



## ***Zoning Board of Appeals***

September 17, 2015 - 6:04 P.M. – **Minutes**  
City Hall, 133 William Street, New Bedford, MA Room 314

### **PRESENT:**

**Leo Schick** (*Acting Chairman*)

**John Walsh** (*Acting Clerk*)

**Robert Schilling**

**Horatio Tavares**

### ***Also in attendance:***

*Dan Romanowicz, Commissioner of Buildings and Inspectional Services*

*Kreg Espinola, Assistant City Solicitor*

*Jennifer Gonet, Assistant Project Manager, Planning Division*

MEETING CALLED TO ORDER by Chairman Schick at 6:04 p.m.

Mr. Schick then explained the process and procedures to the applicants and those in attendance. He explained the due to the lack of a quorum, a petitioner's case would require a unanimous vote to pass. Mr. Schick offered petitioners the opportunity to reschedule their matters. No petitioners expressed a desire to exercise this option.

### **OLD BUSINESS:**

#### **CASE #4179**

A motion was made (LS) and seconded (JW) to continue Case #4179.

Motion passed unopposed.

### **PUBLIC HEARINGS**

#### **CASE #4201**

A motion was made (JW) and seconded (RS) that the following documents be received and placed on file: the communication dated 8/28/15 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 9/14/15; the appeal package; the plan submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be affected; and that the action of the clerk in giving notice of the hearing as stated be and is hereby ratified.

Motion passed unopposed.

Acting Chairman Schick declared the hearing open and invited the petitioner to address the board.

Kevin Medeiros of 100 Bellevue Street addressed the board. He stated he is seeking to put a driveway at his corner lot house, and wants to put the driveway on Mina Street. He stated in addition to himself there is no one else who parks in the area but for one work truck parked on the corner of Ricketson and Mina Streets. He stated he uses his back door, where his alarm panel is located, as opposed to his front door.

He stated this will not impact any city services. He stated this will help the city in snow events, as he will be parking his cars in his driveway. He stated it would not be economically feasible for him to locate the driveway in the front, as it would require going 70' instead of 35' thereby doubling the price.

In response to Mr. Schick's invitation to speak in favor of this petition, City Councilor Joseph Lopes of the petitioner's ward stated he had spoken to the neighbors who did not express any issues with the driveway

installation, nor did he receive any phone calls in opposition. He represented the neighbors were willing to support Mr. Medeiros, and he noted there were no neighbors present in opposition. He stated in relation to taking cars off the street, this would be a service to the neighborhood. He stated the newest resident of Mina Street is happy to allow the driveway installation. Councilor Lopes noted there is already a side driveway on the street. He expressed his support for the petitioner's improvement to his property value. He stated that as a fire fighter, Mr. Medeiros understands public safety issues in taking cars off the street.

There was no response to Mr. Schick's further invitation to speak in favor.

In response to Mr. Schick's invitation to be recorded in favor, Councilor Linda Morad requested she be recorded in favor.

There was no response to Mr. Schick's further invitation to be recorded in favor

There was no response to Mr. Schick's invitation to speak or be recorded in opposition.

There being no further questions by the board, the hearing was closed. The board then discussed the contents of a motion.

A motion was made (JW) and seconded (RS) to grant Appeal #4201, a motion to grant a special permit under the provisions of the city code of New Bedford to Eileen and Kevin Medeiros (100 Bellevue Street, New Bedford, MA), relative to property located on

100 Bellevue Street, Assessor's Map 8, Lot 141 in Residential B Zoned District, to allow the petitioner to install a driveway from a public way that does not constitute frontage of the lot as plan filed, which requires a Special Permit under Ch.9, Comprehensive Zoning sections 3100, 3110, 3149, 5300-5330 & 5360-5390. In accordance with City of New Bedford Code of Ordinances Chapter 9, Section 5320, the benefit to the city and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination includes consideration of the following:

The social, economic, or community needs which are served by the proposal which are deemed neutral. Traffic flow and safety, including parking and loading, has a benefit because the permit allows for an increase in off-street parking. The adequacy of utilities and other public services in this case are neutral. Neighborhood character and social structures are deemed in conformance of the neighborhood character and social structures. Impacts on the environment are neutral. The potential fiscal impact, including impact on city services, tax base, and employment, is viewed to have a positive impact on the tax base. In accordance with the City of New Bedford Code of Ordinances Chapter 9, Section 3149, the Board of Appeals finds said vehicular access promotes a public benefit and is not detrimental to the public health and safety. Therefore, with the following conditions: that the project be set forth according to plans submitted with the application, and that it be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Roll Call Vote was as follows:

H. Tavares – Yes	R. Schilling - Yes
L. Schick – Yes	J. Walsh – Yes

Motion passed 4-0

### **CASE # 4202**

A motion was made (JW) and seconded (RS) that the following documents be received and placed on file: the communication dated 8/28/15 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 9/4/15; the appeal; the plan as submitted; and, that the owners of the lots as

indicated are the ones deemed by this board to be affected; and the action of the clerk in giving notice of the hearing as stated be and is hereby ratified.

Motion passed unopposed.

Chairman Schick declared the hearing open.

