



## City of New Bedford Department of City Planning

133 William Street · Room 303 · New Bedford, Massachusetts 02740  
Telephone: (508) 979.1488

MAYOR  
JON MITCHELL

PLANNING DIRECTOR  
JENNIFER CARLONI

### ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS  
VIRTUAL MEETING  
Thursday, February 17, 2022

#### MINUTES

**PRESENT:** Celeste Paleologos, *(Vice Chairperson)*  
Leo Choquette, Jr., *Clerk*  
Robert Schilling  
Stephen Brown  
Debra Trahan

**ABSENT:** Laura Parrish, *(Chairperson)*  
Allen Decker

**STAFF:** Laura Ryan, *Staff Planner*  
Danny Romanowicz, *Commissioner of Buildings, and Inspectional Services*

OFFICE OF THE CITY CLERK  
NEW BEDFORD, MA  
2022 JUL 29 AM 10:40  
CITY CLERK

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

Acting Chairperson Paleologos called the meeting of the City of New Bedford Zoning Board to order at 6:00pm. Acting Chairperson Paleologos then explained the meeting process, protocols, and requirements.

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

**ITEM 1 – CASES #4474:** Petition of: 52 Tarkiln Hill Road, LLC (52 Tarkiln Hill Road, New Bedford, MA 02745) and Saeed Mahmoud Trustee, C/O Armando M. Pereira (63 Tarkiln Hill Road, New Bedford, MA 02745) for a Special Permit under Chapter 9, Comprehensive Zoning Sections 2200 (use regulation), 2210 (general), 2230 (table of principal use regulations – appendix A commercial - #23, restaurant, fast food) and 5300- 5330 & 5360-5390 (special permit); relative to the property located at 52 Tarkiln Hill Road Assessors' Map 119, Lot 11, in a Mixed Use Business [MUB] zoned district. The petitioner is proposing to operate a fast food restaurant named "Krispy Krunchy Chicken" in the existing establishment known as Gas Express Mini Mart

A motion was made (LC) and seconded (DT) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 2/11/22; staff comments from the Department of City Planning dated 2/4/21; 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

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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.

Acting Chairperson Paleologos declared the hearing open.

Armando Pereira, Comprehensive Design Build Services, while screen sharing, reviewed the site plan, to include locations. He discussed fast food classifications per zoning. He explained the plans in detail. He noted the property line does not provide room for a car. He stated this is not a fast food restaurant and equated it to a Cumberland Farms. Mr. Pereira discussed the business benefit to his client and the city. He noted that the classification requires him to get a special permit but wanted the board to understand this is not a take-out restaurant. He stated he did not anticipate any increased impact to traffic. Mr. Pereira noted the changes will be all internal, with no change to the building's outside.

In response to Acting Chairperson Paleologos invitation to speak or be recorded in favor, Councilor Ryan Pereira, 138 Butler Street, wanted to clarify there is no relationship to the petitioner's representative. He stated he supported the project.

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

There was no response to Acting Chairperson Paleologos invitation to speak or be recorded in opposition.

Board Member Trahan inquired as to hours of operation. Mr. Pereira introduced the owner, who addressed the same. In response to Board Member Trahan, the owner stated he expected no employee increase.

Board Member Brown offered his thoughts on the matter before the board, noting the convenience to people.

The hearing was declared closed.

With no further discussion, a motion was made (LC) and seconded (DT) to grant a special permit under provisions of the City Code of New Bedford, relative to property located at 52 Tarkiln Hill Road Assessors' Map 119, Lot 11, in a Mixed Use Business [MUB] zoned district, to allow the petitioner to operate a fast food restaurant named "Krispy Krunchy Chicken" in the existing establishment known as Gas Express Mini Mart, per plans filed, which requires a Special Permit under Chapter 9, Comprehensive Zoning Sections 220, 2210, 2230- appendix A commercial, and 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 conditions:

- This proposal requires a special permit from the Planning Board. Any conditions imposed by the Planning Board decision shall also be conditions of this special permit.

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.

Mr. Pereira raised staff comments, noting the need for an address correction.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes  
Board Member Brown – Yes  
Board Member Choquette – Yes

Board Member Schilling - Yes  
Board Member Trahan - Yes

**Motion passed 5-0**

**ITEM 2 – CASE #4475 - Petition of: DEMLA LLC (55 Bayview Avenue, Fairhaven, MA 02719) and G & G Enterprise LLC, (431 W. Clinton Street., New Bedford, MA 02740) for a Special Permit under Chapter 9, Comprehensive Zoning Sections 4200-4260 (body art) and 5300-5330 & 5360-5390 (special permit); relative to the property located at 464-468 Brock Avenue, Assessors' Map 10, Lot 107, in a Mixed-Use Business [MUB] zoned district. The petitioner is proposing to operate a body art establishment named "Little City Tattoo". #4476 Notice is given of a public hearing on the petition of: Dennis Audette (21 Hudson Street, New Bedford**

A motion was made (LC) and seconded (DT) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 2/11/22; staff comments from the Department of City Planning dated 2/4/21; the appeal package 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.

