



City of New Bedford

ZBA VARIANCE APPLICATION

CASE # 4405

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"/>

CITY CLERKS OFFICE
NEW BEDFORD, MA
2019 NOV 14 PM 4:17
CITY CLERK

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#	53	LOT(S)#	146
REGISTRY OF DEEDS BOOK:	12830	PAGE #	27
PROPERTY ADDRESS: 127-129 Union Street, New Bedford, MA			
ZONING DISTRICT: MUB - NB Landing Waterfront Historic District Downtown Business Overlay			
OWNER INFORMATION			
NAME: 117 Union Street, LLC			
MAILING ADDRESS: 128 Union Street, Suite 400, New Bedford, MA 02740			
APPLICANT/CONTACT PERSON INFORMATION			
NAME (IF DIFFERENT): Same			
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 #	(619) 316-5895		
EMAIL ADDRESS:	michael@nbdcorp.org		

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NEW BEDFORD, MA
2019 NOV 14 P 11:47
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

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

Date

All values listed Lot 2 / Lot 1

Lot 2 is Moby Dick building

Lot 1 is five-story new construction

3

APPLICATION SPECIFICS

DIMENSIONS OF LOT/S:	FRONTAGE	DEPTH	AREA in SQ FT		
	105	117	2,306/10,173		
EXISTING BUILDING/S *8,854, 2,075, 845 1,320, 2,306 and 1,800SF	# OF BLDGS	EXISTING SIZE	TOTAL SQ FT BY FLOOR	NUMBER OF FLOORS	TOTAL SQ. FT ENTIRE STRUCTURE
	5	*	2,306/7,175	3/1	6,918/7,175
	# OF DWELLING UNITS		# OF BEDROOMS		
	0		0		
PROPOSED BUILDING/S	# OF BLDGS	PROPOSED SIZE	TOTAL SQ FT BY FLOOR	NUMBER OF FLOORS	TOTAL SQ. FT ENTIRE STRUCTURE
	1/1	40,000/2,306	8,000/2,306	5/3	6,918/40,000
	# OF DWELLING UNITS		# OF BEDROOMS		EXTENT OF PROPOSED ALTERATIONS
	51		58		Renovation & new
EXISTING USE OF PREMISES:	Vacant				
PROPOSED USE OF PREMISES:	Retail/restaurant on first floor. Residential on upper floors				
EXPLAIN WHAT MODIFICATIONS YOU ARE PROPOSING THAT NECESSITATE THE REQUESTED VARIANCE:	<p>In order to be able to finance the Moby Dick rehabilitation separately from the 117 Union Street new five-story building, it is necessary to subdivide the lot into two non-conforming lots.</p>				

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

	EXISTING	PROPOSED
NUMBER OF CUSTOMERS PER DAY	0	650
NUMBER OF EMPLOYEES	0	32
HOURS OF OPERATION	N/A	7 A.M. to 11 P.M.
DAYS OF OPERATION	N/A	7 days/week
HOURS OF DELIVERIES	N/A	8 a.m. to 6 p.m.
FREQUENCY OF DELIVERIES (Check frequency)	<input type="checkbox"/> DAILY <input checked="" type="checkbox"/> N/A <input type="checkbox"/> MONTHLY	<input checked="" type="checkbox"/> DAILY <input type="checkbox"/> WEEKLY <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:

Site Plan Review

Complete each item that is relevant to your variance request:

	Existing	Allowed/ Required	Proposed
Lot Area (sq ft)	12,479	15,000	2,306/10,173
Lot Width (ft)	106.5	0	37/106
Number of Dwelling Units	0	No Std.	8/43
Total Gross Floor Area (sq ft)	8,588	N/A	6,918/40,000
Residential Gross Floor Area (sq ft)	0	N/A	4,612/32,600
Non-Residential Gross Floor Area (sq ft)	8,688	N/A	2,306/10,506
Building Height (ft)	44	100	44
Front Setback (ft)	.60	0	.60/.80
Side Setback (ft)	0	10	0/NA
Side Setback (ft)	0	12	0/NA
Rear Setback (ft)	0	30	0
Lot Coverage by Buildings (% of Lot Area)	95.2	40	100/92.3
Permeable Open Space (% of Lot Area)	0	0	0
Green Space (% of Lot Area)	0	35	0
Off-Street Parking Spaces	0	107/28	0/1
Loading Bays	0	0	0
Number of Ground Signs	0	0	0
Height of Ground Sign	0	0	0
Proximity of Ground Sign to Property Line	0	0	0
Area of Wall Sign (sq ft)	0	0	0
Number of Wall Signs	0	0	0