David Koshiol, 11 Blackhall Court, Marion, stated his two-family corner house at 57 Parker Street is totally renovated inside and out. He stated there are no street parking spaces in the area. He stated he has more room on the back side of the house than the front, as well as plantings he does not want to ruin. He stated it will also be 30' further away from the corner and will be located on Cottage Street, which is far wider than Parker Street, making it a lot safer to go in and out at that location. So, it will look better, perform better, be safer, and reduce the already limited street parking.

There was no response to Mr. Schick's invitation to speak or be recorded in favor.

There was no response to Mr. Schick's invitation to speak or be recorded in opposition.

There being no further questions from the board, Chairman Schick closed the hearing.

A motion was made (JW) and seconded (RS) to grant Appeal #4202, a motion to grant a special permit under the provisions of the city code of New Bedford to Deborah E.

Druan and David A. Koshiol (11 Blackhall Court Marion, MA), relative to property located at 57 Parker Street, Assessor's Map Plot 71, Lot 161 in a Residential B Zoned District, to allow the petitioner to install a driveway from a public way that does not constitute frontage of the lot as plans filed which requires a Special Permit under Ch. 9 Comprehensive Zoning Section 3100, 3110, 3149, 5300-5330 & 5360-5390. In accordance with the City of New Bedford Code of Ordinances Chapter 9, Section 5320, the benefit to the city and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination includes consideration of each of the following:

the social, economic, or community needs which are served by the proposal, which are deemed neutral; traffic flow and safety, including parking and loading, which through this permit increases the availability of off-street parking; the adequacy of utilities and other public services are deemed neutral. The neighborhood character and social structures are deemed in conformance. Impacts on the natural environment are deemed neutral. Regarding the potential fiscal impact, including impact on city services, tax base, and employment, the granting of this permit will increase the city's tax base. In addition, in accordance with the City of New Bedford Code of Ordinances, Chapter 9, Section 3149, the Board of Appeals finds that vehicular access promotes a public benefit and is not detrimental to the public health and safety. Therefore with the following conditions, which are none: the project be set forth according to plans submitted with the application, and that it be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Roll Call Vote was as follows:

H. Tavares – Yes	R. Schilling - Yes
L. Schick – Yes	J. Walsh – Yes

Motion passed 4-0

### **CASE # 4203**

A motion was made (JW) that this case be continued to the next meeting of October 22, 2015. Prior to the motion being seconded, it was proposed that there would be a second call of the case.

### **CASE # 4204**

A motion was made (JW) and seconded (RS) that the following documents be received and placed on file: the communication dated 8/28/15 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 9/4/15; the appeal; the plan submitted; and, that the owners of the lots as

indicated are the ones deemed by this board to be affected; and the action of the clerk in giving notice of the hearing as stated be and is hereby ratified.

Motion passed unopposed.

Councilor Morad called for a point of information, stating that residents were present for Case 4203. She asked the Chairman to instruct them as to what action would take place on that case this evening.

Chairman Schick and Mr. Walsh stated that the matter would receive a second call.

Ms. Morad stated she was not sure the audience understood that phrase.

After consulting with Att. Espinola, Chairman Schick explained that Case 4203 would be the last case heard this evening.

Returning to Case #4204, the motion made and seconded passed without opposition.

Stuart Clark of 124 Peddleford Street, a Civiltech Engineer, addressed the board on behalf of Ms. Brito. He stated the subject property requires a special permit for a medical office use in a mixed business use district. He described the location of the subject property, stating the parcel currently has a ranch style house upon it, where half of the house is used as a hair salon and the other half is used as a residential dwelling. The property has been used as an insurance agency in the past absent any residential component.

Mr. Clark stated the applicant is seeking to revert to a completely commercial/business use by establishing a medical office. He stated he believed he would encounter some opposition to the proposal likely related to parking. He stated the applicant is seeking a reduction in parking, as there is only one off-street spot. Mr. Clark stated they have approached the New York Buffet owner across the street to acquire use of additional parking at that location.

Mr. Clark expressed belief that the project provides social and community needs in accordance with 5321. He stated again that the parking will be addressed with the lease of spaces. He stated the building structure will not change, and modifications will be to the interior with small outside improvement to create a handicap accessible parking spot and access ramp.

Mr. Clark stated there would be no increased impact to utilities, and the proposal fits in the character of the neighborhood in light of past business on the property and has no environmental impacts. He stated the fiscal impact to the city is an increase in tax from a business in lieu of residential.

Heather Britto of 47 Charlotte Street, New Bedford, addressed the board. Reading from a letter she wrote, she stated she expected to meet opposition this evening due to a mental health stigma. She stated she was shocked and deeply saddened after appearing before the planning board. She stated that parking, the cliental she treats, and neighborhood safety were some of the issues raised at that time. She expressed that she took previous comments personally for each of her clients, from firefighters and war veterans to law enforcement clients, nurses and children that she treats.

Ms. Brito stated she is asking the board to see through the mental health myth and stigma. She stated New Bedford was voted the worst city to live in and is Number 8 in Massachusetts for drug overdoses. She asked that the board not be a barrier to change in our community. She stated she believes in the city, in her work, and in her clients.

