



**MAYOR**  
JON MITCHELL

**PLANNING DIRECTOR**  
JENNIFER CARLONI

## City of New Bedford Department of City Planning

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

### ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS  
NEW BEDFORD MAIN LIBRARY  
3<sup>rd</sup> FLOOR MEETIN ROOM  
PLEASANT STREET  
NEW BEDFORD, MA  
Thursday, November 17, 2022

2022 FEB 21 PM 3:30  
CITY CLERK

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

**ABSENT:** None

**STAFF:** Laura Ryan, *Staff Planner*  
Jennifer Carloni, *City Planner*  
Danny Romanowicz, *Commissioner of Buildings, and Inspectional Services*  
Eric Jaikes, *Assistant City Solicitor*

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

Chairperson Parrish called the meeting of the City of New Bedford Zoning Board of Appeals to order at 6:05p.m. Chairperson Parrish then noted the meeting's required stop time. She explained for all in attendance that two cases will be continued to the December 15, 2022, meeting. Chairperson Parrish then explained the meeting process, procedures, and requirements.

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

**ITEM 1 – CASES #4454:** Attorney Christopher T. Saunders on behalf of Dwayne Jackson & Deborah C. Jackson (278 Union Street, New Bedford, MA 02740) requests an extension of the Zoning Board of Appeals decision approving Case #4454 for a Special Permit with conditions recorded November 30, 2021; relative to property located at 278 Union Street, Assessors' Map 46, Lot 18 in a Mixed Use Business [MUB] zoned district. The applicant states a condition of the Special Permit was that it must be exercised by the issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date of the decision. Due to the delay in securing the appropriate financing for the project, the project has

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been unable to commence as anticipated. The applicant seeks an extension of the decision for an additional one-year period in order to allow for the project to commence.

A motion was made (CP) and seconded (RS) to open the public hearing.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes  
Chairperson Parrish – Yes  
Board Member Choquette - Yes

Board Member Schilling – Yes  
Board Member Brown – Yes

**Motion passed 5-0**

A motion was made (LC) and seconded (SB) to receive and place on file the request for extension letter from Attorney Christopher T. Saunders dated 10/18/22 wherein the applicant seeks a one-year extension of the special permit.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes  
Chairperson Parrish – Yes  
Board Member Choquette - Yes

Board Member Schilling – Yes  
Board Member Brown – Yes

**Motion passed 5-0**

Attorney Christopher T. Saunders explained to the board the circumstances surrounding the request, noting a Planning Board extension they had received. He explained their expectation of forthcoming funds and requests a one-year extension. He expressed his clients' gratitude for the support of the project they have received.

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

A motion was made (LC) and seconded (CP) to grant the request for a one-year extension.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes  
Chairperson Parrish – Yes  
Board Member Choquette - Yes

Board Member Schilling – Yes  
Board Member Brown – Yes

**Motion passed 5-0**

**ITEM 2 – CASES #4506:** Petition of: Fernando J Pacheco (86 Water Street, New Bedford, MA 02744) and Jennifer Couto (41 White Oak Run, Dartmouth, MA 02747) for a Variance under Chapter 9, Comprehensive Zoning Sections 2700 (dimensional regulation), 2710 (general), 2750 (yards in residence district), 2753 (rear yard); relative to the property located at ES Shawmut Avenue, Assessors' Map 124C, Lot 32, in a Mixed Use Business [MUB] zoned district. The petitioner is proposing the construction of a single-family dwelling per plans filed.

A motion was made (LC) and seconded (CP) to open the public hearing.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes  
Chairperson Parrish – Yes  
Board Member Choquette - Yes

Board Member Schilling – Yes  
Board Member Brown – Yes

**Motion passed 5-0**

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A motion was made (LC) and seconded (RS) to receive and place on file the request to continue from Attorney Mike Medeiros dated 11/16/22.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes

Board Member Schilling – Yes

Chairperson Parrish – Yes

Board Member Brown – Yes

Board Member Choquette - Yes

**Motion passed 5-0**

In light of the request received from the applicant, a motion was made (LC) and seconded (CP) to continue the case to the December 15, 2022, meeting.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes

Board Member Schilling – Yes

Chairperson Parrish – Yes

Board Member Brown – Yes

Board Member Choquette - Yes

**Motion passed 5-0**

**ITEM 3 – CASE # 4507 - Petition of: SMRE 61, LLC (100 Duchaine Blvd, New Bedford, MA 02745) and Parallel Products Solar Energy, LLC (401 Industry Road, Louisville, KY 40208) for a Variance under Chapter 9, Comprehensive Zoning Sections 2000 (use and dimensional regulation), 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements - Appendix B, side yard ft.); relative to the property located at 61 John Vertente Boulevard, Assessors' Map 133, Lot 47, in an Industrial C [IC] zoned district. The petitioner is proposing the erection of two solar "carports" per plans filed.**

A motion was made (SB) and seconded (CP) to open the public hearing.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes

Board Member Schilling – Yes

Chairperson Parrish – Yes

Board Member Brown – Yes

Board Member Choquette - Yes

**Motion passed 5-0**

A motion was made (LC) and seconded (RS) to receive and place on file the request to continue from Attorney Michael Kehoe dated 11/16/22.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes

Board Member Schilling – Yes

Chairperson Parrish – Yes

Board Member Brown – Yes

Board Member Choquette - Yes

**Motion passed 5-0**

In light of the request received from the applicant, a motion was made (LC) and seconded (RS) to continue the case to the 12/15/22 meeting.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes

Board Member Schilling – Yes

Chairperson Parrish – Yes

Board Member Brown – Yes

Board Member Choquette - Yes

**Motion passed 5-0**

**ITEM 4 – CASE #4501 - Petition of: Tetrault Real Estate LLC (161 Wilbur Avenue, Somerset, MA 02725) & Michael Brier, Recovery Connection Centers of America, Inc., (381 Wickenden Street, Providence, RI 02903) for a Special Permit under Chapter 9, Comprehensive Zoning Sections 2200 (use regulations), 2210 (general), 2230 (table of use regulations – Appendix-A, Commercial: #25 – Medical offices, center, or clinic); relative to the property located at 268-270 Union Street, Assessors’ Map 46, Lot 20, in a Mixed Used Business [MUB] zoned district. The petitioner is proposing to operate a medical clinic named “Recovery Connection Centers of America” per plans filed. \*Continued Agenda Item from October 20, 2022**

A motion was made (CP) and seconded (SB) to open the public hearing.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes  
Chairperson Parrish – Yes  
Board Member Choquette - Yes

Board Member Schilling – Yes  
Board Member Brown – Yes

**Motion passed 5-0**

A motion was made (LC) and seconded (RS) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated 10/13/22; staff comments from the Department of City Planning dated 10/2/22; application cover letter and memorandum of law from Attorney Benjamin Fierro III of 8/17/22; letter in opposition from Attorney Michael J. Livingstone dated 10/7/22; letter in opposition from the New Bedford City Council dated 10/19/22; letter in opposition from Councilor Morad dated 10/20/22; second letter in opposition from Attorney Michael J. Livingstone dated 11/2/22; letter in support from Robert Ransbottom dated 10/16/22; letter in support from Monika Schuler dated 10/31/22; letter in support from Dr. Robert Friedman M.D. dated 10/31/22; 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.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes  
Chairperson Parrish – Yes  
Board Member Choquette - Yes

Board Member Schilling – Yes  
Board Member Brown – Yes

**Motion passed 5-0**

Attorney Benjamin Fierro, representing applicant Recovery Centers of America, explained to the board his service as a zoning board member himself, noting his familiarity with the criteria necessary for the granting of a special permit. He detailed some history, including a prior request for reasonable accommodation waiving certain zoning requirements for operation of a medical office at the location, to which he states he received no response. They were then encouraged to apply for special permit to operate a medical office in this mixed-use district.

Attorney Fierro stated his belief that as a matter of law they needn’t appear but sought to present their case in a public forum.

He addressed a newspaper story referring to the project as a methadone clinic, which he denies it is. He stated that Recovery Centers of America operates numerous medical centers in thirteen locations across Massachusetts and Rhode Island, in numerous communities. Reiterating this is a

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medical practice owned by a physician. Attorney Fierro explained this is referred to as office-based opioid/addiction treatment, detailing the same, to include counseling for this "whole person" approach. He detailed the office staffing positions, noting the standard appointment-based services. He explained the screening process for clients and the additional services they can receive, to include injectable treatment to the named individual only. He stated 85-90% of patients pick up their drug at a pharmacy. He provided information on typical methadone clinics, noting this is instead a doctor's office.

He referred the board to the Recovery Centers of America website and highlighted its contents, including the limited hours for the part-time doctors. He discussed the anticipated opening as well as patient/staff numbers.