3. PARCEL LEGAL DOCUMENTATION

Title Reference to Property Book 12830, Page 27
 (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:

N/A ☐ 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/mgl/>

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:

See attached Narrative

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:

See attached Narrative

C

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

See attached Narrative

D

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

See attached Narrative



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)#	40, 41, 215, 216, 146
ADDRESS: 117, 121, 115, 127 - 129 Union Street; 7 N. Second Street, New Bedford, MA	
OWNER INFORMATION	
NAME: 117 Union Street LLC	
MAILING ADDRESS: c/o Prime Engineering, P.O. Box 1088, Lakeville, MA 02347	
APPLICANT/CONTACT PERSON INFORMATION	
NAME (IF DIFFERENT): Genny Reynolds	
MAILING ADDRESS (IF DIFFERENT):	
TELEPHONE #	(508) 947-0050 x123
EMAIL ADDRESS:	greynolds@primeengineering.org
REASON FOR THIS REQUEST: <i>Check appropriate</i>	
<input checked="" type="checkbox"/>	ZONING BOARD OF APPEALS APPLICATION
<input checked="" type="checkbox"/>	PLANNING BOARD APPLICATION
<input type="checkbox"/>	CONSERVATION COMMISSION APPLICATION
<input type="checkbox"/>	LICENSING BOARD APPLICATION
<input type="checkbox"/>	OTHER (Please explain):

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

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.

Judith M. Serdahl
Printed Name (acting)

Judith M. Serdahl
Signature (acting)