Brenda Lee Galarza explained the project plans and services offered. She stated they would be one of the first establishments to offer microblading in the area. She noted they would seek to display community artwork in the establishment.

In response to Acting Chairperson Paleologos invitation to speak or be recorded in favor, Councilor Ryan Pereira, 138 Butler Street, requested clarification on whether the business would be appointment based or walk-in. Petitioner stated they are appointment based. He then inquired as to number of artist/employees, to which the petitioner listed three. Mr. Pereira inquired as to hours of operation. Petitioner stated Tuesday – Friday 12:00 p.m. – 9:00 p.m. and Saturday 12:00

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p.m.-4:00 pm. Mr. Pereira raised the mix of residential areas and asked the petitioner to be cognizant of that fact.

In response to an inquiry, there was an explanation of the micro blading service.

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

There was no response to Acting Chairperson Paleologos invitation to speak or be recorded in opposition.

Petitioner stated they appreciate the board's time.

Board Member Brown inquired as to whether the matter is on for a change of use. Laura Ryan clarified the matter.

The hearing was declared closed.

After brief board discussion and input from Ms. Ryan on previous tattoo parlors, space use, hours of operation and privacy screening, a motion was made (LC) and seconded (RS) to grant a special permit under provisions of the City Code of New Bedford, relative to the property located at 464-468 Brock Avenue, Assessors' Map 10, Lot 107, in a Mixed-Use Business [MUB] zoned district, to allow the petitioner to operate a body art establishment named "Little City Tattoo" per plans filed, which requires a Special Permit under Chapter 9, Comprehensive Zoning Sections 4200-4260 and 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 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 Paleologos - Yes

Board Member Schilling - Yes

Board Member Brown – Yes (with comment)

Board Member Trahan - Yes

Board Member Choquette – Yes

**Motion passed 5-0**

Petitioner clarified business spelling.

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**ITEM 3- CASE #4476 - Petition of: Dennis Audette (21 Hudson Street, New Bedford, MA 02744) for a Variance under Chapter 9, Comprehensive Zoning Sections 2300 (accessory buildings & uses), 2310 (general), 2330 (accessory structures), 2331 (private garage), 2700 (dimensional regulation), 2720 (table of dimensional requirements – appendix B, rear yard ft., side yard ft., 2750 (yards in residence district), 2753 (rear yard) and 2755 (side yard); relative to the property located at 21 Hudson Street Assessors' Map 4, Lot 111, in a Residential A [RA] zoned district. The petitioner is proposing to construct a two-story addition hosting a two car garage and bedroom on the upper level**

A motion was made (LC) and seconded (DT) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 2/11/22; staff comments from the Department of City Planning dated 2/4/22; letter in opposition from Gabriel Correia dated 2/6/22; 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.

Dennis Audette explained his project plans. He stated with the addition to his home he is also seeking a non-conforming garage structure. He stated they seek variance for some 3.5' on the west side and 3.5' on the back of the property. Laura directed the board to the ZBA website for a view of the plans.

Board Member Brown confirmed the only reason for the variance is due to the setbacks. Mr. Audette confirmed and explained the non-conforming garage plan and the need for access. Board Member Trahan further discussed the setbacks with the petitioner. Board Member Brown clarified the garage plans. Acting Chairperson Paleologos confirmed that the result will be a three-car garage. The petitioner stated his abutters are fine with the project. Board Member Trahan inquired as to master bedroom access. The petitioner detailed the same, assuring Board Member Trahan this would not be a studio apartment.

Acting Chairperson Paleologos inquired with Commissioner Romanowicz as to height restrictions.

In response to Acting Chairperson Paleologos invitation to speak or be recorded in favor, Councilor Ryan Pereira confirmed the home to be the Audette's permanent residence and that it is expected to remain the same. He confirmed the principal use of the garage to be for vehicle storage. He stated he supports the petition.

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

There was no response to Acting Chairperson Paleologos invitation to speak or be recorded in opposition.

Acting Chairperson Paleologos read into the record a letter from abutter Gabriella Correia of 44 Portland Street, New Bedford, who expressed she was very opposed to the project. A motion was made and seconded to receive the letter and place it on file.

Motion passed unopposed.

Board Member Brown commented on the property location through Google, as well as the absence of Ms. Correia and the view.

The hearing was declared closed.

Without further discussion, a motion was made (LS) and seconded (RS) to grant a variance under provisions of the City Code of New Bedford, relative to the property located at 21 Hudson Street Assessors' Map 4, Lot 111, in a Residential A [RA] zoned district, to allow the petitioner to construct a two-story addition hosting a two car garage and bedroom on the upper level per plans filed, which requires a variance under provisions of Chapter 9, Comprehensive Zoning Sections 2300, 2310, 2330, 2331, 2700, 2720 – Appendix B, 2750, 2753 and 2755.