She stated she is requesting a permit in a mixed business use zone and has been told after legal consult that she meets the criteria. She stated she has had no safety issues or concerns in her year and eight months of treating people. She stated she turns away 8-45 people per week, with most therapists having a 6 month to 1 year waiting period. She stated if the permit is granted she will be joined by another therapist and be able to treat another 30-

40 people. She stated she is the only Sandplay therapist in Massachusetts a non-verbal therapy, and she believes the board would like to keep her in the city. She stated the city needs the help.

Mr. Walsh inquired as to the proposed hours of operation. Ms. Brito stated she met with opposition to her plan to open seven days a week. So in response, she has decreased hours to Monday through Thursday 9:00 –9:00.

Mr. Walsh inquired as to the number of people Ms. Brito expects to service daily. Ms. Brito responded that she can see 6-10 people per day.

In response to an inquiry by Mr. Schilling as to how many therapists will be working at the facility, Ms. Brito stated she intends to add one AMDR.

Mr. Schick confirmed that Ms. Brito was in negotiations for additional parking. She stated the current agreement is for four spaces.

In response to an inquiry by Mr. Schilling regarding medication therapy, Ms. Brito noted that neither therapist is a prescriber.

In response to Mr. Schilling, she noted that she has stated she has specialization in substance abuse and people deemed a danger to themselves or others. She stated she interned at STARR and then became clinical director at the Women's Addiction Treatment Center, both in New Bedford, and also worked at Highpoint. She stated high-risk patients cannot be treated on an outpatient basis. Ms. Brito stated many people she treats are in the room and are high-functioning professionals.

Mr. Walsh inquired whether the direct abutters were businesses or residences. Ms. Brito stated there was some confusion at her last board meeting regarding abutters who may not have received a letter. After clarification, she stated that the surrounding properties are all residences. She stated Ashley Boulevard is all businesses, but her direct abutters are residential.

In response to Mr. Schick's invitation to speak in favor, Walter Viardi, 56 Washington Street, Fairhaven, stated his children had been treated by Heather. He stated he is a police officer and is in treatment with Ms. Brito and she is great. He stated he has referred two other law enforcement colleagues to her as well. He stated he wanted to come forward and support her as she has done a lot of good for his children, himself and his friends, and he is not a drug addict. He stated he would be happy to answer anyone's questions.

In response to Mr. Schick's further invitation to speak in favor, Alice Tetro of 2 Granite Post Lane, North Dartmouth, stated she is the face of someone that might seek mental health treatment. She stated with Heather's help she was able to reach out and successfully complete therapy. She stated she is a U.S. Air Force veteran and has a master's in business. She stated she works as a manager in the New Bedford area and more than contributes to the local economy. She stated mental health treatment is needed and by allowing this to move forward, the board is helping to build a better community and she encouraged everyone to approve this business. She stated she was not asked to speak here, but she herself asked if she could speak to put a face on what Ms. Brito's clients look like.

In response to Mr. Schick's further invitation to speak in favor, Charlie Lemieux of 235 Middle Street, Middleboro, MA, expressed that he would be working this evening as a crisis clinician for the City of New Bedford. He stated he will be working the following night as a part-time Middleboro police officer. He stated he sees Ms. Brito and has his master's in education. He stated he has been married for twenty-two years with two children. He stated he too has referred people to Ms. Brito who also serve the community. He stated he sympathizes with the abutters, but expressed that as a police officer he never gets calls to private insurance places such as this. He stated that Ms. Brito's cliental is very high-functioning.

In response to Mr. Schick's further invitation to speak in favor, Tammy Williams of 190 Hathaway Street, Wareham, MA, stated she too works for a New Bedford company. She stated she also receives treatment with Ms. Brito and has been helped, and she has also referred people to Ms. Brito. She stated Ms. Brito is an amazing therapist.

In response to Mr. Schick's further invitation to speak in favor, Katie Brown of 242 Hathaway Road, Acushnet, a registered nurse working in oncology at St. Luke's Hospital, stated she too sees Ms. Brito. She stated she has made multiple referrals to Ms. Brito who have all come back and said how much Ms. Brito helped them. She stated Ms. Brito is wonderful and she thought the board should allow the expanded practice.

In response to Mr. Schick's invitation to speak in favor, Mark Brown 242 Hathaway Road, Acushnet, stated he was not going to speak, but now wants to put a face to who Ms. Brito sees. He stated he is a master electrician and is a vocational educator who also sees Ms. Brito as a client.

In response to Mr. Schick's further invitation to speak in favor, Jen Rose, 53 Railroad Ave, Taunton, stated Ms. Brito cannot treat her as she is her sister. She stated she too is the face of mental health. She stated she works 40-45 per week, is the mother of a four year old, and has never been convicted of a crime and has never done drugs. She stated she is a volunteer for a family support group of people who have loved ones dealing with addiction. She stated she also sees a counselor in Taunton, but would chose to see her sister if she could. She stated she does not know how she would get through her work days or raise her child without talking to someone. She added that mental health has many faces.

There was no response to Mr. Schick's further invitation to speak in favor.

There was no response to Mr. Schick's invitation to be recorded in favor.

