



MAYOR  
JON MITCHELL

## City of New Bedford Department of City Planning

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### ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS  
VIRTUAL MEETING  
Thursday, October 15, 2020

#### MINUTES

**PRESENT:** Laura Parrish, *(Acting Chairperson)*  
Stephen Brown, *(Clerk)*  
Allen Decker  
Celeste Paleologos  
Robert Schilling

**ABSENT:** None

**STAFF:** Angela Goncalves, *Assistant Project Manager*  
Danny Romanowicz, *Commissioner of Buildings and Inspectional Services*

Ms. Goncalves gave introductory COVID comments. She confirmed this evening's applicants and provided participants with remote meeting guidelines and protocols. Ms. Goncalves noted that all of this evening's case materials are available for review and gave the online information for the same.

#### **1. CALL TO ORDER**

Acting Chairperson Parrish called the meeting of the City of New Bedford Zoning Board to order at 6:03 p.m. Acting Chairperson Parrish then explained the meeting process and protocols.

#### **2. PUBLIC HEARINGS:**

##### **ITEM 1 – CASE #4426**

Acting Chairperson Parrish noted for the board the receipt of a request for continuance. A motion was made (SB) and seconded (AD) continue the case to November 12, 2020. The stated reason was read into the record and the application was received and placed on file.

#### **ROLL CALL VOTE:**

Board Member Parrish - Yes

Board Member Paleologos - Yes

Board Member Brown - Yes

Board Member Decker - Yes

Board Member Schilling - Yes

**Motion passed 5-0**

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**ITEM 2 – CASE #4394**

Acting Chairperson Parrish informed the board of a withdrawal submitted.

A motion was made (SB) and seconded (CP) to receive and place on file communication from the Attorney Russell Whynacht, dated 10/6/20, requesting to withdraw the special permit application without prejudice and that the board will waive application fees for resubmittal at a later date.

**ROLL CALL VOTE:**

Board Member Parrish - Yes

Board Member Paleologos - Yes

Board Member Brown - Yes

Board Member Decker - Yes

Board Member Schilling - Yes

**Motion passed 5-0**

**ITEM 3 – CASE #4423/CASE #4424**

A motion was made (SB) and seconded (CP) to hold the public hearing concurrently, as they are both in regard to the same project at 176 Pine Grove Street.

Motion passed unopposed.

A motion was made (SB) and seconded (CP) to receive and place on file the communication from the Commissioner of Buildings and Inspectional Services dated 9/29/20; staff comments from the Office of City Planning dated 10/5/20; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

The hearing was declared open.

Antonio and Karen Pimentel of Pine Grove Street addressed the board. Mr. Pimentel had a slide show displayed and explained the various slides. He discussed his history with the property and their family. Mr. Pimentel then discussed the project location and the project details of their endeavor to convert an existing garage, which is currently used for storage, into an in-law apartment. He noted no change in the footprint or exterior dimensions. He then discussed the family financial and health needs for the project.

Board Member Decker asked to review the previous slide and confirm the location of Pontiac Street.

Mr. Pimentel provided additional details such as water/sewer hookups, electrical, et cetera, to the existing home. He suggested there will be no parking impact to the area, as well as an existing affidavit preventing rental of the same during their ownership.

He summarized this as an affordable financial way to take care of his elderly mother with little negative neighborhood impact.

In response to Acting Chairperson Parrish's invitation to speak or be recorded in favor, Councilor Brad Markey spoke in support of the project and saw no detriment to the neighborhood.

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In response to Acting Chairperson Parrish's invitation to speak or be recorded in favor, Councilor Linda Morad spoke in support of the project, and thanked the Pimentel's for their signing of the affidavit.

There was no response to Acting Chairperson Parrish's further invitation to speak or be recorded in favor.

There was no response to Acting Chairperson Parrish's invitation to speak or be recorded in opposition.

The hearing was closed.

Board Member Brown suggested conditions could be included related to any rental of the space. There was board discussion on the same.

