



MAYOR  
JON MITCHELL

PLANNING DIRECTOR  
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## City of New Bedford Department of City Planning

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### ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS  
NEW BEDFORD MAIN LIBRARY  
3<sup>rd</sup> FLOOR MEETING ROOM  
PLEASANT STREET  
NEW BEDFORD, MA  
Thursday, July 15, 2021

#### MINUTES

- PRESENT:** Laura Parrish, (*Chairperson*)  
Celeste Paleologos, (*Vice Chairperson*)  
Stephen Brown, (*Clerk*)  
Robert Schilling  
Allen Decker
- ABSENT:** None
- STAFF:** Angela Goncalves, *Assistant Project Manager, City Planning*  
Laura Ryan, *Staff Planner*  
Danny Romanowicz, *Commissioner of Buildings, and Inspectional Services*

CITY CLERK

2022 JUN -1 PM 1:47

OFFICE OF THE CITY CLERK  
NEW BEDFORD, MA

#### 1. CALL TO ORDER

Chairperson Parrish called the meeting of the City of New Bedford Zoning Board to order at 6:02p.m. Chairperson Parrish then explained the meeting process, protocols and requirements.

#### 2. PUBLIC HEARINGS:

**ITEM 1 – CASES #4449:** - Petition of: Nelson Hockert Lotz (PO Box 790, Mattapoisett, MA 02739) and Signature Signs (833 American Legion Highway, Westport, MA 02790) 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 (Power: The Board of Appeals shall have and exercise all the powers granted to it by M.G.L.A. c. 40A, c. 40B, and c. 41 and by the ordinance. The boards powers are as follows: 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 109 Rockdale

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**Avenue, Assessors' Map 18 Lot 112, in an Industrial B [IB] zoned district. The petitioner proposes to replace an existing manual reader board with an electronic message center board per plans filed.**

A motion was made (SB) and seconded (RS) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 6/29/21; staff comments from the Department of City Planning dated 7/6/21; letter of support from Councilor Joseph P. Lopes dated 6/30/21; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the board to be the lots affected; and, that the action of the clerk in giving notice of the hearing as stated shall be and is hereby ratified.  
Motion passed unopposed.

Chairperson Parrish declared the hearing open.

Adam Abelha, Signature Signs, spoke on behalf of Domino's Pizza, and introduced other team members. He discussed the New Bedford Code dealing with electronic signs and explained their request and the anticipated benefits to them. He noted other signs throughout the city and spoke on the day/night lighting, referring to their similarity to the city's Cumberland Farms stores.

Board Member Brown offered the petitioner the opportunity to speak on any driver distractibility and safety concerns. Mr. Abelha responded to the same, noting a study done on the effect of such signs on drivers. He also commented on change intervals in response to inquiry by Board Member Brown.

In response to Chairperson Parrish's invitation to speak or be recorded in favor, Nelson Hockett Lotz, Main Street, Mattapoisett, offered his thanks. He explained their operation and the location and surroundings. He acknowledged the electronic sign at the nearby Cumberland Farms and the improvements it made. He commented on the investment they gladly made into the city business community.

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

There being no further comments or questions, the hearing was declared closed.

After board discussion, including consultation with Commissioner Romanowicz regarding parameters, the business's integrity, specific intervals. There was discussion with the board and the petitioners on the expectations and potential parameters, a motion was made (SB) and seconded (CP) to grant administrative appeal under provisions of the City Code of New Bedford, relative to property located at 109 Rockdale Avenue, Assessors' Map 18 Lot 112, in an Industrial B [IB] zoned district, to grant the petitioner's appeal to replace an existing manual reader board with an electronic message center board per plans filed. Motion to grant the administrative appeal under Chapter 9, Comprehensive Zoning Sections 3200 3201, 3220, 3222, 5220 and 5223.

Having reviewed this petition, in light of the City New Bedford Code of Ordinances under Chapter 9, Section 5220 and 5223, the board finds the following facts: The applicant agrees to reasonably

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long intervals between changes of message of no less than ten seconds. The electronic ,message center would allow the applicant to compete more effectively by promoting their product lines more effectively, that the present manual change is labor intensive and not as effective as the proposed sign; and the proposed sign will not contain animated imagery.

**ROLL CALL VOTE:**

Board Member Parrish - Yes

Board Member Paleologos - Yes

Board Member Schilling - Yes

Board Member Decker - Yes

Board Member Brown - Yes

**Motion passed 5-0**

**ITEM 2 – CASES #4450:** - Petition of: 95-127 West Rodney French Boulevard, LLC (127 West Rodney French Blvd, New Bedford, MA 02744) and Whaling City Tattoo, C/O Tim Creed (25 Ridge Hill Lane, Bourne, MA 02562) for a Special Permit under Chapter 9, Comprehensive Zoning Sections 2400 (nonconforming uses & structures), 2410 (applicability), 2420 (nonconforming uses), 2421 (change or substantial extension of the use), 2422 (change from one nonconforming use to another, less detrimental, nonconforming use), 2430 (nonconforming structures, other than single-and two family structures), 2431 (reconstructed, extended or structurally changed), 2432 (altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent), 4200-4260 (body art), 4600A-4670A (West Rodney French Mill Overlay District - WRFMOD), 5300-5330 & 5360-5390 (special permit); relative to property located at 95-127 West Rodney French Boulevard, Assessors' map 15 lot 280 in an Industrial B [IB] zoned district. The petitioner proposes to operate a body art establishment per plans filed.

