires 2/16/18