Zoning Commissioner Danny Romanowicz offered input regarding permits and renewals. There was discussion on the same, including an attempt to refrain from burdening the Pimentel's every two years with any fees. In response to Board Member Decker, there was also discussion on the variance aspect of the project.

A motion was made (SB) and seconded (RS) with regard to Case #4423 to grant a special permit under provisions of the City Code of New Bedford relative to property located at 176 Pine Grove Street, Assessors' map 127E lot 328 in a Residential A [RA] zoned district. The petitioner proposes to convert an existing attached garage into an accessory dwelling unit per plans filed, which requires a special permit under Chapter 9, Comprehensive Zoning Sections 2300, 2310, 2340 - 2347 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 effect of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. Including consideration of the following: social, economic and community needs which are served by the proposal, traffic flow and safety, including parking and loading, adequacy of utilities and other public services, neighborhood character and social structure, and impact on the natural environments.

With the following specific conditions: Extensions pursuant to Section 2346 of the Zoning Ordinance to be timely obtained and the addition living space is not used for rental separate from the primary residence.

The following general conditions also apply: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the special permit must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

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**ROLL CALL VOTE:**

Board Member Parrish - Yes  
Board Member Brown - Yes  
Board Member Decker - Yes

Board Member Paleologos - Yes  
Board Member Schilling - Yes

**Motion passed 5-0**

A motion was made (SB) and seconded (RS) with regard to Case #4424 to grant a variance under provisions of the City Code of New Bedford relative to property located at 176 Pine Grove Street, Assessors' map 127E lot 328 in a Residential A [RA] zoned district, to allow the petitioner to convert an existing attached garage into an accessory dwelling unit per plans filed, which requires a variance under provisions of Chapter 9, Comprehensive Zoning Sections 3100, 3110, 3145. Having reviewed this petition, including materials submitted and testimony heard, in accordance with the City of New Bedford Code of Ordinances and M.G.L. Chapter 40A, §10, the board finds that the applicable requirements have been addressed and met. This determination includes consideration of the following: The board finds there are circumstances related to the soil conditions, shape or topography specifically effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this instance, circumstances are that the shape of the lot is such that conversion of the garage to a unit would necessarily result in parking being in front of that dwelling, removing such parking would further burden on-street parking space. Two, due to those circumstances especially effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, the hardship is the petitioner's elderly mother would not be able to return to New Bedford. Three, the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. Four, the desirable relief may be granted without substantial detriment to the public good.

With no specific conditions, the following general conditions apply: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the special permit must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

**ROLL CALL VOTE:**

Board Member Parrish - Yes  
Board Member Brown - Yes  
Board Member Schilling - Yes

Board Member Paleologos - Yes  
Board Member Decker - Yes

**Motion passed 5-0**

**ITEM 4 – CASE #4425/CASE #4426**

A motion was made (SB) and seconded (RS) to hold the public hearings concurrently as both matters are in regard to the same project.

Motion passed unopposed.

A motion was made (SB) and seconded (RS) to receive and place on file the communication from the Commissioner of Buildings and Inspectional Services dated 9/30/20; staff comments from the

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Office of City Planning dated 10/5/20; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

The hearing was declared open.

John Connell, SITEC, introduced the owner/petitioner. Mr. Connell detailed the project for a new bay and described the existing building, in which he hopes to do state inspections. Mr. Connell described the subject parcel and existing conditions, and detailed elevations, retaining walls, access, et cetera. He noted no additional staff, traffic or hours of operation are proposed. He welcomed questions.

Acting Chairperson Parrish inquired about any post-construction exhibits. Mr. Connell directed the board to the same, while detailing other illustrations as well.

In response to Parrish's invitation to speak or be recorded in favor, Councilor Brad Markey stated he had reviewed the project. He noted the applicant takes care of the business property and he knows of no detriment to the neighborhood. Councilor Markey expressed his support of the project.

In response to Acting Chairperson Parrish's invitation to speak or be recorded in favor, Councilor Brian Gomes echoed the previous comments and expressed his support for the project, which he feels brings a service to the area.