A motion was made (SB) and seconded (CP) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 6/29/21; staff comments from the Department of City Planning dated 7/15/21; letter of support from Councilor Joseph P. Lopes dated 6/30/21; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the board to be the lots affected; and, that the action of the clerk in giving notice of the hearing as stated shall be and is hereby ratified. Motion passed unopposed.

Peter Andrade, property manager, representing 95-127 West Rodney French Boulevard, LLC, explained their special permit request/proposal and introduced the owners. He noted this would be a new business in the City of New Bedford not detrimental to the area.

Board Member Decker confirmed how long the space in question has been vacant.

In response to Board Member Brown, Mr. Andrade commented on the appropriateness of the business.

In response to Chairperson Parrish's invitation to speak or be recorded in favor, Mr. Creed, Sagamore Beach, owner, provided his business history to the board and expressed his looking forward to being in New Bedford.

Board Member Brown noted the specific tattoo parlor provision in the ordinance and discussed and confirmed the expectations on the petitioner. Board Member Decker confirmed the same with the petitioner.

In response to Chairperson Parrish's further invitation to speak or be recorded in favor, petitioner's representative discussed the plans and privacy petitions, as well as meeting all necessary requirements.

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

The hearing was declared closed.

After board discussion, a motion was made (SB) and seconded (CP) to grant a special permit under provisions of the City Code of New Bedford, relative to property located at 95-127 West Rodney French Boulevard, Assessors' map 15 lot 280 in an Industrial B [IB] zoned district, to allow the petitioner to operate a body art establishment per plans filed, which requires a special permit under Chapter 9, Comprehensive Zoning Sections 2400, 2410, 2420, 2421, 2422, 2430, 2431, 2432, 4200-4260, 4600A-4670A, 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. 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 environment.

With the following specific condition: That body art establishment contain partitions sufficient for privacy of the customers.

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.

**ROLL CALL VOTE:**

Chairperson Parrish – Yes

Board Member Paleologos - Yes

Board Member Brown – Yes

Board Member Schilling – Yes

Board Member Decker - Yes

**Motion passed 5-0**

**ITEM 3 – CASE #4451 – Petition of: Carlos P. DaCosta (118 Washington Street, New Bedford, MA 02740) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulation), 2710 (general), 2711 (lot change), 2720 (table of dimensional requirements – Appendix B, rear yard ft.), 2750 (yards in residence district) and 2753 (rear yard); relative to**

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**property located at 118 Washington Street, Assessors' map 36 lot 234 in a Residential B [RB] zoned district. The petitioner proposes to divide the lot into two separate lots, leaving the existing dwelling on Lot #1 in violation of the rear yard setback per plans filed.**

A motion was made (SB) and seconded (CP) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 6/29/21; staff comments from the Department of City Planning dated 7/6/21; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the board to be the lots affected; and, that the action of the clerk in giving notice of the hearing as stated shall be and is hereby ratified.

Motion passed unopposed.

The hearing was declared open, and the petitioner was invited to address the board

Antonio DaSilva, TD Design, addressed the board on behalf of the petitioner and explained the project and issues, noting the rear setback on Lot 1 does not meet requirements. He noted that Lot 2 meets all dimensional regulations, and he further explained the project plans.

Board member Decker inquired as the related hardship. Mr. DaSilva noted both lots meet square footage requirements. He stated the owner will move into the property once the residence is built. He described the existing structure, which his children live in.

In response to Chairperson Parrish, Mr. DaSilva explained that the original two family structure is currently occupied, to include Mr. DaCosta and his children

Board member Decker consulted with Commissioner Romanowicz to confirm the property at 118 Washington Street is currently conforming. Chairperson Parrish inquired as to the effect on conformance by separating the lots. There was discussion on the same.

In response to Chairperson Parrish's invitation to speak or be recorded in favor Carlos DaCosta, owner, explained his history in the city and with this property. He explained his plans for the lots.

In response to Board member Paleologos, Mr. DaCosta confirmed that he lives in 118 Washington Street and explained the layout.

Chairperson Parrish again discussed the need for a substantial hardship. Mr. DaCosta noted the city taxes and his family wishes.

Board member Decker explained his position that this would create a non-conforming lot and appears absent the hardship as explained.

Mr. DaCosta asked for an explanation of what would be a hardship.

In response Board Member Decker inquired as to why the property as currently exists does not fit the petitioner's needs. Mr. DaCosta stated he wants to leave 118 Washington Street to his children, as he spent time and money in the house.