He stated he would refrain from citing the legal issues related to the American with Disabilities Act, which he set out in his memorandum and letter.

Attorney Fierro then discussed criteria which must be met to grant the special permit. He stated medical offices are an allowed use in a mixed use/business district, which this is. He noted the prior use as a law firm which had the same parking. He then drew the board's attention to the architect plan and explained interior reconfigurations to include a handicap accessible bathroom. He stated the need and benefit is great, citing statistics. He stated the site is appropriate for this doctor's office. He addressed his position on community needs met. Attorney Fierro spoke on parking and loading as well as neighborhood impacts and existing utilities. He noted the neighborhood is zoned for mixed-use business and abutting properties are commercial uses. He then covered the lack of impacts, including city services and tax base, and his client's reduction in medical and emergency public safety circumstances. He noted employment opportunities.

He referred the board to his legal memorandum and invited questions.

Board Member Schilling discussed the injectable form of Suboxone as well as injectable Vivitrol, as well as the need for the patient to procure most of the medication off-site. Board Member Schilling inquired as the applicant's knowledge of the street value of such a prescription, to which Attorney Fierro responded he did not know the cost or see the relevance. There was further discussion on Suboxone abuse.

Board Member Paleologos inquired as to any established medication monitoring. There was discussion on such issues as follow-up visits, prescription renewal, screening, et cetera.

Board Member Brown noted the clinic's intention to distribute only two drugs and asked about relationship with the Suboxone manufacturer. Attorney Fierro stated this board would not be inquiring as to any other doctor's office medication prescriptions, and this office should not be treated any differently.

Board Member Brown stated his offense at the implication that his client is being treated any differently from any other business with some sort of inherent prejudice. Board Member Brown provided further comment about any perceived discrimination, as well as what he termed the applicant's mischaracterization. Board Member noted he had read the memo from Attorney

Fierro but did not feel the proposed service warrants an exemption from zoning codes. Board Member Brown further discussed related issues.

Jen Carloni, City Planner provided guidance on moving forward from board commentary. Solicitor Jaikes noted questions at this point are appropriate, but opinions at this point are not.

Chairperson Parrish tried to confirm that Attorney Fierro stated he anticipates between 15-25 patients.

Michelle Nicholas, director community outreach for Recovery Connection, discussed patient load of up to 25 daily patients, hours of operation, on-site employees/staff. Parking on-site and in the area was then discussed.

Chairperson Parrish inquired as to the busyness of this proposed location and whether the applicant's other facilities are in busy downtowns or strip malls. Ms. Nicholas responded, noting the need for easy site access. Chairperson Parrish assured the applicant she would ask such questions of any busy medical or other type office. Attorney Fierro commented on suburban sites.

Board Member Choquette expressed respect for the services provided but had concerns about this location and traffic. Attorney Fierro noted the project is a low intensity use and again walked through the patient process. He again stated that the efficacy of the drugs that would be provided is not relevant.

Board Member Choquette expressed concern about ambulance access to the area in the event of a medical emergency. Attorney Fierro again reiterated that in 90% of cases the office is not dispensing any medication. Attorney Fierro noted the clients per day for the previous lawyer's office on the site was difficult to judge.

Chairperson Parrish stated the concerns is that the building requires 22 parking spaces, and the two available will be used by staff. That circumstance requires considering daily patient load.

Dr. Regis Burliss, RCCA President, noted the incredibly small risk of needing an ambulance and the precautions/preparations the office would take. He inquired as to the objection to Suboxone. Board Member Brown noted the various clinics within the area, stating he was unaware of any that sourced only one drug manufacturer. Mr. Burliss stated there is no financial arrangement, noting Suboxone is now off trademark. Board Member Schilling again inquired as to the street value.

Board Member Paleologos discussed the downtown's homeless population, and her concern that they would gravitate to this type of place, along with her traffic concerns.

Mr. Burliss expressed these clients look like anyone and are already at grocery stores and restaurants. He stated patients are generally scheduled every 15 minutes.

Board Member Parrish acknowledged the relevance of the problem and expressed concern about the ease of access to the building and emergency access. She noted the concerns would be the same were Southcoast Health opening an office at that location with this parking availability.

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Attorney Fierro discussed state identified hot spots such as this and the remote chance for a medical event.

