



## City of New Bedford Department of City Planning

133 William Street · Room 303 · New Bedford, Massachusetts 02740  
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**MAYOR**  
JON MITCHELL

**PLANNING DIRECTOR**  
JENNIFER CARLONI

### 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 28, 2022

#### MINUTES

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

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

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

#### 1. CALL TO ORDER

Acting Chairperson Paleologos called the meeting of the City of New Bedford Zoning Board to order at 6:04 p.m.

A motion was then made (LS) and seconded to hold all meetings of the zoning board virtually until the December 2022 meeting.

#### ROLL CALL VOTE:

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

#### Motion passes 5-0

Acting Chairperson Paleologos then explained the meeting process, protocols and requirements.

#### 2. PUBLIC HEARINGS:

*Note: These are minutes only. A complete copy of the meeting audio is available on the City of New Bedford website at:  
<http://www.newbedford-ma.gov/cable-access/government-access-channel-18/program-schedule/>*

CITY CLERK  
2022 FEB 21 PM 3:30  
OFFICE OF THE CITY CLERK  
NEW BEDFORD, MA

**ITEM 1 – CASES #4481: Petition of: Harborview, LLC, C/O Lars Vinjerud II (20 Blackmer Street, New Bedford, MA 02744) for a Variance under Chapter 9, Comprehensive Zoning Sections 1200 (Definitions – Structure: a combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, flagpole, recreational tramway, mast for radio antenna or the like), 2300 (accessory building and uses), 2310 (general), 2330 (accessory structures), and 2333 (accessory buildings or structures shall not be erected over eighteen (18) feet in height, as measured from the mean average grade of the proposed location of the structure, prior to construction); relative to the property located at 226 Popes Island, Assessors’ Map 60, Lot 11, in a Mixed Use Business [MUB] zoned district. The petitioner is proposing the installation of a new 46 Ft. Flagpole per plans filed. \*Continued Agenda Item**

A motion was made (LC) and seconded (RS) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 5/6/22; staff comments from the Department of City Planning dated 5/2/22; 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.

Acting Chairperson Paleologos declared the hearing open and invited the applicant to address the board.

John Markey, Jr. on behalf of the applicant explained to the board he felt their application was straightforward, as a flagpole is called out as an accessory structure and one in excess of 18’ requires relief. He detailed their location in a marina on the ocean and their desire is to have it seen by those traversing the Fairhaven/New Bedford Bridge without visual impediment. Mr. Markey explained his client had secured an engineer for safety and has received approval from the Conservation Commission.

Mr. Markey explained the unique needs associated with the lot and their variance request. He addressed what he termed a hardship for his client in not being able to fly the American flag. He stated with regard to derogation that this doesn’t harm anyone else, and he has heard no opposition. He invited questions.

Board Member Brown noted his recusal from voting on this matter.

Board Member Trahan informed Mr. Markey of his right to continue the matter with only four votes available, making a unanimous vote necessary to pass. Mr. Markey stated his client wished to go forward this evening.

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.

With no further questions or concerns, the hearing was declared closed.

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A motion was made (LC) and seconded (DT) to grant a variance under provisions of the City Code of New Bedford, relative to the property located at 226 Popes Island, Assessors' Map 60, Lot 11, in a Mixed Use Business [MUB] zoned district, to allow the petitioner the installation of a new 46 Ft. Flagpole per plans filed, which requires a variance under Chapter 9, Comprehensive Zoning Sections 1200, 2300, 2310, 2330, and 2333. 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 relating to the soil conditions, shape or topography which especially effect the land or structure in question, but which do not effect generally the zoning district in which the land or structure is located. In this instance, the circumstances are that the applicant's property is 0.2-acre waterfront property on Pope's Island that operates a marina and general retail business. Due to the 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 literal enforcement of the ordinance would require the flag to be flown lower than surrounding sailboat masts. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning bylaw. And 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:**

