



## Planning Board

City Hall, Room 303

133 William Street,

New Bedford, MA 02740

(508)979-1488

[www.newbedford-ma.gov](http://www.newbedford-ma.gov)

CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

CITY CLERK

2016 AUG 22 P 12:12

CITY CLERKS OFFICE  
NEW BEDFORD, MA

## NOTICE OF MODIFICATION of SITE PLAN APPROVAL

Case Number:	24-16			
Request Type:	Modification of Case #19-16 Site Plan Approval			
Address:	139 Hathaway Road			
Zoning:	Mixed Use Business and Industrial B			
Recorded Owner:	S.B. Realty Limited Partnership			
Applicant:	Paul Bishins, S.B. Realty Limited Partnership			
Applicant Address:	92 Kilburn Street, New Bedford, MA 02740			
Application Submittal Date	Public Hearing Date		Decision Date	
July 15, 2016	August 10 , 2016		August 22, 2016	
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
101	Part 14, 16 & 17, Land Court Lot 11	79	461	14729

Application: Request by applicant for Modification of Site Plan Approval of Case #19-16, for a minor layout adjustment for new construction of a retail building located at 139 Hathaway Road.

Action: **GRANTED, WITH CONDITIONS, as described in section four (4).**

A copy of this decision was filed with the City Clerk of the City of New Bedford on August 22, 2016. Any person aggrieved by this decision for Site Plan Approval has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 8 of Chapter 40A of the General Laws of Massachusetts and Section 5490B of the City of New Bedford Site Plan Review Ordinance.

8/22/16  
Date

Colleen Dawicki  
Colleen Dawicki, Chair  
City of New Bedford Planning Board



## **1) APPLICATION SUMMARY**

The applicant and owner, Paul Bishons of S.B. Realty Limited Partnership located at 92 Kilburn Street in New Bedford, submitted an application for **Modification for Site Plan Approval** for Case #19-16 through agent SITEC, Inc., for a property located at 139 Hathaway Road (Map 101, Part Lot 14, Lot 16 & 17, and Land Court Lot 11) in the Mixed use Business and Industrial - B zoning districts. The decision for Site Plan and Special Permit for Parking Reduction approval was recorded concurrently as Case #18-15 with the office of the City Clerk on September 9, 2015. This decision was amended on October 29, 2015 after the 20 day appeal period expired in order to correct the Map (Plot) and Lot numbers.

The development plan had initially been revised because of a tenant lease agreement clause that controls the limits of new expansion. Therefore, the proposed freestanding retail building footprint was reduced from 7250 +/- SF to 7150+/- SF.

The development project satisfies the parking requirements under Chapter 9 Comprehensive Zoning Section 3100 and parking was gained for the overall parcel; therefore no Modification for Special Permit for Parking Reduction was required.

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

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

The submittal was shown on a plan set for Proposed O'Reilly Auto Parts, 139 Hathaway Road (Assessors Map 101, Lot 14), New Bedford, MA dated April 17, 2015, as revised thru July 5, 2016, prepared for S.B. Realty Limited Partnership, by SITEC, Inc., 449 Faunce Corner Road, Dartmouth, MA 02747 consisting of:

1. Cover Sheet
2. Site Layout (SL-1)
3. Locus Map (LM-1)
4. Site Grading & Utilities Plan ( G&U-1)
5. Landscaping Plan (LP-1)
6. Lighting Plan Sheet (Light-1)
7. Demolition Plan (Demo-1)
8. Erosion/Sedimentation Control Plan (ESC-1)
9. Existing Conditions (EC-1)
10. Detail sheet (Det-1)
11. Modification to Approved Plan dated July 1, 2016

### **Other Documents and Supporting Material**

Staff Comments with attachments:

1. Notice of Decision for Case 19-16
2. Minutes of Meeting Dated June 8, 2016
3. Comments from Ronald Labelle, Commissioner of Department of Public Infrastructure, dated 11/30/2015 and 08/27/2015
4. Letter from Applicant Requesting Modification to Site Plan Approval dated July 13, 2016
5. Project Description, as revised
6. Drainage Summary, revised 07/14/2016
7. Applicant's Agent Presentation Binder consisting of the following:
  - A. Site Plan Review Application



- B. Bristol County Registry of Deeds (S.D) Book 79, Page 461
  - E. Lighting Specifications
  - F. Elevation, Sign Details and Floor Plan
  - G. Site Photos
8. Plan Set Revised thru 07/05/2016

### **3) DISCUSSION**

Board Members Colleen Dawicki, Kathryn Duff, Arthur Glassman, Peter Cruz and Alexander Kalife were present on the evening of the discussion. Acting City Planner Jennifer Clarke, AICP and Staff Planner Constance Brawders were present during proceedings for the subject case review.

Applicant's agent Steve Gioiosa, P.E., of SITEC, Inc., described proposed and associated minor changes to the plan, which included building redesign for relocation of the auto parts store loading dock, parking and landscaping design, and stormwater mitigation designed in response to continued dialogue between land owner and tenant Price Rite Supermarket Company. He indicated Philip Beauregard, legal counsel for owner, was in attendance. Mr. Gioiosa stated the project complies with the current zoning ordinance.