8/23/2019
Date

AUG 23 2019

August 23, 2019

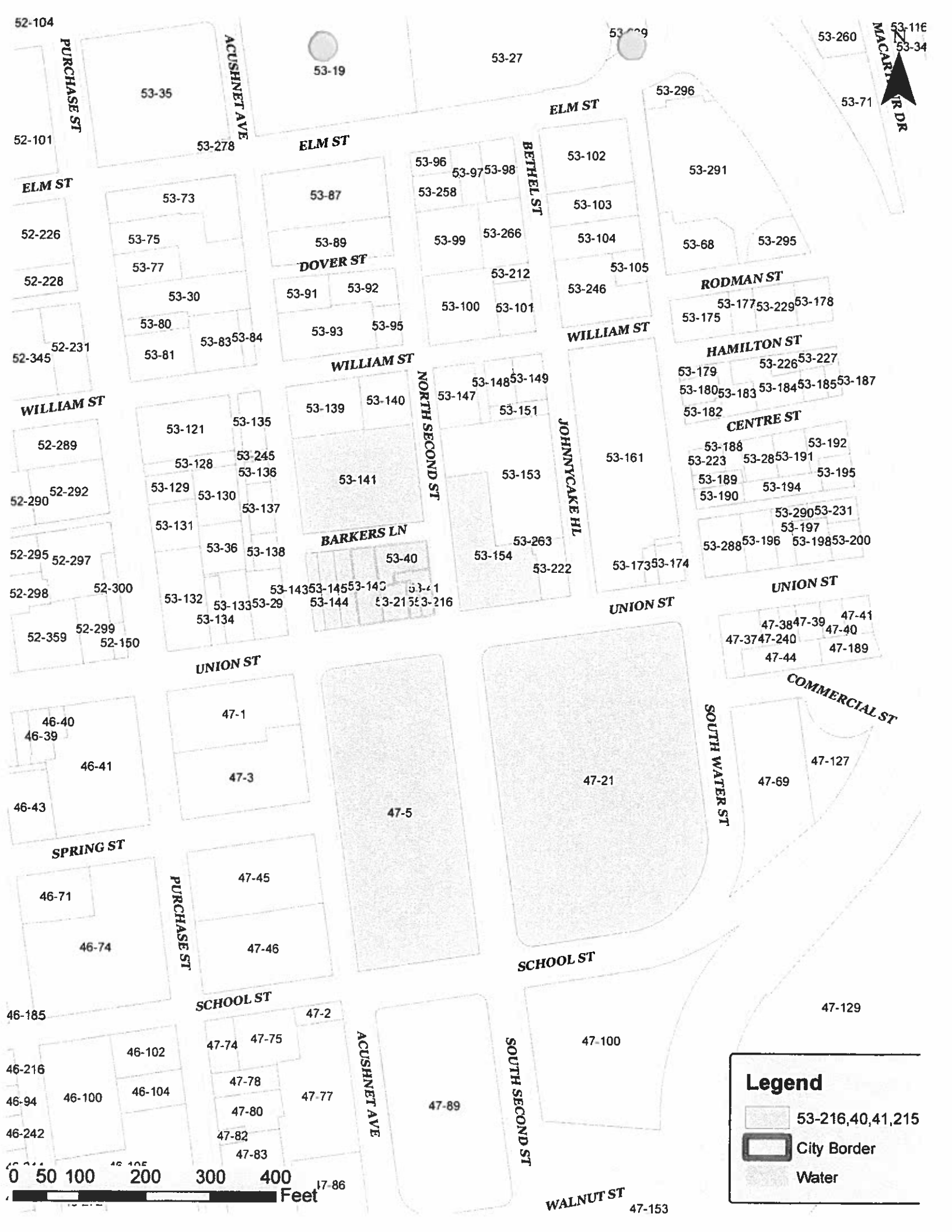
Dear Applicant,

Please find below the List of Abutters within 300 feet of the property known as 115,117,121,127-129 Union Street & 7 N Second Street (Map: 53, Lot: 216,40,41,215,146). 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	BARKER'S LN NS	CITY OF NEW BEDFORD, PARKING LOT & GARAGE 131 WILLIAM ST NEW BEDFORD, MA 02740
53-215	121 UNION ST	PIVA PAUL A, FLOREK GAIL 10 PEQUOD ROAD FAIRHAVEN, MA 02719
53-216	117 UNION ST	PIVA PAUL A, FLOREK GAIL 10 PEQUOD ROAD FAIRHAVEN, MA 02719
53-41	115 UNION ST	PIVA PAUL A, FLOREK GAIL 10 PEQUOD ROAD FAIRHAVEN, MA 02719
53-143	141 UNION ST	WATERFRONT HISTORIC AREA LEAGUE OF NEW BEDFORD INC, 128 UNION STREET NEW BEDFORD, MA 02740
53-144	139 UNION ST	WATERFRONT HISTORIC AREA LEAGUE OF NEW BEDFORD, INC, 128 UNION STREET 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	PIVA PAUL A, 10 PEQUOD ROAD FAIRHAVEN, MA 02719
53-40	7 N SECOND ST	PIVA PAUL A, FLOREK GAIL 10 PEQUOD ROAD FAIRHAVEN, MA 02719
53-154	93 UNION ST	ST ANNE CREDIT UNION, 93 UNION STREET NEW BEDFORD, MA 02740
47-21	25 S WATER ST	N B YOUNG MENS CHRISTIAN, ASSOCIATION 25 SOUTH WATER ST NEW BEDFORD, MA 02744
47-5	128 UNION ST	128 UNION STREET LLC, 117 HATHAWAY ROAD NORTH DARTMOUTH, MA 02747

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CITY CLERK



Legend

-  53-216, 40, 41, 215
-  City Border
-  Water

**DEVELOPMENT IMPACT STATEMENT
FOR
TWO PROPOSED COMMERCIAL/RESIDENTIAL BUILDINGS
AT
115, 117, 121, 127-129 UNION STREET, 7 NORTH SECOND STREET
NEW BEDFORD, MA 02740**

PREPARED FOR:

**117 UNION STREET LLC
128 UNION STREET
NEW BEDFORD, MA 02740**

PREPARED BY:

**PRIME ENGINEERING, INC.
P.O. BOX 1088
LAKEVILLE, MA 02347**

NOVEMBER 13, 2019

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APPENDICES

APPENDIX A - GEOTECHNICAL REPORT

APPENDIX B - STRUCTURAL REPORTS

APPENDIX C - PERSPECTIVE BUILDING VIEWS AND PARKING - PHASE I

APPENDIX D - PHOTOGRAPHS OF MOBY DICK CHANDLER - PHASE 2

APPENDIX E - PRODUCT INFORMATION FOR PHASE 2

APPENDIX F - REJECTION PACKAGE

1.0 INTRODUCTION

This is a Development Impact Statement to accompany applications for renovations to the 3 story Moby Dick building at 127-129 Union Street which is being referred to as Phase 2. This submission includes updated plans for the previously approved 5 story building proposed at 115, 117, 121 Union Street and 7 North Second Street which is now being referred to as 117 Union Street (Phase 1).

It is proposed to raze the five existing one-story attached buildings at the corners of Union Street, North Second Street and Barkers Lane in New Bedford and construct a five-story commercial/residential building and to renovate the three-story building at 127-129 Union Street. That requires Site Plan Review approval from the New Bedford Planning Board. Other than a single handicap space, it is proposed to not provide off street loading or parking. This requires Site Plan Review from the New Bedford Planning Board. There are several dimensional standards from which relief from the Zoning Board of Appeals is being sought. This Report has been prepared in support of those petitions.

The site is in the Mixed Use Business zoning district. It is also in the Downtown Business Overlay District and the New Bedford Landing Waterfront Historic District, also known as the New Bedford National Register Historic District, which is characterized by buildings with shops on the ground floor and living quarters above. The Historic District is focused on preserving buildings constructed in the early 1800s.

2.0 EXISTING CONDITIONS

The locus is a 12,479 square foot parcel bounded by Union Street on the south, North Second Street on the east and Barkers Lane on the north. It contains a three-story and five attached single-story, brick faced retail buildings and a small paved parking lot. Each building is on an separately taxed Assessor's lot and they are referenced as follows:

Address	Assessor's Map	Assessor's Lot	Deed Reference Book	Deed Reference Page	Year Built Circa
115 Union Street	53	41	12830	27	1920
117 Union Street	53	216	12830	27	1930
121 Union Street	53	215	12830	27	1930

7 North Second Street	53	40	12830	27	1910
127-129 Union Street	53	146	12830	27	1916

Each assessor's lot is non compliant with the area requirement of the New Bedford zoning ordinance. They are all owned by 117 Union Street LLC. An Approval Not Required plan has been submitted in order to dissolve the five Assessor's lots and create a one lot for the 3-story Moby Dick building and one lot for the remainder of the site.

There is an existing 42' by 47' paved parking lot at the northeast corner of the site, but its odd dimensions only allow five cars to park in that area and involves a 25 foot curb cut on North Second Street and a 42 foot curb cut on Barkers Lane. Appendix C presents photographs of existing conditions.

There is a full basement with poured concrete foundation walls under the Moby Dick building. There is a slab on grade (no basement) at 121 Union Street. The remaining buildings have stone masonry walls and shallow basements. Appendix D presents photographs of existing conditions at the 3 story Moby Dick building.

3.0 PROPOSED DEVELOPMENT

It is proposed to raze the five, existing one-story buildings and to construct a single five story building with a resident's lobby and public café/eatery on the first floor and forty-two residential apartments on the second through fifth floors. In this five-story building, it is proposed to construct twenty-three studio apartments, twelve 1 bedroom apartments, and seven 2 bedroom apartments for a total of 42 rental units in the 5 story building. Each floor will have a laundry room and be accessed by an elevator and two stairwells. A single story live work studio will also be constructed.

The MA Architectural Access Board regulations Section 9.4 requires "In multiple dwellings that are for rent, hire, or lease (but not for sale) and contain 20 or more units, at least 5% of the *dwelling units* must be *Group 2A* units. *Group 2A* units must comply with **521 CMR 9.5 Dwelling Unit Interiors; and 521 CMR 44.00: Group 2 bathrooms; and 521 CMR 45.00: Group 2 Kitchens; and 521 CMR 47.00: Group 2 Bedrooms**". Five percent of 43 units equals 2.15, so 3 units must be handicap adaptable. The proponent is voluntarily providing 10 percent of the 43 units to be handicap adaptable.