Chairperson Parrish offered Attorney Fierro the letters of support and opposition. She had the letters read into the record by Board Member Choquette. Initially letters of support were read to include letters from Dr. Robert Friedman, Dr. Monika Schuler, Abutter Robert Ransbottom and the Quakers.

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

Chairperson Parrish had Board Member Choquette read letters of opposition into the record to include correspondence from the City Council, as well as Councilor Brian Gomes, Councilor Linda Morad, Chief Paul Oliveira New Bedford Police, New Bedford Fire Department Acting Chief Emergency Services, letters from Attorney Michael J. Livingstone. There was clarification by Mrs. Carloni that the Police and Fire letters are to be considered Departmental comment letters not opposition letters.

In response to Chairperson Parrish's invitation to speak or be recorded in opposition Ward 4 Councilor Derek Baptiste expressed issues with the amount of parking at this proposed location versus their other locations. He noted the city's homeless and opioid problems but did not see service at this location as the cure. He noted two additional councilors had been present that had to leave.

In response to Chairperson Parrish's further invitation to speak or be recorded in opposition Harold Cooper, an abutter at 272 Union Street, he addressed the parking issue, explaining his familiarity with the neighborhood and parking incidents within it.

In response to Chairperson Parrish's further invitation to speak or be recorded in opposition James Kalkanis, accompanied by his uncle Bill Papas, discussed his business at 280 Union Street. He stated that while respecting the great work being done, his family has been doing business at this location for 50 years during all the changes up and down. He stated as an immediate longstanding business abutter this proposal is very concerning to himself and surrounding businesses. He commented with positivity on the city's revitalization efforts. He stated he believes this project located downtown will negatively impact the growth experienced that the city has invested so much time and work in.

In response to Chairperson Parrish's further invitation to speak or be recorded in opposition Elissa Paquette, a downtown business owner at 173 Union Street, expressed her opposition. While not being opposed to the services provided, she believes this to be a suboptimal use of limited Union Street business space downtown, which she hopes would be used by a restaurant or store. She is hopeful the petitioner will find help acquiring another location for their services.

In response to Chairperson Parrish's further invitation to speak or be recorded in opposition Brandon Roderick, the nearby New Bedford Baker owner, echoed prior comments and related personal experience, agreeing that this is the wrong use for this downtown location. He echoed serious concerns about parking and expressed his opposition. He wished the petitioner luck in finding a better location.

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In response to Chairperson Parrish's further invitation to speak or be recorded in opposition Jennifer Cardoza, downtown business owner, echoed the comments of prior downtown business owners as well in opposition, feeling this is not the proper location for this facility. She noted the effect to her business of those hanging out in Wings Court, which her patio abuts. She stated she does not believe downtown is the appropriate location for this facility.

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

Chairperson Parrish offered the petitioner an opportunity for rebuttal. Attorney Fierro referred to letters of opposition stating some facts he believes he has corrected in the record tonight. He addressed the parking concerns, noting the availability of on-street parking meters. He thanks the board for their time and consideration.

Chairperson Parrish offered rebuttal to any designated speaker for those in opposition.

Board Member Paleologos inquired as to any search of alternative locations the petitioner had undertaken.

Michelle Nicholas, a New Bedford resident, stated that the petitioner had looked at other sites and expressed her familiarity with both the city and area zoning, which limits the availability of medical service locations. She welcomed suggestions from the board.

Chairperson Parrish commented on the extensive time and work the petitioner has put into the project for this extremely important service. She expressed her concern on the location, to include drop-offs at the top of Union Street, as well as surrounding one ways. She raised concern over potential need for emergency medical services, regardless of the type of medical facility looking to locate at the top of Union Street.

Board Member Brown commended the heroic application but noted that after hearing the letters and people who spoke against the petition, he would not be voting in favor based solely on that, along with guidance from fire and police departments. He specifically noted the overriding set of facts underlying his vote are traffic flow and safety as well as parking and loading.

Board Member Schilling referred to concerns about neighborhood character and his familiarity with the Downtown neighborhood, being a resident of the same. While acknowledging the importance of Suboxone treatment, he stated he believed 90% of those surviving addiction do so with 12-step programs. He concurred on Wings Court incidents and the quality of life downtown. He referenced traffic issues as also making this the wrong location for this facility.

Board Member Paleologos stated she would not be bothered by the presence of the facility, but of the lack of parking. She noted her work in recovery and feels strongly about its location be on a bus route. She too stated she did not feel downtown was the appropriate location.