Mr. Walsh noted that the board had received letters in support of the application. A motion was made (JW) and seconded (RS) to receive and place on file letters in support from the following individuals: Heather Brito; Katie Brown; Ashley Wade; Melissa Torrence; Susan M.; Charlie Lemieux; Eric Madore; Nathan Torrence; Dr. Kevin Roderigues; an anonymous letter; Attorney Gerald Pepin; Jessica Lima; Laura Crumley; and Kelli Jones. Motion passed unopposed.

In response to Mr. Schick's invitation to speak in opposition, Peter Gomes of 254 Maryland Street stated he went around the neighborhood to inform everyone as to what was going on and he presented a petition to the board signed by neighbors in opposition.

A motion was made (JW) and seconded (RS) to receive and place on file the petition signed by 34 individuals. No board member opposition was expressed.

Mr. Gomes stated he wasn't looking to get signatures to impress anyone but was for the immediate neighborhood of people that this could effect. He stated he was appalled and upset that this had become Maryland Street against mental health, as that is not the case. He stated this is a nice neighborhood where people walk around and conversate (sic) with one another. He stated the issue is that the neighbors do not want businesses encroaching on Maryland Street. He stated while Ashley Boulevard is business, Maryland Street is residential and it should stay that way.

Mr. Gomes wished his best to all those who spoke in favor, but stated this has to do with protecting his neighborhood. He expressed concern about labeling 269 Maryland Street a medical facility and where that could lead to in the future and the related uncertainties; such as any future prescribing of medication.

Mr. Gomes admitted that New Bedford needs therapists and methadone clinics, but residents do not want it in their neighborhood, which is safe and quiet.

Mr. Gomes submitted a photo of a car parked in the off-street parking spot.

A motion was made (JW) and seconded (RS) to receive the photo. Motion passed unopposed.

Mr. Gomes stated that according to Zoning Board Section 3150 the size of a parking space is to be 9'x 20' and the space shown is 10.6' x 14.7' with the bumper against the house. He stated it does not qualify as a regular parking space. He stated he would ask the city to install a curb so people can't park there and block the sidewalk and prevent families from walking around. He stated Ms. Brito's vehicle is encroaching on the sidewalk. He said it is now time to make an issue and step up, as he believes that was a driveway leading to a garage that was once there. He stated he knows there is no way that can be turned into a handicap parking space.

Mr. Gomes stated he had received the letter from Ms. Brito and was upset because nobody thinks anybody in the room is horrible. He stated things start off good and then everything changes, and the neighborhood is left with the byproduct. He stated the board might approve it, but in five years if it goes downhill the board does not have to worry about but the neighbors/residents do, and he does not want that to happen. He again stated he wanted to keep this very nice neighborhood as it is, as there are very few such areas in the city. He stated they have a vested interest as homeowners in the area. He noted there are very few renters in the area.

He stated he has lived there for eight years and does not complain about the Chinese Restaurant or the smell from the dumpster or the nips he finds all over from the liquor store, because when he bought his house those businesses were established. He stated Ms. Brito does a great job at what she does, but he does not want it in his neighborhood. He expressed concern about the possibility that this could be a methadone clinic in five years. He again stated this is not Maryland against mental illness. He stated they just want to protect their neighborhood, and New Bedford should be proud of such neighbors who stand up together to protect their neighborhood.

Mr. Schilling confirmed that the 269 address was a hairdressing business and a residence. Mr. Gomes stated the business was on the Ashley Boulevard side of the building, and the Maryland Street side is a residence.

Mr. Schilling inquired whether Mr. Gomes' primary concern was the parking or the type of business. Mr. Gomes stated it was everything. He stated parking is definitely an issue and stated the Chinese Restaurant is not prompt in plowing their lot, and when they do they dump it on the sidewalk. Mr. Gomes stated the big issue is deeming this a medical facility. He stated once those roots get planted, the tree grows, and the neighbors don't want that tree growing in their neighborhood.

Mr. Schilling asked Mr. Gomes to prioritize his concerns, to which Mr. Gomes replied nature of the business and then parking.

In response to Mr. Schick's further invitation to speak in opposition, Jim Oliviera, Ward 1 Councilor addressed the board. He stated he was present to represent constituents and residents who had sincere concerns about changing the nature of the business that has been in that particular property. He stated the current business could not be more than 300 s.f. He stated the residents have concerns and would prefer not to see the use altered significantly, and he is present in support of the residents.

In response to Mr. Schick's further invitation to speak in opposition, Dolores Couto of 261 Maryland Street, a direct abutter, stated that her main concern was the hours. She felt that 9:00 – 9:00 on a seven day schedule was a bit much to have car doors opening and closing and people talking and alarms beeping on and off. She stated Sunday is the only quiet day they have. She also stated concern about the congestion that will be caused at the corner of Ashley Boulevard and Maryland Street. She stated with a car or two parked near the corner, it will get very congested. She stated human nature being what it is, people will not park across the street at the Chinese Restaurant when they can park right next door.