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. Board Member Brown added that the specific circumstances are that due to the shape of the lots, if the zoning ordinance were enforced, the applicant would not be able to add the additional garage and master bedroom proposed. 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. Board Member Brown added that, in this case, the specific hardship is that if the zoning ordinance were imposed, the applicant would not be able to make the improvements necessary for him to make full and complete use of his lot. 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. \*Acting Chairperson Paleologos confirmed the home would not be used as a two-family.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes  
Board Member Brown – Yes  
Board Member Choquette - Yes

Board Member Trahan - Yes  
Board Member Schilling – Yes

**Motion passed 5-0**

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**ITEM 4 – CASE #4477 – Petition of: McDonalds USA, LLC (110 N. Carpenter Street, Chicago, IL 60607) and Bohler, C/O Dan Allen (352 Turnpike Road, Southborough, MA 01772) for an Administrative Appeal under 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 an exercise all the powers granted to it by M.G.L.A. c. 40A, c. 40B, and c. 41 and by this 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 the property located at 141 Coggeshall Street, Assessors' Map 93, Lot 276, in a Mixed-Use Business [MUB] zoned district. The petitioner is proposing drive thru site improvements to the existing single-lane drive thru to include a total of two (2) digital menu boards and two (2) digital pre-browse boards**

A motion was made (LC) and seconded (DT) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 2/11/22; staff comments from the Department of City Planning dated 2/4/21; 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.

Dan Allen, on behalf of the applicant, requested an administrative appeal as relates to the McDonalds. He discussed site improvements at the drive-thru, to include digital signs. He discussed the same during a screen sharing with the board, explaining the project plans. He noted there are no proposed building changes. He then discussed the proposed sign details and updated improvements to operations. He welcomed questions.

There was no response to Acting Chairperson Paleologos invitation to speak or be recorded in favor.

There was no response to Acting Chairperson Paleologos invitation to speak or be recorded in opposition.

Board Member Brown confirmed that the digital signs would allow employees to change the menu electronically once a day; that the proposed boards would not impact the health, safety and welfare of the public; that the proposed boards are digital display, nonetheless, the images will only change at set intervals, breakfast lunch menu; that the LED screen will not incorporate moving, flashing or intermittent lighting, and would not be obtrusive or distracting to its surrounding environment; and that similar to the existing menu board, the proposed digital board would face toward the existing shopping area and rear parking lot. The applicant affirmed.

Board Member Trahan inquired as to any proposed increase in employment. Applicant expressed the same level of employment would be maintained.

The hearing was declared closed.

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A motion was made (LC) and seconded (SB) to grant Administrative Appeal under provisions of the City Code of New Bedford, relative to the property located at 141 Coggeshall Street, Assessors' Map 93, Lot 276, in a Mixed-Use Business [MUB] zoned district, to grant the petitioner appeal for drive thru site improvements to the existing single-lane drive thru to include a total of two (2) digital menu boards and two (2) digital pre-browse boards. Motion to approve the administrative appeal and that the appeal 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.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances under Chapter 9, Sections 5220, and 5223. Under provisions of M.G.L Chapter 40A, Sections 7, 8 and 15 the board finds the following facts:

- The digital signs will allow employees to change the menus electronically once a day.
- The proposed boards would not negatively impact the health safety and welfare of the public.
- The applicant states that the proposed boards are a digital display, and the images will only change at said intervals breakfast menu to lunch menu.
- The applicant notes the LED screen will not incorporate moving, flashing or animated lighting and would not be obtrusive or distracting to its surrounding environment.
- Similar to the existing menu board, the proposed digital menu boards would face towards the existing shopping area and rear parking lot area, shielded by an existing mature hedgerow.
- Board must consider whether the determination of the zoning enforcement officer should stand or whether the applicant's petition should prevail.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes

Board Member Trahan - Yes

Board Member Brown - Yes

Board Member Schilling - Yes

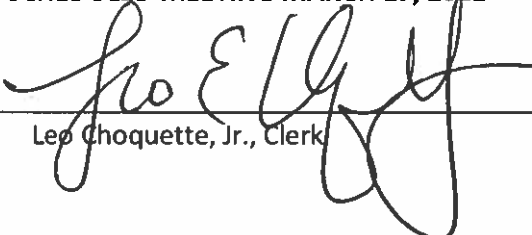
Board Member Choquette - Yes

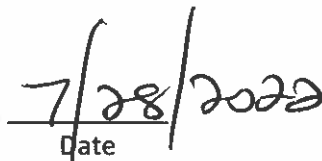
**Motion passed 5-0**

**ADJOURNMENT:**

Acting Chairperson Paleologos declared the meeting closed

**NEXT SCHEDULED MEETING MARCH 17, 2022**

  
\_\_\_\_\_  
Leo Choquette, Jr., Clerk

  
\_\_\_\_\_  
Date