Five of the rental units will be handicap adaptable and twenty-one of the forty-two units (50%) will be affordable. There will be an additional studio apartment north of the three-story Moby Dick

building.

The proposed size, materials and appearance of the building will fit nicely into the existing neighborhood. It is proposed to close the existing curb cut on North Second Street that will allow four additional parking spaces to be added on the street. The curb cut on Barkers Lane will also be closed. Barkers Lane is designated to be no parking on either side.

The Moby Dick building at 127-129 Union Street will be rehabilitated. There is a full basement under the entire building which will be used for storage and potentially for a restaurant kitchen prep area. The first floor will be a restaurant/café. The upper two stories will have four studios on each floors, varying in size from 390 square feet to 466 square feet with the average being 436 square feet.

Borings were advanced in the Union Street sidewalk in front of 121 Union Street, in North Second Street, in Barkers Lane and in the northeast parking lot, in order to determine whether the presence of bedrock would be an obstacle to providing a full depth basement under the proposed 5 story building. Boring 4, which is at the southwest corner of the parking lot, encountered refusal at a depth of 8.2 feet which was possibly bedrock. All other borings were advanced 11.5 to 18.5 feet without encountering bedrock. It has been concluded that a full depth basement can be constructed under the entire five story building. The Geotechnical Report, including Boring Logs, is enclosed as Appendix A.

A structural engineer inspected the 3 story Moby Dick building and the adjacent 1 story building to the east. He determined that the two buildings are independently supported and that the 1 story building can be demolished with no significant impact to the Moby Dick building. His two letter reports are enclosed as Appendix B.

The first floor of the Moby Dick building will be ADA/MAAB compliant. The second and third floors will not be ADA/MAAB compliant, but those floors are exempt from those requirements due to the age of the building. Appendix E presents details on proposed windows, doors and other products.

The new five-story building will be fully ADA/MAAB compliant on the first floor and five of the residential units on the upper floors will be ADA/MAAB adaptable.

3.1 Required Approval from the Planning Board

The Planning Board is being petitioned to issue Site Plan Review approval for this project.

3.2 Required Relief from the Zoning Board of Appeals

The Zoning Board is being petitioned to issue a Special Permit under the provisions of Section 4551

and to allow residential units on upper floors and Variances under the provisions of Section 5222 for items 1 through 7 below and for residential units on upper floors.

FOR MOBY DICK BUILDING

	Existing	Required	Proposed
1. Minimum Lot Area (SF)	12,479	15,000	2,306
2. Maximum Density Dwelling Units (SF)	1.0/1,000	0	3.47/1,000
3. Minimum Side Yard Setback (Feet)	0	10 and 12	0
4. Maximum Lot Coverage by Building (%)	95.2	30	100
5. Minimum Green Space (%)	0	30	0
6. Number of Parking Spaces	5	28	0
7. Number of Loading Spaces	0	0	0

FOR 117 UNION STREET

	Existing	Required	Proposed
1. Minimum Lot Area (SF)	12,479	15,000	10,173
2. Maximum Density Dwelling Units (SF)	0	1.0/1,000	5.01/1,000
3. Minimum Side Yard Setback (Feet)	0	N/A	N/A
4. Maximum Lot Coverage by Building (%)	95.2	40	92.3
5. Minimum Green Space (%)	0	35	0

Number of Parking Spaces	5	107	1
Number of Loading Spaces	0	2	0

3.2.1 *Minimum Lot Size and Density*

The minimum lot area for three or more family units is 15,000 square feet. The allowable density is one unit per 1,000 square feet of land area, so the lot would need to have 51,000 square feet of lot area for the proposed 51 dwelling units. This is clearly not in keeping with the concept of having a suitable population and affordable housing in the downtown district. It would be a travesty to take up over an acre in the heart of downtown in order to provide 51 dwelling units.

	Required	Existing	Proposed
Minimum Lot Area for three story Moby Dick	15,000	12,479	2,306
Minimum Lot Area for five story 117 Union Street	15,000	12,479	10,173

3.2.2 *Side Yard*

A minimum 10 foot and 12 foot side yards are required for uses allowed in the residential district. Providing a 10 foot and 12 foot side yard would create a wide gap between this building and the abutting buildings which is atypical of the downtown area and would serve no purpose.