Ms. Couto stated that Maryland Street is a residential neighborhood, as are all the streets east of Ashley Boulevard, and she believes that's why so many people have turned out this evening in support of the neighbors. She stated she is concerned about any future plans for other meetings or classes, bringing in more cars with car doors opening and closing at nine o'clock. Ms. Couto stated that while Heather sounds like a wonderful girl, she felt this business should be in a professional building, seeing patients for that many hours that late into the night. She stated that Maryland Street is traveled quite a bit, being the last street to have access from Acushnet Avenue to Ashley Boulevard. She stated there are three stop signs up Maryland Street because of all the traffic. Ms. Couto stated that it is nothing against the people Ms. Brito treats, but it would change their neighborhood. She also expressed concern about there not being anyone living there, as it is an invitation for break-ins.

Mr. Schick clarified for Ms. Couto that Ms. Brito had stated she will not be open Sundays. Ms. Brito clarified hours will be Monday through Friday 8:00 – 5:00 and 8:00 – 2:00 on Saturday.

Mr. Schilling inquired as to the hours of the nearby package store. Ms. Couto stated she did not know. She also stated that the neighborhood is not affected by noise from the Chinese restaurant after 7:00.

Mr. Schilling confirmed with Ms. Brito that there would be two therapists seeing one patient at a time.

In response to Mr. Schick's further invitation to speak in opposition, Wayne Kilanowich, 220 Appleton Street, expressed that his concern is that the zoning board deals with regulations, but the parking does not yet seem to have been established. He agreed with Ms. Couto's statement that cars parked at the top of the street make it very difficult. He stated if this goes further, the board should consider putting up no parking signs at least from the corner back to the neighbors' houses. Mr. Kilanowich stated that it also has not been established that there is a handicap spot. Mr. Kilanowich stated that they could not comment on parking that has not yet been established, and he asked the board to take that into consideration.

Mr. Schick assured Mr. Kilanowich that the parking would definitely have to be taken care of. Mr. Schilling inquired of Mr. Kilanowich whether four spaces directly across the street would alleviate his concerns about the parking. Mr. Kilanowich expressed it would not, as people would not park there if they didn't have to, but would instead park on the street and create a problem getting up to the corner. Mr. Kilanowich stated that is a very busy corner, especially in the morning and afternoon, and cars blocking a driver's view would make it that much more difficult.

In response to Mr. Schick's further invitation to speak in opposition, Carol Cesolini, an abutter on the Ashley Boulevard side, stated she has a bachelor's degree in psychology, a master's degree in education, and a family member with mental illness and substance abuse disorder, and as such she has sympathy for Ms. Brito's practice. She stated that in August of 2015, a web search led to a site describing Ms. Brito as a therapist who works with those deemed a danger to themselves or others due to mental illness and/or substance abuse disorder. Ms. Cesolini stated the site listed her at her present private practice address of 1249 Ashley Boulevard with specialties in trauma and PTSD, dissociative disorders and substance abuse. Ms. Cesolini stated that just yesterday she received a letter from Ms. Brito stating she only treated these type of problems in the past on an inpatient basis, and no longer seeing these type of patients in her private practice. This contradicts the website.

Ms. Cesolini stated abutters also received a letter from the planning board on Case 2115 asking for a special permit for reduction of parking spaces describing her private practice as health care consulting service, which also contradicts the website and her letter. Ms. Cesolini stated she respects Mr. Brito for doing this valuable work, but objects to the practice being located at the corner of Ashley Boulevard and Maryland Street for several reasons. She stated this section of Ashley Boulevard has a daily parade of people walking, some with babies in carriages or toddlers in tow, walking dogs, jogging, and children walking to or from school. She stated she objects to those people being exposed to those who may be dangerous to others, unlike those Ms. Brito had speak this evening, who Ms. Cesolini described as being mainly out of towners.



Ms. Cesolini also objected as the location is across from a bank with a liquor store on one side and a VFW on the other. She stated this was not the best location for those suffering from a substance abuse disorder. She also objected because of the students walking to and from school who could be exposed to those with a drug related substance abuse disorder, as many addicts also sell drugs to support their habit. She stated this location is definitely not appropriate

Ms. Cesolini stated she lastly objects because elderly people and those with children will feel less safe in and around their homes, and their property may have less value because the neighborhood would have become less desirable, which may cause financial hardships difficult to endure. She inquired whether the city would reimburse those trying to relocate in that event for the difference between the selling price and the appraised value they were paying taxes on.

In response to Mr. Schick's further invitation to speak in opposition, Mark Rossi 211 Maryland Street, a special needs and non-special needs high school teacher at New Bedford High School. He stated he is both a hockey coach and lacrosse coach. He stated that he took personally Ms. Brito's earlier comment about Maryland Street against mental health, being both ridiculous and absolutely inapplicable to himself and other neighbors. He stated concerns raised in various hearings included whether this was a detriment to health and safety. He stated increased traffic flow is inevitable. He repeated Ms. Brito's statement that she serves up to ten clients a day primarily between the hours of 5:00 and 9:00. He stated that that is when everyone gets out of work, himself included, and is also when he walks his seven month old daughter and his neighbor walks his six month old son. He stated there is increased traffic flow both eastbound and westbound.

Mr. Rossi stated the current building has two addresses, one being the Ashley Boulevard address where the 300 s.f. barber shop existed. He stated the ranch home is the Maryland Street address. He stated to approve a variance to increase the Maryland Street side of the property the board would increase the business side of things 4-5 times.

