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ZONING BOARD OF APPEALS

STAFF REPORT

ZONING BOARD OF APPEALS MEETING

MEETING DATE: March 19, 2020

STAFF REPORT: March 6, 2020

Case#4411: ADMINISTRATIVE APPEAL

Property: 906 Hathaway Road
Map: 120, Lot: 16, 130

Zoning: Mixed Use Business (MUB)

Owner: NB Practice Realty, LLC
906 Hathaway Road
New Bedford, MA 02740

Applicant: Marc R. Deshaies, Esq.
115 Orchard Street
New Bedford, MA 02740



906 Hathaway Road
Looking east from Geraldine Street

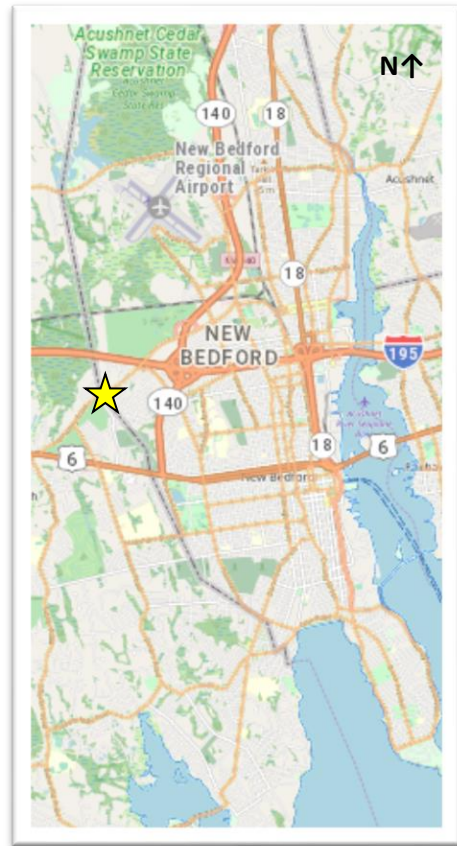
Overview of Request: The applicant has submitted a petition for an **Administrative Appeal** relative to the subject property located within a Mixed Use Business (MUB) zoned district. Notice is given of a public hearing on the petition of: **NB Practice Realty, LLC**, (906 Hathaway Road, New Bedford, MA 02740) and **Marc R. Deshaies, Esq.**, (115 Orchard Street, New Bedford, MA 02740) for an **Administrative Appeal** under Chapter 9, Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3220 (prohibited signs), 3222 (any sign which incorporates moving, flashing, animated or intermittent lighting, excluding public service signs such as those that display time and temperature), 5220 (powers) and 5223 (to hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L.A. c. 40A, §§ 7, 8 and 15); relative to property located at **906 Hathaway Road**, Assessors' map 120 lot 16 in a Mixed Use Business [MUB] zoned district.

The petitioners are proposing to replace the existing non illuminated ground mounted monument style sign with a double-sided LED illuminated sign of greater dimensions per plans filed.

The petitioners have filed an Administrative Appeal of the determination of Zoning Enforcement Officer that the digital display is a prohibited sign.

Existing Conditions: The site's parcel is a 18,151± SF corner lot, with 150.15± SF of frontage on Hathaway Road and 148.56± SF on the adjacent Geraldine Street. The parcel is bound by Hathaway Road to the northeast, and Geraldine Street to the southwest directly abutting the Dartmouth town line. The property currently contains a 2,464± SF, one story, home/office style building hosting a Dental Practice known as Clear Coast Dental. The dental office is presently serving 36-40 patients per day, with an estimate of 6 employees. The hours of operation are Tuesday through Friday, 8am-5pm and twice monthly on Saturdays 8am-5pm. There is an asphalt parking area encompassing the rear of the establishment on the south east side of the property with a curb cut via Geraldine Street. There is an existing 52.5" x 62" (22.60 SF) non illuminated monument sign in the front elevation of the property located northwest.

The surrounding neighborhood is comprised of commercial, residential and restaurant uses. Directly across Hathaway Road is the Valley View Condominium Apartments, an apartment complex and Ricciardi's Restaurant (northeast). Directly abutting to the east is TLC Veterinary Hospital. Directly abutting to the south is Rock Electric Datacom Inc, an electrician company. Directly west across Geraldine Street is a residential neighborhood.



Proposal: The petitioners are proposing to replace the existing non illuminated ground mounted monument style sign with a double-sided LED illuminated sign of greater dimensions. The new proposed double-sided LED illuminated monument sign would be relocated slightly northwest, 15±' along the site frontage on Hathaway Road. The overall proposed sign area is 27.37 SF, with an overall height of 6.58' and width of 4.16'. The electronic message center (EMC) as proposed will be 6.19 SF. The height from the ground to the base of the sign (electronic message board) will be 2' with an overall height of 6.58' from grade to the top of the sign. The total area of the combined signs will be 27.37 SF.



Existing Non Illuminated Monument Sign
Looking northeast from Geraldine Street

The zoning ordinance prohibits “Any sign which incorporates moving, flashing, animated or intermittent lighting, excluding public service signs such as those that display time and temperature” under Chapter 9 Section 3222 concerning prohibited signs, therefore the petitioner is seeking an administrative appeal.

In considering the **Administrative Appeal**, staff offers the following for the board's consideration:

- The board must determine if the electronic message sign is a prohibited sign type under the following definition: "Any sign which incorporates moving, flashing, animated or intermittent lighting, excluding public service signs such as those that display time and temperature." The applicant petitions that the sign will have a positive impact and will not be detrimental to the community. The Petitioner notes that the proposed signage with LED illumination is a professionally designed sign that would be WI-FI controlled for operational programming. The application states the LED sign would not materially affect the surrounding neighborhood and would not contribute to light pollution. The petitioner states the proposal would be located in a mixed use business zone; comprised of commercial, restaurant and residential uses. Therefore, the location would not negatively impact the health, safety and welfare of the public. The petitioner mentions the proposed LED signage is a necessary component to attract customers by using timely messages that describe the activities of the dental practice. The board must consider whether the determination of the Zoning Enforcement Officer should stand or whether the applicant's petition should prevail.

906 Hathaway Road Map: 120, Lot: 16 & 130

NOTE: Property line is approximate; for discussion purposes, only.