In response to Acting Chairperson Parrish's invitation to speak or be recorded in favor, Councilor Linda Morad lives in the area and feels the applicant is a good neighbor. She commented on the applicant's financial hardship and need to expand. Councilor Morad too expressed support for the project.

There was no response to Acting Chairperson Parrish's further invitation to speak or be recorded in favor.

There was no response to Acting Chairperson Parrish's invitation to speak or be recorded in opposition.

In response to Board Member Decker there was discussion on vehicle class inspection range.

The public hearing was declared closed.

After brief board discussion, including consultation with Zoning Commissioner Danny Romanowicz, a motion was made (SB) and seconded (RS) with regard to Case #4425 to grant a special permit under provisions of the City Code of New Bedford relative to property located at 4227 Acushnet Avenue, Assessors' map 136A lot 20 in a Residential A [RA] zoned district, to allow the petitioner to construct a 20'x46' addition along the northerly side of the existing station per plans filed, which requires a special permit under provisions of Chapter 9, Comprehensive Zoning Sections 2400, 2410, 2420, 2421, 5300-5330 and 5360-5390. In accordance with the City of New

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Bedford Code of Ordinances Chapter 9, Section 5320, the benefit to the city and the neighborhood outweighs the adverse effect of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. Including consideration of the following: social, economic and community needs which are served by the proposal, traffic flow and safety, including parking and loading, adequacy of utilities and other public services, neighborhood character and social structure, and impact on the natural environments.

With no specific conditions, but with the following general conditions: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the special permit must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

**ROLL CALL VOTE:**

Board Member Parrish - Yes

Board Member Paleologos - Yes

Board Member Brown - Yes

Board Member Schilling - Yes

Board Member Decker - Yes

**Motion passed 5-0**

A motion was made (SB) and seconded (RS) with regard to Case #4426 to grant a variance under provisions of the City Code of New Bedford relative to property located at 4227 Acushnet Avenue, Assessors' map 136A lot 20 in a Residential A [RA] zoned district, to allow the petitioner to construct a 20'x46' addition along the northerly side of the existing station per plans filed, which requires a special permit under provisions of Chapter 9, Comprehensive Zoning Sections 2400, 2410, 2430, 2431, 2432 and 2430. Having reviewed this petition, including materials submitted and testimony heard, in accordance with the City of New Bedford Code of Ordinances and M.G.L. Chapter 40A, §10, the board finds that the applicable requirements have been addressed and met. This determination includes consideration of the following: The board finds there are circumstances related to the soil conditions, shape or topography specifically effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this instance, circumstances are that the configuration of the existing structure on the parcel requires construction of an additional bay as per plans filed. Two, due to those circumstances especially effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, the hardship is the financial hardship due to potential loss of customers. Three, the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. Four, the desirable relief may be granted without substantial detriment to the public good.

With no specific conditions, the following general conditions apply: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granting of the special permit must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

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**ROLL CALL VOTE:**

Board Member Parrish - Yes  
Board Member Brown - Yes  
Board Member Schilling - Yes

Board Member Paleologos - Yes  
Board Member Decker - Yes

**Motion passed 5-0**

**3. NEW BUSINESS:**

Election of officers was addressed. Board Member Paleologos nominated Laura Parrish for chairperson. Board Member Schilling seconded the nomination.

After clarification, a motion was made (SB) and seconded (CP) to elect Laura Parrish as chairperson of the New Bedford Zoning Board of Appeals.

**Motion passed unopposed (4-0)**

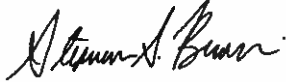
A motion was made (SB) and seconded (LP) to elect Celeste Paleologos as vice-chairperson of the New Bedford Zoning Board of Appeals.

**Motion passed unopposed (4-0)**

**4. ADJOURNMENT**

The meeting was adjourned at 7:14 p.m.

**THE NEXT MEETING IS SCHEDULED FOR NOVEMBER 12, 2020**



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Stephen Brown, Clerk

1/27/21

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Date