



**JONATHAN F. MITCHELL**  
MAYOR

*City of New Bedford*  
**ZONING BOARD OF APPEALS**

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**NOTICE OF DECISION**

Case Number:	#4242			
Request Type:	Variance			
Address:	801-803 Purchase Street and 98 Williams Street			
Zoning:	Mixed Use Business Zoned District			
Recorded Owner:	813 Real Estate, LLC			
Owner's Address:	813 Purchase Street New Bedford, MA 02740			
Applicant:	Jeff St. Pierre			
Applicant's Address:	367 Main Street New Bedford, MA 02740			
Application Submittal Date	Public Hearing Date	Decision Date		
July 22 <sup>nd</sup> , 2016	August 25 <sup>th</sup> , 2016	August 25 <sup>th</sup> , 2016		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
52	289	11483	44	

Variance under Chapter 9 comprehensive zoning sections 3000 (general regulations), 3100 (parking and loading), 3110 (Applicability), and 3130 (Table of Parking and Loading Requirements, Appendix-C); relative to property located at 801-803 Purchase Street and 98 William Street, assessor's map 52, lot 289 in a mixed-use-business [MUB] zoned district. To allow the petitioners to operate a barber shop as plans filed.

**Action: GRANTED, WITH CONDITIONS, for the reasons set forth in the attached decision with the Conditions as described in the attached decision. (See Attachment)**

A copy of this Decision was filed with the City Clerk of the City of New Bedford on September 8, 2016. Any person aggrieved by this decision has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 17 of Chapter 40A of the General Laws of Massachusetts.

9/8/2016  
Date

  
Acting Clerk, Zoning Board of Appeals

### **1.) APPLICATION SUMMARY**

The petitioners propose to operate a barber shop as plans filed, which requires a variance under provisions of chapter 9 comprehensive zoning sections 3000 (general regulations), 3100 (parking and loading), 3110 (Applicability), and 3130 (Table of Parking and Loading Requirements, Appendix-C); relative to property located at 801-803 Purchase Street and 98 William Street, assessor's map 52, lot 289 in a mixed-use-business [MUB] zoned district.

### **2.) MATERIALS REVIEWED BY THE BOARD**

#### **Plans Considered to be Part of the Application**

- Existing Site Plan, drawn onto a plan previously prepared by Sullivan O'Connor Architects, dated 12/22/2010.
- Interior Plans of "New Bedford Barber Co.", showing five barber chairs, drawn by unknown, not dated

#### **Other Documents & Supporting Material**

- Completed Petition for a Variance Form, stamped received by City Clerk's Office July 22<sup>nd</sup>, 2016
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated July 29<sup>th</sup>, 2016.
- Staff Comments to ZBA from Department of Planning, Housing and Community Development, dated August 17<sup>th</sup>, 2016.
- Letter from Haven Baptist Church, dated August 23<sup>rd</sup>, 2016, dated received by Zoning Board August 25<sup>th</sup>, 2016.

### **3.) DISCUSSION**

On the evening of the August 25<sup>th</sup>, 2016 meeting, board members: Leo Schick, John Walsh, Horacio Tavares and Robert Schilling were present for the public hearing. City of New Bedford staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Jennifer Gonet (Assistant Project Manager, Planning Division) were present during proceedings for the subject case review.

Mr. Walsh made a motion, seconded by Mr. Tavares to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated July 29<sup>th</sup>, 2016; Staff Comments from the Department of Planning, Housing & Community Development, dated August 17<sup>th</sup>, 2016; the appeal packet as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the action of the Clerk in giving notice of the hearing as stated be and is hereby ratified. With all in favor, the motion carried.

Acting Chair Schick then declared the hearing open.

The petitioner: Mr. Jeff St. Pierre (367 Main Street Fairhaven, MA) presented his proposal to the board. He said it was explained to him that he needed a parking spot for every employee working at his proposed barbershop and a parking plan. Mr. St. Pierre informed the board that he had a letter from a local church that is allowing him and his employees to use the church parking lot three blocks away. He submitted a letter from the church to the board. Mr. Walsh made a motion, seconded by Mr. Schilling to receive and place on file the correspondence from Haven Baptist Church, with all in favor the

motion carried. Mr. Walsh asked the petitioner how many parking spots they will have at the church. Mr. St. Pierre was unsure how many total were in the lot but he is required to have five. In response to Mr. Walsh, Mr. St. Pierre confirmed five parking spots are available for his employees in the lot.