Chair Dawicki requested a motion from the Board to open the public hearing; motion moved by Board Member K. Duff, with second by Board Member A. Glassman by vote of five (5)-zero (0).

No one spoke in favor or asked to be recorded in favor of the project submittal.

Speaking in opposition to the project for site tenant Price Rite Supermarket Company was Atty. David Lavenburg. Atty. Lavenburg expressed two points of contention regarding the plan modification that focused on the intended location of temporary construction fencing and the revised parking plan that he argued would pose a problem with deliveries and truck loading. A photograph featuring a Price Rite tractor trailer stationed at the loading dock was accepted into the record by the Planning Board.

Dialogue between agents and Board members ensued regarding the current delivery tractor trailer delivery practice with suggested modifications to facilitate change, and placement, phasing, and notice of the temporary construction fencing.

Hearing no further opposition to the project modification, the public hearing was closed with motion moved by Board Member K. Duff, with second by Board Member A. Glassman by vote of five (5)-zero (0).

### **4) DECISION**

Chair Dawicki called for a motion regarding the request for modification of site plan approval. Board Member Duff moved to approve Modification of Site Plan Approval of Case #19-16, for a minor layout adjustment for new construction of a retail building, located at 139 Hathaway Road (Map 101, Part Lot 14, 16 & 17 and Land Court Lot 11), in the Mixed Use Business and Industrial B zoning districts as presented by applicant's agent, SITEC, Inc. of Dartmouth, Massachusetts.



The Planning Board finds this request to be in accordance with City of New Bedford Code of Ordinances Chapter 9 §5400 Site Plan Review. As a result of such consideration, the Board moves approval on the subject application with the following conditions:

- ☐ That the applicant notify the tenant, PriceRite, with enough sufficient time as the temporary construction fence is moved to minimize disruption in the parking area, specifically in front of the PriceRite store.
- ☐ That the project shall be undertaken according to the plans submitted with the application with adherence to all notes on plans as reviewed by the Planning Board on this date.
- ☐ That the applicant shall honor outstanding stipulations of the Notice of Decision by the Planning Board date stamped by the Office of the City Clerk on June 16, 2016 which incorporated the following conditions for approval:
  1. Applicant agrees to accommodate Price Rite Supermarket Company by eliminating parking spaces at the east side loading dock. [Twenty-one (21) parking spaces are shown on Plan Sheet S-L 1, up to six (6) will be removed.]
  2. Applicant will update construction notes to plan sheets as recommended by staff, specifically:
    - Construction/Site Layout Plan (Plan Sheet SL-1)**
      - Any work and material within the City right-of-way shall conform to the City of New Bedford requirements.
    - Erosion/Sedimentation Control Plan (Plan Sheet ESC-1)**
      - All BMP erosion control measures shall be in place prior to demolition or any site work. *(BMP has been omitted from note 5.)*
      - Erosion Control BMPs shall conform to US EPA, NPDES, MA DEP and Massachusetts Erosion and Sedimentation Control Guidelines for Urban and Suburban Areas. *(Suburban is omitted.)*
  3. The applicant will honor all of the Department of Public Infrastructure's recommendations in memos dated August 27, 2015 and November 30, 2015 (Attachment 1).
  4. Recommendations made in the staff report shall be honored by the applicant.
  5. As stipulated by the decision dated September 9, 2015, applicant shall have a handicap accessible ramp, or curb cut, installed at the pedestrian safety crosswalk.
  6. The applicant shall provide handicap parking area signage and pavement markings, and show on revised plans, handicap parking spaces which will serve the business under the stipulations set forth by 521 CMR 23:00 Parking and Passenger Loading Zones.
  7. As stipulated by the decision dated September 9, 2015, the landscaping shall provide trees true to Landscape Plan of 2-2.5 inch caliper diameter at the three-foot rise, or from the top of the burlap and ball.



8. As stipulated by the decision dated September 9, 2015, the roof sheathing material shall be a Cool Roof of EPDM or PVC, in light or white color.
9. As stipulated by the decision dated September 9, 2015, hours of operation shall be corrected for agreement and consistency between applications for Site Plan approval and Special Permit, and no earlier than 8:00 a.m. and no later than 8:00 p.m.
10. As stipulated by the decision dated September 9, 2015, signage may be illuminated no later than one hour after closing time, but no later than 9:00 p.m.
11. As stipulated by the decision dated September 9, 2015, days of operation shall be six days per week, from Monday thru Saturday.
12. As stipulated by the decision dated September 9, 2015, the applicant shall clarify the party responsible for operation and maintenance associated with the storage of oil materials and provide documentation for the Planning division case file folder.

Additional conditions shall include the following:

- ☐ The applicant shall ensure installation and show evidence of all relevant ADA parking requirements on revised plans.
- ☐ That the applicant shall submit final plan revisions to the Planning Division in the following formats:
  - One (1) -11" x 17" Plan Set
  - One (1) CD or USB with Plan Set in PDF formatand shall ensure that these same plans are properly submitted to the Department of Inspectional Services.
- ☐ The applicant shall provide a copy of the Notice of Decision certifying no appeal has been brought forward by the office of the City Clerk for the Planning division case file folder.
- ☐ The applicant shall present any proposed modification from the approved plans 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 Modification of Plan 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 they were granted or they will lapse.