Board Member Choquette related being affected by addiction in his family and applauded the petitioners. He noted concerns about parking and emergency vehicle access as well. He felt this location was being shoehorned and that other locations need to be looked into.

A motion was made (SB) and seconded (CP) to close the public hearing

**ROLL CALL VOTE:**

Board Member Paleologos - Yes

Board Member Schilling – Yes

Chairperson Parrish – Yes

Board Member Brown – Yes

Board Member Choquette - Yes

**Motion passed 5-0**

The hearing was declared closed.

A motion was made (LC) and seconded (RS) to make the following findings of fact:

- Applicant seeks to operate a medical clinic for the treatment of individuals recovering from opioid abuse disorder, a recognized handicap under the Americans with Disabilities Act.
- Appointments must be made in advance. The applicant will not allow walk-in services.
- Services provided at the facility will generally be limited to medical consultation and counseling of individual patients, including establishing treatment plans and issuing prescriptions.
- Daily medication will not be administered onsite. Occasionally individual patients may receive monthly injections at the facility. The medication for such injections will be ordered for such specific patients and will not generally be kept in stock at the facility. Such medication is administered for the purpose of suppressing cravings.
- Appointments will be scheduled to ensure there will be no queuing of patients outside the facility. Applicant will ensure that there is no loitering of patients outside the facility before or after their scheduled appointments.
- We have discussed a lack of adequate parking.
- Poor access for safety and ambulatory access issues.
- Review of letters of opposition from New Bedford City Council and vocal opposition from several adjacent area business owners.

Chairperson Parrish explained this vote is on the findings of fact.

**ROLL CALL VOTE:**

Board Member Paleologos - Yes

Board Member Schilling – Yes

Chairperson Parrish – Yes

Board Member Brown – Yes

Board Member Choquette - Yes

**Motion passed 5-0**

Jen Carloni, City Planner offered clarification on the motion and voting process.

A motion was made (LC) and seconded (CP) to grant a special permit under provisions of the City Code of New Bedford and as a reasonable accommodation pursuant to the Americans with Disabilities Act and the Federal Rehabilitation Act , relative to the property located at 268-270 Union Street, Assessors' Map 46, Lot 20, in a Mixed Used Business [MUB] zoned district, to allow the petitioner to operate a medical clinic named "Recovery Connection Centers of America" per

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plans filed, which requires a Special Permit under Chapter 9, Comprehensive Zoning Sections 2200, 2210, 2230–Appendix-A.

In accordance with City of New Bedford Code of Ordinances Chapter 9, Sections 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 or community needs served by the proposal; traffic flow and safety, including parking and loading; adequacy of utilities and other public services; neighborhood character and social structures and impacts on the natural environment.

In accordance with the Americans with Disabilities Act and the Federal Rehabilitation Act, the board finds approving the requested accommodation is necessary to avoid discriminatory treatment of the applicant's proposal to treat people with disabilities as compared to other types of medical clinics approved in the city. The Board further finds that granting the requested accommodation will not cause any undue fiscal or administrative hardship to the city provided that the applicant adheres to the materials submitted with its application and the conditions set forth below.

Finally, the Board finds that approving the proposed medical clinic, a use authorized by special permit under the zoning ordinance, will not undermine the basic purpose of the zoning ordinance. 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.
- All operations shall be conducted by appointment only and no walk-in visits shall be permitted.
- No queuing of patients outside the building shall be permitted.
- Applicant shall ensure that patients do not loiter outside the building.
- Daily medication shall not be dispensed onsite. Occasionally monthly medication administered via injection may be administered onsite. Such medication shall not be kept in stock at the facility but will be ordered on a case-by-case basis for specific patients.

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:**

Board Member Paleologos – No  
Chairperson Parrish – No  
Board Member Choquette - No

Board Member Schilling – No  
Board Member Brown – No

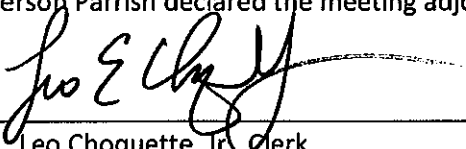
**Motion failed 0-5**

With no minutes to approve, Chairperson Parrish noted the next **scheduled meeting will be held on December 15, 2022.**

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**4. ADJOURNMENT:**

Chairperson Parrish declared the meeting adjourned at 8:02 p.m.

  
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Leo Choquette, Jr., Clerk

2/21/23  
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Date