Board Member Paleologos - Yes

Board Member Schilling – Yes

Board Member Choquette - Yes

Board Member Trahan - Yes

**Motion passes 4-0**

**ITEM 2 – CASE # 4491 - Petition of: Lee Miguel (3 North Street, Fairhaven, MA 02719) and Civil & Environmental Consultants, Inc., (31 Bellows Road, Raynham, MA 02767) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements - Appendix B, lot frontage ft.); relative to the property located at WS State Street, Assessors' Map 72, Lot 303, in a Residential B [RB] zoned district. The petitioner is proposing the construction of a single-family dwelling per plans filed.**

A motion was made (LC) and seconded (DT) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 7/20/22; staff comments from the Department of City Planning dated 7/1/22; 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.

Acting Chairperson Paleologos invited the petitioner to address the board.

Lee Miguel, 3 North Street, explained what he termed his hardship, namely 4' of frontage on a 9,300 s/f lot he seeks to build on.

Board Member Trahan noted the engineer lists it as 11' short.

Board Member Trahan confirmed when Mr. Miguel purchased the property and inquired as to his understanding at the time that the lot was not buildable. Mr. Miguel stated he was told at purchase that the over 8,000 s/f lot was a buildable lot. He stated the property was a disaster and he cleaned it up. He then hired SITEC Engineering to do plans and that brought them before the board. He stated the frontage was a whole different ballgame, and he found out when SITEC became involved.

In response to Acting Chairperson Paleologos' invitation to speak or be recorded in favor, Jose Vega, 170 State Street, after describing the area, stated he would like to see something put there that will make the neighborhood look nice.

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

Board Member Trahan inquired as to whether the building will be owner-occupied. He stated it will be a rental. Acting Chairperson Paleologos inquired as to number of bedrooms, which Mr. Miguel listed as three.

Acting Chairperson Paleologos declared the hearing closed.

After noting the available off-street parking, a motion (LC) was made (DT) and seconded to grant a variance under provisions of the City Code of New Bedford, relative to the property located at WS State Street, Assessors Map 72, Lot 303 in a residential B zoned district, to allow the petitioner to construct a single family dwelling per plans filed, which requires a variance under provisions of Chapter 9, Comprehensive Zoning Sections 2700, 2710, 2720. 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 relating to the soil conditions, shape or topography which especially effect the land or structure, but which do not effect generally the zoning district in which the land or structure is located. In this instance, the circumstances are that the lot is larger than most adjacent lots and none of them meet the 75' frontage requirement. Due to the 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

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petitioner or appellant. In this case, the hardship is that literal enforcement of the ordinance would make the lot unbuildable. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning bylaw. And 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:**

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

**Motion passes 5-0**

Board Member Trahan informed Mr. Miguel regarding the right of appeal process and recording.

After consultation with Laura Ryan, a motion was made (LC) and seconded (SB) to receive and place on file communication dated 7/22/22 by Steve Gioiosa, which was read into the record, requesting a continuance of Case #4492 to the August 2022 meeting.

**ROLL CALL VOTE:**

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

**Motion passes 5-0**

There were public comments regarding virtual/in-person hearings, access and notice, the board providing input to the public on the same.

**3. ACCEPTANCE OF MINUTES**

A motion was made (DT) and seconded (SB) to accept the January 20, 2022, meeting minutes.

**ROLL CALL VOTE:**

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

**Motion passes 5-0**

A motion was made (DT) and seconded (RS) to accept the February 17, 2022, meeting minutes.

**ROLL CALL VOTE:**

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

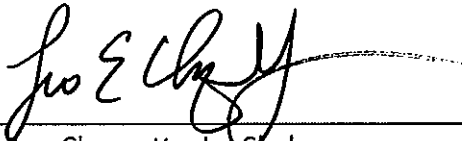
**Motion passes 5-0**

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**4. ADJOURNMENT:**

Acting Chairperson Paleologos declared the meeting adjourned at 6:41 p.m.

**NEXT SCHEDULED MEETING AUGUST 18, 2022**



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Leo Choquette, Jr., Clerk

\_\_\_\_\_  
2/21/23

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Date