3.2.3 *Lot Coverage and Green Space*

A maximum of 40% lot coverage on a corner lot and 35% lot coverage otherwise and a minimum of 35% green space is required for uses allowed in residential districts. The majority of the buildings in the downtown business district occupy their entire lot. In order to keep with the essential elements of the downtown area, 92.3% and 100% lot coverage is requested.

3.2.4 *Parking Spaces*

A minimum of two parking spaces per dwelling unit and five parking spaces per 1,000 square feet of café/retail space is required:

- $(51 \text{ dwelling units})(2 \text{ spaces per unit}) + (6,500 \text{ SF retail}) (5 \text{ SF}/1,000 \text{ SF}) = 135 \text{ spaces}$

Very few downtown businesses provide any off street parking. There are reasonably priced, nearby parking garages. Other than the proposed handicap space, no off street parking spaces are proposed. There are hundreds of metered parking spaces within walking distance to this proposed facility. There are over 100 unmetered street parking spaces on Bethel Street and Water Street, which are within 500 feet to the northeast of the proposed building, and on Acushnet Avenue which is within 500 feet to the south. There are also numerous unmetered parking spaces within 500 feet with restricted occupational time during the day, but with unrestricted night time use within a two minute walk to the proposed facility. Visitors can avail themselves to the nearby parking garages that have very reasonable costs for hourly use and for full day use. The Zeiterion parking garage is less than 300 feet away and the Elm Street garage is only 650 feet away. The Elm Street garage has very reasonable monthly lease rates.

3.2.5 *Loading Spaces*

One loading space is required for the residents and one loading space is required for the café/retail space at 117 Union Street. There is no regular need for a residence loading area and the café deliveries will be infrequent. Since Barkers Lane is very lightly traveled and parking is prohibited on both sides of the street, short term unloading can occur there with minimal disruption.

4.0 **CRITERIA FOR VARIANCE**

Under the provisions of Mass General Laws Chapter 40A Section 10, the Zoning Board of Appeals can grant a Variance to deviate from the New Bedford Zoning Ordinance if the following criteria are met:

4.1 **Unique Hardship Due to Soil, Shape or Topography**

The site has a unique topography consisting of a historic three-story Moby Dick building that is worth preserving and four one-story dilapidated buildings which are not worth saving. It is proposed to construct a new five-story building adjacent to the three-story Moby Dick building in order to provide much needed housing in downtown New Bedford. This \$18 million dollar venture will require numerous complex funding sources including different types of grants for the Moby Dick building rehabilitation versus constructing a new five-story building. This necessitates separate lots so separate collateral can be provided for the separate funding sources. Not allowing the subdivision or the other dimensional variances being requested would thwart the project from proceeding. This would represent a true hardship and would result in the dilapidated buildings being an eyesore in the heart of downtown New Bedford for years to come.

4.2 **No Detriment to the Pubic Good**

Demolishing unsightly dilapidated buildings and providing high quality housing in downtown New Bedford and the other dimensional variances being requested would be beneficial to the public good and would stimulate further improvements to downtown New Bedford.

4.3 Not Derogating from the Intent of the Ordinance

The intent of requiring 15,000 square foot lots in downtown New Bedford and the other dimensional Variances being requested is to allow for adequate open space where the tenants and the public can enjoy outside areas for active and passive recreation. This project is fortunate to have Union Square Park immediately to the north. This one acre park provides excellent open space, therefore, providing smaller lots for the proposed development will not derogate from the intent of the bylaw with regard to yard setbacks, open space, lot size and density.

5.0 CRITERIA FOR SPECIAL PERMIT

Sections 5321 to 5326 and 5351 to 5355 of the New Bedford Zoning Ordinance present the criteria which must be met for the permit granting authorities to issue a Special Permit. The following subsections present how those criteria are being met by the proposed development.

5.1 Social, Economic and Community Needs

The project will provide new, affordable and market rate apartments in the heart of Downtown New Bedford. The proposed cafe/restaurant and sidewalk dining will provide a meeting place for the neighborhood, while the residences will add customers for the downtown businesses.