Mr. Rossi also raised concerns about the off-street parking arrangement with the New York Buffet and their poor plowing habits. He stated when considering the detriment to public health and safety, it is inevitable and unavoidable, and he thinks this should absolutely not go through. He stated that he did not believe anyone was speaking about what Ms. Brito does, but about the change in the neighborhood dynamic that would result from this variance being granted. He stated he chose this neighborhood to raise a family and not worry about high traffic volume.

In response to an inquiry by Mr. Walsh, Mr. Rossi stated he did not know if the prior business was operated by the homeowner.

In response to Mr. Schick's further invitation to speak in opposition, Robert Rossi of 209 Adelaide Street, New Bedford stated he was not going to speak, but he had seen the lack of respect given to people who have stood to speak. He stated that as people have spoken, there's been laughter going on by the gentleman with the blue shirt, like what they're talking about is a joke. These people that are standing here will have their lives directly affected, and when they are speaking they should be given the respect that they deserve. He stated he found the behavior unprofessional. Mr. Rossi stated that it had been represented that the square footage is about 50%, which Mr. Rossi says is way off in regards to the actual square footage of that particular property. Mr. Rossi stated that his biggest concern here is a safety issue. He stated the traffic that goes in that area is dangerous for the people that live there. He stated it doesn't directly affect him, but he knows what the traffic is there and wanted to know who would take responsibility for the safety of the people walking in that neighborhood. People move in because the neighborhood is residential and safe. He stated he admires what Ms. Brito does and believes she has a place, but felt she belonged in a professional building, not in a residential area.

Mr. Rossi stated that while Ms. Brito represented she is taking everything personally, the people here have the same right to take it personally. He stated that the property was set up as residential, not business, and all he is

asking the board is to continue to enforce the policy that's in place, which is what these people signed up for when they bought their property.

Mr. Rossi also expressed that he had great concern about whether any of Ms. Brito's patients were possibly a menace to society and could do something to hurt someone in that area. He stated only Ms. Brito can sign off on that, and he wondered if she would take full responsibility for anyone going to the property and their actions. He again stated this should be located in a professional building, where there is adequate parking. He stated this change will negatively impact the people and present a big safety concern.

In response to Mr. Schick's further invitation to speak in opposition, Idalecio DeSousa of 281 Raymond Street asked the board to please not take away from the people walking, jogging and bicycling every day. He stated he respects what Ms. Brito does and hopes she will come to New Bedford to do it, but stated that there are so many places she can go to.

In response to Mr. Schick's further invitation to speak in opposition, Beth Kilanowich of 220 Appleton Street stated that one of her concerns is that if the building is allowed to do therapy, what stops it from in six months doing group therapy sessions. She stated she was also concerned about Ms. Brito later on changing hours. Ms. Kilanowich stated the Poirier Post on a Saturday night makes it impossible to drive down Appleton Street and get out onto Ashley Boulevard with cars parked there. She stated this business will bring parking onto Ashley Boulevard. She stated her son was in a horrific accident trying to get out on a Saturday night, and it is worse when snow is piled up on the corner. She stated where the handicap space is proposed anyone walking will have to go into the street in order to continue. With cars parked someone could get hit by a car.

Ms. Kilanowich stated she only received an empty envelope and not the letter that was sent, and so she has no more comments.

In response to an inquiry by Mr. Schick, Ms. Kilanowich stated Maryland Street is a two-way traffic street.

In response to Mr. Schick's further invitation to speak in opposition, Connie Yates, an owner of property on Maryland Street, stated she has lived in the northern for many years. She stated she is a registered nurse and has worked in the emergency room for 31 years. She stated she respects what Ms. Brito does, but is offended by what she said about Maryland Street residents. She stated many residents have been treated and know what mental health is. She stated there are better facilities that this project can go in. She stated she would like this area kept residential, so her daughter, now living in her property, can raise her children safely in a residential neighborhood that pays high taxes to be so. She stated this mental health facility will reduce the value of their homes, and the area should be kept residential for their families.

In response to Mr. Schick's further invitation to speak in opposition, Ray Yates of 1007 Longworth Street asked to be recorded in opposition mainly because of the business in a residential neighborhood and not its nature. He stated he cannot see how what has been represented as a parking space is such a thing, because the front bumper has to be up against the building and the rear bumper is still almost in the middle of the sidewalk, and anyone walking has to go up on the grass or onto the street. He stated previously, the 90 year old barber lived in the building. He stated what is represented as a parking space was more of a breezeway, which was joined by the current owner. He stated they are seeking to have the initial residential building remain a residence in a residential area. He stated he is against the proposal. Not because of Ms. Brito or what she does, which is needed in the area. He stated they simply don't want it in Maryland Street's residential neighborhood.

In response to Mr. Schick's further invitation to speak in opposition, Linda Morad, City Councilor, stated that several residents want to be recorded and she trusts the chairman will open the floor for that. Ms. Morad stated that the board has before it a neighborhood asking that the board preserve what the neighborhood currently is. She stated this has traditionally been a home based business, and has not been a 100% business operation. She stated that this neighborhood deserves to continue to have the same type of property located within their neighborhood that that bought. She stated residents did not buy thinking this would be a mental health facility.