Following the petitioner's testimony, Acting Chair Schick invited to the podium anyone wishing to speak in favor of the application. No one in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chair Schick invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

With no further questions or concerns, Acting Chair Schick closed the hearing, and opened the floor for discussion amongst board members. Mr. Tavares stated they cannot get parking on the existing site in any way and the petitioner has another parking lot at the church so identified. Board members indicated their readiness to vote.

#### **4.) FINDINGS**

##### **Criteria for Approval of Dimensional Variation (Ch. 9, Sect. 2730)**

The Board of Appeals may vary otherwise applicable dimensional requirements pertaining to frontage, lot area, building height and sidelines upon finding the following:

- a.) *That owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant;*

The Board found the circumstances are that the building takes up the entire lot, leaving no room for additional parking space. The Board found the hardship is that literal enforcement of the ordinance would effectively prevent any new business from operating a business out of that property.

- b.) *That desirable relief may be granted without substantial detriment to the public good;*

The Board found that relief may be granted without substantial detriment to the public good;

- c.) *And, that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

The board found that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

#### **5.) RELIEF**

With respect to the relief requested by the Applicant, the Board has been presented with sufficient information at the hearing to justify the relief described below, subject to the conditions set forth below in Section 6.

The Board grants the Applicant's request for relief from chapter 9 comprehensive zoning sections 3000 (general regulations), 3100 (parking and loading), 3110 (Applicability), and 3130 (Table of Parking and Loading Requirements, Appendix-C); relative to property located at 801-803 Purchase Street and 98 William Street, assessor's map 52, lot 289 in a mixed-use-business [MUB] zoned district. To allow the petitioner to operate a barber shop as plans filed.

#### **6.) DECISION**

Based on a review of the application documents, testimony given at the public hearing and the findings described above, the Zoning Board of Appeals hereby GRANTS, WITH CONDITIONS, the requested variance.

Mr. Walsh made a motion, seconded by Mr. Schilling, as follows, to approve the variance to allow the Petitioners, 813 Real Estate, LLC and Jeff St. Pierre, to operate a barber shop as plans filed, requiring a Variance under provisions of Chapter 9 comprehensive zoning sections 3000, 3100, 3110, and 3130; relative to property located at 801-803 Purchase Street and 98 William Street, assessor's map 52, lot 289 in a mixed-use-business zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9 Comprehensive Zoning sections 3000, 3100, 3110, and 3130; the board finds the criteria for relief has been met.

In addition to the foregoing sections, this petition has also been found to be in accordance with Massachusetts General Law Chapter 40A section 10 relative to the granting of variances because the board has found: 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. These circumstances are that the building takes up the entire lot, leaving no room for additional parking space. And, 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. The hardship is that literal enforcement of the ordinance would effectively prevent any new business from operating a business out of that property. And, that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And that desirable relief may be granted without substantial detriment to the public good. In light of its review of the specifics noted within this motion, the board's finding that the material presented is complete and with its careful consideration of the petitioner's request, the Zoning Board of Appeal finds that the petition satisfactorily meets the basis of the requested relief.

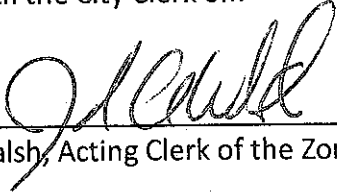
Therefore, this motion is made and includes the following conditions:

- a. That the project be set forth according to the plans submitted with the application.
- b. That the notice of decision be recorded at the Registry of Deeds and

- c. A building permit be issued by the Department of Inspectional Services and acted upon within one year from the date of the decision.

On a motion by J. Walsh, seconded by R. Schilling to grant the requested Variance, the vote carried 4-0 with members H. Tavares, R. Schilling, J. Walsh, and L. Schick voting in the affirmative, no member voting in the negative. (Tally 4-0)

Filed with the City Clerk on:



John Walsh, Acting Clerk of the Zoning Board of Appeals

9/8/2016  
Date