5.2 Traffic, Safety, Parking and Loading

The typical development project includes a traffic assessment. This downtown development is projected to have some residents that do not own or operate motor vehicles. They are projected to ambulate the downtown area, use public transportation and cabs. The residential units are projected to be occupied by people who already live and work in the central New Bedford area. As such, the change in downtown traffic is projected to be imperceptible.

The rate of traffic flow in the area is regulated by traffic signals which are located at the corners of Union Street and Purchase Street and at the corner of Union Street and South Second Street. The areas operate at a level of service A, since the traffic signals typically process their entire queues in a single green cycle.

The Institute of Transportation Engineers' Trip Generation Manual was used to project the peak traffic flows from the proposed facility using Land Use Code 223 which is mid rise apartments (3 to 10 floors). The morning week day peak hour (7 to 9 a.m.) is projected to be 16 trip ends with 5 vehicles arriving and 11 vehicles leaving. The evening week day peak hour (4 to 6 p.m.) is projected to be 21 trip ends with 12 vehicles arriving and 9 vehicles leaving. Assuming that the vehicles arrive and leave somewhat evenly to the north, south, east and west, there will be two or three vehicles per hour added to each of the lanes of the neighboring roads. The addition of two or three vehicles per hour to the lanes of the neighboring roads will not change the level of service. The roads will continue to operate at a level of service A.

There are crosswalks with detectable strips at all street corners. There are on demand pedestrian cross cycles in the traffic signals and good sight visibility in all directions. Refer to Sections 3.1 for a discussion of parking and loading.

5.3 Adequacy of Utilities and Other Public Services

There is adequate water supply, municipal sewer, storm drainage, gas, electric and cable services in the street. The services to the building have been replaced in the past month.

5.4 Neighborhood Character and Social Structure

Having the derelict one-story buildings be replaced with modern, energy efficient structures will improve the neighborhood character. Having the long-vacant Moby Dick building rehabilitated into a restaurant and modern living units will add to revitalization of the downtown area and provide additional customers to downtown businesses.

5.5 Impact on the Natural Environment

The site consists of pavement and buildings with no vegetation. The proposed development will be energy efficient and is projected to have no significant impact to the natural environment.

5.6 Fiscal Impact

The proposed development will provide an increased tax base with little or no children to impact the school system, since 44 of the units will be studio and one-bedroom apartments.

5.7 Physical Environment

The proposed development is situated in the heart of the downtown area and will become an important component of the downtown experience for residents of the facility, to tourists and to the New Bedford population. The lower level of the five-story building will serve as a lobby to the facility residents and will provide a cafe/eatery for the general public. A future petition, to be separately permitted, will incorporate sidewalk seating for the cafe/eatery customers on North Second Street. The existing sidewalks on Union Street and North Second Street contain street trees, Washingtonian street lights and a blend of slate and brick walkways with cobblestone surrounding the street trees. This street scape will be maintained.

The first floor of the three-story building will be a restaurant that serves the general public.

Barkers Lane has a less well defined sidewalk that lacks granite curbing. Instead, cobblestones slope up from the gutter line to allow vehicle access to the asphalt parking area. It is proposed to install vertical granite curbing with 6 inch reveal along the Barkers Lane frontage. The existing pedestrian crosswalk with handicap ramps will be maintained to allow access to the park that is situated on the north side of Barkers Lane.

5.8 Surface Water and Subsurface Conditions

The site is currently covered by roof and by paved parking lot. The proposed development will be covered entirely by roof, sidewalk and a parking space, therefore, there will be no change in the rate or volume of surface runoff. Since the existing paved parking lot will be converted to roof, the water quality of the runoff from the site will be better than currently exists. There is a small area west of the northwest corner of the

site that is slated to contain a handicap space, a small landscaped area and a sidewalk. During construction, the environmental quality of the soil will be evaluated. If the soil is relatively contaminant free, infiltration units will be installed in order to infiltrate runoff to the maximum extent possible. If, on the other hand, the soil is urban fill with significant contaminants, no infiltration units will be provided.

5.9 Circulation System

The typical development project includes a traffic assessment. This downtown development is projected to have some residents that do not own or operate motor vehicles. They are projected to ambulate the downtown area, use public transportation and cabs. The residential units are projected to be occupied by people who already live and work in the central New Bedford area. As such, the change in downtown traffic is projected to be imperceptible.

