



MAYOR
JON MITCHELL

PLANNING DIRECTOR
TABITHA HARKIN

City of New Bedford Department of City Planning

133 William Street · Room 303 · New Bedford, Massachusetts 02740
Telephone: (508) 979.1488 · www.newbedford-ma.gov

ZONING BOARD OF APPEALS

STAFF REPORT

ZONING BOARD OF APPEALS MEETING

MEETING DATE: March 19, 2020

STAFF REPORT: March 6, 2020

Case#4412: VARIANCE

Property: 1 Pearl Street
Map:72 Lot:172 & 173

Zoning: Industrial B (IB)

Owner: Ocean View Realty Trust
680 Acushnet Avenue
New Bedford, MA 02740

Applicant: Pearl Street Solar Roof, LLC
Pearl Street Solar Canopy, LLC
405 Atlantis Road, Suite E113
Cape Canaveral, FL 32920

Agent: SITEC
499 Faunce Corner Road
North Dartmouth, MA 02747



Overview of Request: Notice is given of a public hearing on the petition of: **Ocean View Realty Trust**, (680 Acushnet Avenue, New Bedford, MA 02740), **Pearl Street Solar Roof, LLC** and **Pearl Street Solar Canopy, LLC** (405 Atlantis Road, Suite E115, Cape Canaveral, FL 32920) and **SITEC** (499 Faunce Corner Road, N. Dartmouth, MA 02747) for a **Variance** under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulation), 2710 (general), 2720 (table of dimensional requirements – Appendix B, front, side and rear yard-Ft.); relative to property located at **1 Pearl Street**, Assessors' map 72 lot 172 & 173 in an Industrial B [IB] zoned district. The petitioners are proposing to install solar panels on the roof of the existing industrial building and construct two free standing carport canopies with solar panels within the southwest front and side setback of the property per plans filed.

| | Existing | Requirement | Proposed |
|-----------------|----------|-------------|----------|
| Front Yard (ft) | 113' | 25' | 21' |
| Side Yard (ft) | 190' | 25' | 1' |
| Rear Yard (ft) | 23' | 25' | 23' |

As with all variances, the board must find:

- There are circumstances relating to the soil conditions, shape or topography which especially affect the land in question, but which do not affect generally the zoning district in which the land or structure in question is located.
- If the city were to literally enforce the zoning ordinance, due to these circumstances unique to this land or structure, it would mean substantial hardship to the petitioner.
- The granting of the variance would not take away from the purpose of the zoning ordinance nor would it cause substantial detriment to the public good.

Existing Conditions: The subject property is a 211,550'± SF parcel located on the northwest corner of Pearl Street and Acushnet Avenue, with 469'± LF of frontage on Pearl Street and a depth of 255'± SF in an Industrial B (IB) zone. The project site is located on the east side of the Route 18 Downtown Connector, bounded by Pearl Street on the south, Acushnet Avenue on the west, industrial land on the north, and a railroad right of way easterly.

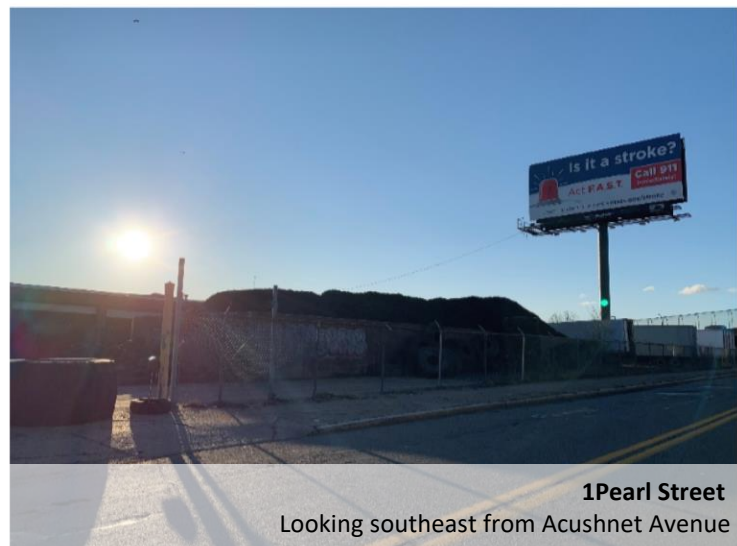
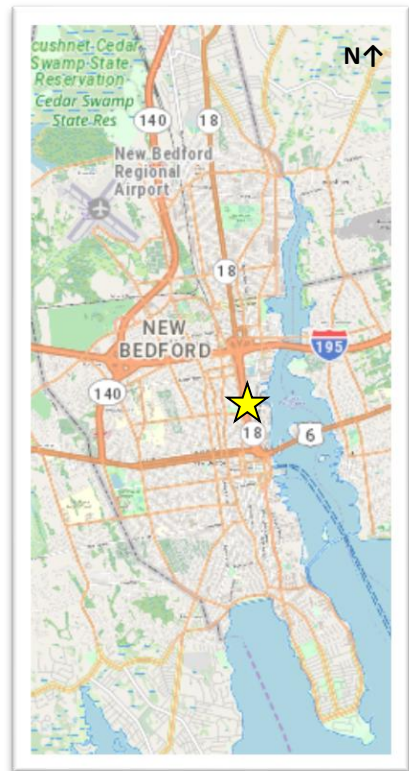
There is a 17,549' ± SF one story industrial building on the property. The building currently hosts a tire recycling business, known as NB Tire Reduction Corporation. The property is utilized for this industrial use comprised of material processing, trailer storage, containment berms, parking and material stockpiles. The majority of the site is utilized for the recycling operation with some unused perimeter space along Acushnet Avenue. A chain link fence surrounds the property for security and overall public safety.