She stated she is concerned, as the neighborhood residents are, not only for what might exist today, but what could possibly happen once the use of the property is changed. They, like Ms. Brito, are residents of the City of New Bedford. Ms. Morad stated she too respects Ms. Brito, but was also offended by the letter she received. She also stated this was not about us vs Heather Brito, but is about a neighborhood trying to preserve its nature. Heather Brito is asking for relief and the board has the responsibility to decide whether that relief should be granted or whether such relief would cause a detriment to the residents. She stated she believed that board could make that judgment and weighing all the facts will make the right decision.

There was no response to Mr. Schick's further invitation to speak in opposition.

In response to Mr. Schick's invitation to be recorded in opposition, the following individuals responded who were not included on the submitted petition:

Margaret Ryan, 132 Worcester Street;

Robert Bourgeois of Appleton Street stated the building was built for a barber shop and a residence, and that's the way it should stay, because there's a lot of traffic there.

Chairman Schick clarified that the board has received a signed petition of people in opposition, separate and apart from the sign in sheet for the meeting. He explained that stepping up to the podium also results in your being recorded in opposition.

Chairman Schick offered Ms. Brito an opportunity for rebuttal.

Ms. Brito stated she had written the letter to abutters after being told at the planning board meeting that hopefully she and the neighbors could hash out some issues being raised. She noted questions raised included her affiliation with STARR and whether she currently treated people deemed a danger to themselves or others. She stated she sent out the letter to clarify who it is she is treating.

Ms. Brito stated the websites are a resume, and she is extremely proud to have worked for STARR and Highpoint, as they both do extremely great work. She asked that the board keep in mind that there is already a business there, and before that business it was used as an insurance company with five employees. Ms. Brito stated she did not think there was a meeting this size for an insurance company or a barber. Ms. Brito stated she is simply asking it remain a business.

Chairman Schick offered an opportunity for response from a neighborhood representative. Peter Gomes first apologized for getting upset after being offended by the "us against them" accusation. Mr. Gomes stated the neighbors bought a piece of paradise for their neighborhood, a peaceful, quiet, beautiful place. He stated they want it to stay the way it is; a business on Ashley Boulevard and a residence.

Mr. Gomes stated the neighborhood has said they don't want it, and there is one individual who says I'm going to force my way in. If you respect the neighborhood of people who work hard, you would not want to do that. Mr. Gomes again stated that what Ms. Brito does is a great thing, but he is concerned about the future, and he will fight for his neighborhood. He stated he had never done this before, but he is here because someone needed to do something to protect the neighborhood. He stated the average 9-1-1 response time is not that fast. He stated if the board approves this the neighbors will appeal it, and they will fight it tooth and nail as far as they can go. He stated Ms. Brito could leave and some other clinic could open there because it is labeled a medical facility. He stated they do not want a medical facility in their neighborhood. He stated he is still offended, but he is adamant about this. He stated he felt Ms. Brito owed the neighbors an apology for labeling them as us against them. He stated he hoped the board agreed with their side.

Mr. Schilling confirmed that the plan was for the business to remain two clinicians and that Ms. Brito would acquire four parking spaces.

There being no other board questions, Chairman Schick closed the hearing.

The board discussed motion criteria and offered their individual input on the issues.

Mr. Schilling commended the audience on their civil behavior in comparison to a previous hearing on a Suboxone Clinic. He stated he feels there is a need for treatment facilities and felt this was not so much a facility as an office with two clinicians. Mr. Schilling stated he sees this as an entirely different kettle of fish than what was before the board in the previous hearing, and that is why he asked about any dispensing of medication.

Mr. Walsh expressed that his vote is not at all based on the nature of the business at all. He stated he is considering other factors.

The board continued with discussion of the motion criteria.

A motion was made (JW) and seconded (RS) to grant Appeal #4204, a motion to grant a special permit under provisions of the city code of New Bedford to Heather Brito (47 Charlotte Street, New Bedford, MA) and Felisbina Coelho (269 Maryland Street, New Bedford, MA) relative to property located at 269 Maryland Street/904 Ashley Boulevard, Assessor's Map 127C, Lot 81 in a Mixed Use Business zoned district to allow the petitioner to relocate her outpatient therapy practice to this location as plans filed, which requires a Special Permit under Chapter 9, Comprehensive Zoning Sections 2200, 2210, 2230 Appendix-A, #20, and 5300-5330 and 5360-5390. In accordance with City of New Bedford Code of Ordinances Chapter 9, Section 5320, the benefit to the city and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination includes consideration of each of the following: the social, economic, or community needs which are served by the proposal. It is believed there is a need for mental health services in the city. Regarding the second consideration, traffic flow and safety, including parking and loading, it is deemed there is insufficient off-street parking available and such will have a negative impact on traffic flow and safety. The adequacy of utilities and other public services are deemed neutral. With regard to the neighborhood character and social structures, the application is deemed not in conformance. Impacts on the natural environment are deemed neutral. The potential fiscal impact, including impact on city services, tax base, and employment is deemed neutral. Therefore the project be set forth according to plans submitted with the application, and that it be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Roll Call Vote was as follows:

H. Tavares – No	R. Schilling - Yes
L. Schick – No	J. Walsh – No

Motion fails 1-3

### **CASE # 4205**

A motion was made (JW) and seconded (RS) that the following documents be received and placed on file: the communication dated 8/28/15 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner dated 9/17/15; the appeal; the plan submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be affected; and the action of the clerk in giving notice of the hearing as stated be and is hereby ratified.