Motion seconded by Board Member Glassman. Motion carried unanimously five (5) to zero (0).

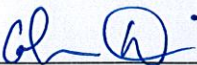
Board Member Duff – Yes  
Board Member Cruz – Yes

Board Member Kalife – Yes  
Chair Person Dawicki - Yes

Board Member Glassman – Yes

Filed with the City Clerk on:

8/22/16  
Date

  
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Colleen Dawicki, Chair  
City of New Bedford Planning Board





**CITY OF NEW BEDFORD**  
**Jonathan F. Mitchell, Mayor**

**Department of Public Infrastructure**  
**Ronald H. Labelle**  
**Commissioner**

Water  
Wastewater  
Highways  
Engineering  
Cemeteries  
Park Maintenance  
Energy

November 30, 2015

Ms. Jennifer Clarke, Deputy Director  
Dept. of Planning, Housing & Community Development  
City of New Bedford  
133 Williams St., Room 303  
New Bedford, MA 02740

SUBJECT: Proposed O'Reilly Auto Parts  
North Side Hathaway Rd. (Assessor's Map 101 Lot 14)  
Mid-Block Pedestrian Signal

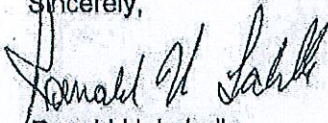
Dear Ms. Clarke:

The Department of Public Infrastructure reviewed and approved the site plan for the above project as submitted, with twelve conditions attached. One of those conditions (#6 on our Site Plan Review memorandum dated August 27, 2015) calls for the installation of a mid-block pedestrian signal to allow pedestrian traffic to cross Hathaway Road to address the problematic pedestrian crossing conditions at this location.

In response to our request, Mr. John Keegan from SITEC performed pedestrian counts at the location, and reported that the pedestrian counts do not trigger any of the Warrants for a pedestrian signal. The results of the Traffic Warrant performed for the installation of a mid-block crossing indicated that it did not meet the 100 pedestrians crossing for any 4 hour period of a normal day. However, after SITEC's evaluation of the pedestrian crossing conditions at the site, they concluded that if the mid-block crossing was updated and advanced signage was installed, it would increase the crosswalk's visibility and prompt motorists to slow down, rendering the crossing safer. Therefore, in light of the information in the report submitted by SITEC, the Department of Public Infrastructure has agreed to allow the installation of an updated mid-block crossing with advanced signage in lieu of the originally requested mid-block pedestrian signal.

If you should have any questions, please feel free to contact Manuel Silva, Supervising Civil Engineer, at 508-979-1550.

Sincerely,

  
Ronald H. Labelle  
Commissioner

Cc: Manuel H. Silva, Supervising Civil Engineer





**CITY OF NEW BEDFORD**  
Jonathan F. Mitchell, Mayor

**Department of Public Infrastructure**

**Ronald H. Labelle**  
Commissioner

Water  
Wastewater  
Highways  
Engineering  
Cemeteries  
Park Maintenance

**MEMORANDUM**

TO: City of New Bedford Planning Board  
FROM: Ronald H. Labelle, Commissioner, D.P.I.  
DATE: August 27, 2015  
RE: Proposed O'Reilly Auto Parts- Site Plan  
Hathaway Road  
Plot 101 Lot 14

**PLANNING**

**AUG 27 2015**

**DEPARTMENT**

The Department of Public Infrastructure has reviewed the proposed site plan referenced above and recommends approval with the following conditions:

1. Driveway permits are subject to Traffic Commission approval.
2. Permits for sidewalk, driveways, drainage, sewer and water must be obtained from the Department of Public Infrastructure Engineering Division.
3. Driveways to be built in accordance with City of New Bedford regulations and with 4 foot transitions curb on both sides.
4. Developer to replace sidewalk in between both driveways on Hathaway Road, with a cement ribbon sidewalk. Developer to plant 5 trees within the new grass ribbon area.
5. Drainage design must comply with Phase II, Mass Department storm water management standards.
6. A mid block pedestrian signal installed to allow pedestrian traffic to cross Hathaway Road.
7. Developer to check condition of existing sewer service and lift station. Also, does the existing lift station have the capacity for the additional flow for the proposed building.
8. Develop to check condition of existing water service, Water trace to be installed on proposed water service.
9. All utilities to be installed in accordance with City of New Bedford standards.
10. The Department of Public Infrastructure requires a final set of approved plans to be submitted, that reflects all revisions made prior to the start of construction.



11. Developer and site contractor must schedule a pre-construction meeting with the Department of Public Infrastructure prior to the start on construction.
12. Upon completion, Engineer must submit "As Built Drawings" in CADD format prior to the certificate of occupancy being issued.

/ct

Cc: Department of Inspectional Services  
Environmental Stewardship  
Sitec  
S.B. Realty Limited Partnership