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5.10 Support Systems

No fuel storage is proposed at the site. The fire station is less a third of a mile away and the police station is less than 600 feet away. Therefore, emergency response should not be an issue. The addition of seven 2 bedroom units, twelve 1 bedroom units and twenty-three studio apartments is not projected to have any significant impact on schools or on recreational facilities. It is anticipated that there will be a need for a fuel tank to be buried under the handicap parking space to supply the generator that will be located on the roof of the five story building.

5.11 Phasing

The three-story Moby Dick Building rehabilitation will be funded separately from the new five-story building. It is anticipated that the three-story Moby Dick rehabilitation will be done first, however, this is not certain and construction on both buildings could occur simultaneously.

The funding for the two phases will be complex, involving obtaining grants that will take six to twelve months. It is anticipated that funding for the Moby Dick building could be obtained by summer 2020 with construction following. The phases of the Moby Dick building will involve pouring a new foundation wall under the north face of the 3 story portion of the building. Interior demolition would precede, including

removal and off-site disposal of wood frame partitions, finishes down to masonry walls, wood finish floor down to subfloor, ceiling finishes to framing, and all MEP systems, shelves and rubbish. Construction of the improvements as shown on the plans would then occur. The interior demolition plan for the Moby Dick Building will be done separately from the demolition plan for the five-story building. Details of the demolition, dust control, noise control, traffic control and construction will be submitted for Planning Staff review with the demolition permit application. The phasing for the 5 story 117 Union Street building will consist of erecting a 6 foot fence along the curb line of Union Street, North Second Street and Barkers Lane. The trees on North Second Street will be removed in order to provide a staging area for the demolition. The five 1 story buildings will be razed. Excavation will then take place to provide a full depth basement under the building. New footings, foundation walls and piers will be poured and then the building will be constructed. Once the building's exterior construction has been completed, the sidewalk barriers will be removed and the sidewalk areas will be restored as directed by Agents of the Historical Commission.

Project time frames and more detailed phasing elements (noise and dust control) will be submitted for Planning Staff review once a contractor has been hired.

6.0 CRITERIA FOR DOWNTOWN BUSINESS OVERLAY DISTRICT

The Zoning Board of Appeals may grant a Special Permit to reduce setbacks, density and green space and allow residential units on upper floors if specific criteria are met, as detailed in the following subsections.

6.1 No Detrimental Noise

Once constructed, the roof top mounted energy efficient heating, ventilating and air conditioning units are not projected to emit any deleterious noise. There are no other known sources of significant noise once the project is complete.

During construction, there will be noise related to the demolition of the one-story buildings, the excavation of the basements and the construction of the five-story building. The noise generated is unavoidable, but will be minimized to the maximum extent practicable. The noise will not occur before 6 A.M. or after 6 P.M., and will not occur on Sundays.

6.2 Pedestrian and Vehicular Traffic

Refer to Section 4.2 of this Report.

6.3 Environmental Harm

Refer to Section 4.5 of this Report.

6.4 Visual Impact

The character and the scale of the three and five-story buildings are similar to those of nearby structures, as detailed in Appendix C.

6.5 Parking

Sheet C-3 of the plan set demonstrates that there are handicap accessible pathways to the three nearby parking areas that offer long term, affordable parking. Refer to Section 3.1 of this Report for a further discussion of parking.

6.6 Historic Elements

The facades of the three-story Moby Dick building will be preserved. The windows will be replaced with energy efficient windows that preserve the historic look of the building.

7.0 PROJECT COSTS

One of the submission requirements is an Engineer's estimate of site construction costs. Since the building will take up the entire site, the only site construction costs are related to extending new services from the water supply main, the storm drain and the sewer main, and backfilling with flowable fill and a base course of pavement. Except for the gas and water service in Barkers Lane, this work has already been completed. The remaining utility work is estimated to cost \$10,000. The projected cost of the Moby Dick building is estimated at \$2 million and the projected cost of the new 5 story building is estimated at \$16 million.

8.0 CONCLUSION

The proposed facilities (Phase 1 and Phase 2) meet all of the City's Site Plan Review, Variance and Special Permit criteria. They represent another step in the revitalization of the downtown area by bringing affordable, market rate residential units back into the heart of the City.