Motion passed unopposed.

Chairman Schick declared the hearing open.

Jeff Cardoza of 18 Anthony Street, Acushnet stated he is the contractor for the building owner. He stated they are seeking to make the second floor of 244 Union Street into an apartment. He stated it currently looks like an apartment, as it was an office before. He stated there are three rooms and a large living room, and they will remodel the bathroom, and install a kitchen to make it an apartment or residential unit for the building owner when he is in town.

Mr. Cardoza stated the wiring is in and it looks like an apartment absent a kitchen. He stated there is a third floor resident and there is a fire escape. He stated the second floor is even safer as it can also be escaped by simply opening the window and stepping right onto the roof of the building next door.

Mr. Schick stated he was very familiar with the property and noted that the building was at one time a men's club in the 1800's.

In answer to an inquiry by Mr. Tavares, Mr. Cardoza stated there was egress from the back, and he stated there are two small fireplaces on the second floor that look unused.

In response to Mr. Schick's invitation to speak in favor, Steve Romsey a former Fairhaven resident currently of 9 Beach Drive, Little Compton stated he had been in the area for 34 years. He stated he sold his Fairhaven home but wants to come back to the area and wants somewhere to live when back in the area. He stated he has been unable to rent the office space for four years. He stated he had consulted his real estate agent Jeff Pontiff who recommended converting to an apartment space, there being a huge shortage within the city. He stated his intent is not to rent it, but to live there when in town.

There was no response to Mr. Schick's further invitation to be speak or be recorded in favor.

There was no response to Mr. Schick's invitation to speak or be recorded in opposition.

There being no board member questions, Chairman Schick closed the hearing.

A motion was made (JW) and seconded (RS) to grant Appeal #4205, a motion to grant a special permit under provisions of the city code of New Bedford to Jeff Cardoza (18 Anthony Street Acushnet, MA) and 244 Union Street, LLC c/o Steven D. Romsey

(9 Beach Drive Little Compton, RI) relative to property located at 244 Union Street/3 South Sixth Street, Assessor's Map 46 Lot 28 in a Mixed Use Business Zoned district, to allow the petitioner to construct a residential apartment on the second floor as plans filed, which will require a Special Permit under Ch.9, Comprehensive Zoning Sections 4500-4560 & 4563-4572, and 5300-5330 and 5360-5390. In accordance with the City of New Bedford Code of Ordinances Chapter 9, Section 5320, the benefit to the city and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination includes consideration of each of the following: the social, economic, or community needs which are served by the proposal. It is believed this would provide an increase in market rate residential units in the city. Traffic flow and safety, including parking and loading, are neutral. The adequacy of utilities and other public services are deemed neutral. With regard to the neighborhood character and social structures, the application is deemed in conformance. Impacts on the natural environment are deemed to be none. The potential fiscal impact, including impact on city services, tax base, and employment, would be an increase to the city tax base. Therefore in accordance with the City of New Bedford Code of Ordinances Chapter 9, Section 4572 the board finds the proposed project protects the city's heritage by preventing the removal or destruction of historical structures or architectural elements, and that the project be set forth according to plans submitted with the application, and that it be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Roll Call Vote was as follows:

H. Tavares – Yes	R. Schilling - Yes
L. Schick – Yes	J. Walsh – Yes

Motion passes 4-0

**CASE # 4203**

A motion was made (JW) and seconded (HT) to continue Case #4203 to the next hearing date of October 22, 2015.

A gentleman stated he was here for the case and was not able to be present on October 22<sup>nd</sup>. He asked the matter be continued to the meeting after that.

The board consulted Ms. Gonet on time restrictions.

The male stated Mr. Panogakos is the one who didn't show up.

Mr. Walsh noted that Mr. Panogakos had been present initially and may have discussed the possibility of a continuance.

The male stated Mr. Panogakos had not come before the board and stated that.

Ms. Gonet noted that the board could open and continue the matter.

The gentleman also noted that the petitioners were asked if they wanted to continue because there were not five members present and Mr. Panogakos took off. He inquired as to whether that should automatically disqualify Mr. Panogakos. He stated this is the second time Mr. Panogakos has done this to him. He stated he has been sitting and waiting for this and he is upset. He expressed that Mr. Panogakos could have spoken up and he could have left instead of sitting here.

The board then discussed amending the motion to now continue the matter to November 19, 2015. Mr. Walsh suggested the board vote on the initial motion. Mr. Schick took a roll call vote on the motion to continue the matter to October 22, 2015.

Roll Call vote:

Horatio Tavares – No

Robert Schilling – No

J. Walsh – Yes

Motion failed.

A motion was made (JW) and seconded (RS) to continue Case #4203 to the hearing date of November 19, 2015. Motion passed.

Mr. Schick declared the meeting closed.

(Whereupon proceedings adjourned at 8:25 p.m.)