There is a billboard on the west side of the property adjacent to the Acushnet Avenue layout. Access to the site via the Pearl Street curb cut.

The surrounding neighborhood consists of industrial and commercial businesses. Directly south across Pearl Street is the Mass Hire Greater New Bedford Career Center, directly abutting north is Plumbing Supply Company, directly abutting east is a railroad right of way. Directly west across Acushnet Avenue is JFK Memorial Highway.

Proposal:

The petitioners are proposing to install solar panels on the roof of the existing industrial building and construct two free standing carport canopies with solar panels within the southwest front and side setback of the property per plans filed.



The applicants, Pearl Street Solar Roof, LLC & Pearl Street Solar Canopy, LLC are proposing a two phase solar project to complement the existing tire recycling operation.

Phase 1 of the project will consist of the repair of the roof of the existing industrial building. This repair will include the upgrade of portions of the sub roof system, as needed, followed by a new roof system. Once the repair work is completed, the roof solar panels will be installed with the associated inverters and interconnection equipment. The roof system capacity is projected to be approximately 207 KW (DC).

Phase 2 of the project will be the construction of two canopies mounted solar panel systems. The canopies are proposed for construction adjacent to Pearl Street and Acushnet Avenue at the southwest corner of the property. The location for these canopies has been set to avoid conflicts with onsite truck traffic while providing canopy coverage for some of the truck containers used in the recycling operation. The canopy system is projected to generate 235 KW (DC).

The existing industrial site will remain unchanged, other than the new solar systems. The installation of the roof recharge system, there will be a direct reduction in overall surface runoff.

The installation and construction of the solar canopies would not comply with dimensional requirements for front, side and rear yard setbacks, and therefore, requires a variance.

This project will be heard at the March 11 Planning Board hearing for Site Plan review. As the site is in close proximity to the proposed MBTA New Bedford Station and abuts a pedestrian access point, planning staff has suggested that the setbacks to the property be maintained with significant landscaping and screening. If a variance is granted from this setback, such screening would have little to no footprint to occur.

For consideration:

- There are circumstances relating to the soil conditions, shape or topography which especially affect the land in question, but which do not affect generally the zoning district in which the land or structure in question is located. The application states that Phase 2; the construction of the canopy solar systems is proposed to be located 21' ft. from the easterly layout line of Acushnet Avenue and 1' ft from the northerly layout line of Pearl Street. Additionally, the proposal is located 23' ft. from the rear yard setback. The required setbacks for this structure from these layout lines is 25' ft in an Industrial B zoning district. The petitioner mentions the position of the proposed solar canopies has been set based on the unique shape of the parcel and the existing site features. The application states the existing recycling building is positioned on the central portion of the site adjacent to the easterly property line, this position creates three unique blocks of open land on the site. The application states the northerly portion of the site is utilized for product handling after onsite processing. There is a mounted topographic feature in this area that prohibits the placement of the canopies. The central, western portion of the site has limited space available due to the required truck traffic access aisle and concrete material storage bins. The petitioner notes based on the limitations associated with the shape and topography, the only portion of the site that is available for the canopy placement is the southeast corner. Additionally, the petitioner notes this location and the resulting configuration maintains full, safe access to the site through the existing curb cut located at the southwest corner of the property. Staff acknowledges the proposal does not comply with the minimum required 25' ft. front, side and rear yard setbacks in an Industrial B zoned district, therefore requiring a variance.

- If the city were to literally enforce the zoning ordinance, due to these circumstances unique to this land or structure, it would mean substantial hardship to the petitioner. The petitioner states that a literal enforcement would cause a significant financial hardship, due to the shape and topographic features of the property. The application notes compliance with the zoning setbacks would result in a significant reduction in the solar canopy system, rendering the project economically unfeasible. Staff acknowledges there is an existing 17,549' ± SF one story, industrial building, situated on a 211,550' ± SF parcel.
- The granting of the variance would not take away from the purpose of the zoning ordinance nor would it cause substantial detriment to the public good. The petitioner states granting the requested setback relief would not derogate from the intent of the Zoning Ordinance and would not create a negative impact on abutting properties or the public good. The petitioner notes the setback requirements of the ordinance are intended to provide a buffer from adjacent land uses and to ensure that structures built close to the right-of-way do not obstruct sight lines along the streets. The application states the open canopy structures will not obstruct sight lines or impact adjacent structures. Additionally, the petitioner states the solar canopy system will provide green energy and reduce carbon output to the environment. The petitioner also indicates the solar project will allow for the upgrade of the onsite stormwater system, reducing surface runoff into the city stormwater system. Staff notes the proposal could have the potential to improve the onsite stormwater system.

1 Pearl Street: Map:72, Lot:172 & 173

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