Board Member Paleologos inquired as to the age of the children. Mr. DaCosta stated he has a 21 year old daughter and a 19 year old son. He clarified that the new residence would be for him and perhaps his children too, as he may rent 188 Washington. There was further discussion on the petitioner's intentions for the property, including his rental options.

Mr. DaSilva commented on the size/dimensions meeting regulations, but for the setback on Lot 1, arguing he has seen plenty of New Bedford properties with even less setback. He noted the tax benefit this project will generate. Mr. DaCosta echoed the tax costs and lot sizes.

In response to Board member Schilling, Mr. DaCosta stated he had no complaints from neighbors.

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

The hearing was declared closed.

After board discussion, to include the neighborhood density and hardship, a motion was made (SB) and seconded (CP) to grant a variance under provisions of the City Code of New Bedford, relative to property located at 118 Washington Street, Assessors' map 36 lot 234 in a Residential B [RB] zoned district, to allow the petitioner to divide the lot into two separate lots, leaving the existing dwelling on Lot #1 in violation of the rear yard setback per plans filed, which requires a variance under provisions of Chapter 9, Comprehensive Zoning Sections 2700, 2710, 2711, 2720 – Appendix B, 2750 and 2753.

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, the circumstances are that the existing structure has had additions to the footprint making the property division to lack setback requirements. 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 that the proposed division could not be done without the variance and the applicant could not achieve his goal of saving 118 Washington Street for his children while he lived next door. 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 variance 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:**

Chairperson Parrish – Yes

Board Member Paleologos - Yes

Board Member Brown – Yes

Board Member Schilling – Yes

Board Member Decker - No

**Motion passed 4-1**

**ITEM 4- CASE #4452 - Petition of: NBRD LLC (23 Concord Street, Wilmington, MA 01887) and Poyant Signs, C/O Christopher Ramm (125 Samuel Barnet Blvd, New Bedford, MA 02745) 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 (Power: The Board of Appeals shall have and exercise all the powers granted to it by M.G.L.A. c. 40A, c. 40B, and c. 41 and by the ordinance. The board's powers are as follows: 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 1121 Kempton Street, Assessors' Map 55 Lot 292, in an Industrial A [IA] zoned district. The petitioner proposes to replace an existing menu board with a digital menu board per plans filed.**

A motion was made (SB) and seconded (CP) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 6/29/21; staff comments from the Department of City Planning dated 7/6/21; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the board to be the lots affected; and, that the action of the clerk in giving notice of the hearing as stated shall be and is hereby ratified.

Motion passed unopposed.

The hearing was declared open, and the petitioner was invited to address the board.

Petitioner's representative introduced his colleague Shane Daly, owner. He described the electronic message center they are planning. By way of hardship, he stated it is easier and cleaner, and creates an "easy read" with remote capability. He noted there is no image movement/static but for order confirmation.

Board member Decker confirmed that direction will be angled to avoid any ability for street passers-by to see it. Petitioner's representative stated the board will remain in essentially the same spot and he described the same.

In response to Chairperson Parrish's invitation to speak or be recorded in favor Shane Daly explained the benefits to the changes, such as remote changes improving employee safety, cleanliness, et cetera.

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

The hearing was declared closed.

With no board discussion, a motion was made (SB) and seconded (RS) to grant administrative appeal to the petitioner under the City Code of New Bedford relative to property located at 1121 Kempton Street, Assessors' Map 55 Lot 292, in an Industrial A [IA] zoned district, to grant the petitioner an appeal to replace an existing menu board with a digital menu board per plans filed. A motion was made to approve the administrative appeal, that the appeal of the petitioner be granted per the administrative appeal process under provisions of Chapter 9 Comprehensive Zoning Sections 3200, 3201, 3220, 3222, 5220. The board's powers are as follows: 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.

The board finds the following facts:

- Proposed digital menu board represents new global brand standard for all Dunkin's locations that are in the rebranding process.
- The digital image is completely static and will not incorporate moving, flashing or intermittent lighting and would not be obtrusive or distracting to surrounding environments.
- That the sign has the ability to adjust to the natural environment.
- That the location of the sign is such that it will not be a distraction to moving traffic.

**ROLL CALL VOTE:**

Chairperson Parrish – Yes

Board Member Paleologos - Yes

Board Member Brown – Yes

Board Member Schilling – Yes

Board Member Decker - Yes

**Motion passed 5-0**

**3. APPROVAL OF MINUTES**

A motion was made (AD) and seconded to approve the minutes of the May 20, 2021, meeting wherein the following cases were addressed: Cases #4438/#4439; Case #4444; Case # 4445; Case #4446.

Motion passed unopposed.

**4. ADJOURNMENT**

Chairperson Parrish adjourned the meeting at 7:22 p.m.

**NEXT MEETING SCHEDULED FOR THURSDAY, AUGUST 19, 2021**



Leo Choquette Jr., Clerk

6/1/22

Date