



**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  
VIRTUAL MEETING  
Thursday, May 19, 2022

#### MINUTES

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

**ABSENT:** None

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

OFFICE OF THE CITY CLERK  
NEW BEDFORD, MA  
2023 NOV 16 AM 10:56  
CITY CLERK

#### 1. CALL TO ORDER

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

#### 2. PUBLIC HEARINGS:

##### ITEM 1 – CASES #4438/#4439:

**CASE #4438 - Request for Extension.** Gerry Kavanaugh CEO CMK Development Partners on behalf of St. Lawrence Church Corp Parsonage (2 Centennial Drive, Peabody, MA 01960) requests an extension of the Zoning Board of Appeals decision approving Case #4438 for a Special Permit with conditions recorded May 28, 2021; relative to property located at 563 County Street, Assessors' Map 58, Lot 259 in a Mixed Use Business [MUB] zoned district. The applicant states that due to the effects of the Covid-19 Pandemic, the applicant has been unable to commence the project 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.

**CASE #4439- Request for Extension.** Gerry Kavanaugh CEO CMK Development Partners on behalf of St. Lawrence Church Corp Parsonage (2 Centennial Drive, Peabody, MA 01960) requests an extension of the Zoning Board of Appeals decision approving Case #4439 for a Variance with conditions recorded May 28, 2021; relative to property located at 563 County Street, Assessors' Map 58, Lot 259 in a Mixed Use Business [MUB] zoned district. The applicant

*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/>*

states that due to the effects of the Covid-19 Pandemic, the applicant has been unable to commence the project 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 (LC) and seconded (RS) to receive and place on file the request for extension dated May 11, 2022, wherein the applicant seeks a one-year extension to allow for the conversion of the exiting building into 15 residential units.

Motion passed unopposed.

Chairperson Parrish informed the public that the request (special permit) has been granted and that the request for extension on Case #4439 (variance) is no longer needed.

**ITEM 2 – CASE #4446** - Request for Extension. Christopher Gilbert of Farland Corporation on behalf of Faria & Oliveira Properties LLC requests an extension of the Zoning Board of Appeals decision approving Case #4446 for a Variance with conditions recorded May 28, 2021; relative to property located at 55 Pequot Street, Assessors' Map 136A, Lot 884 in a Residential A [RA] zoned district. The applicant states that an Order of Conditions has been issued by the Conservation Commission and the City requested design revisions or unforeseen delays could prevent the issuing of the building permit prior to the variance expiration. The applicant seeks an extension of the decision for an additional 6-month period in order to allow for the project to commence.

A motion was made (LC) and seconded (CP) to receive and place on file the request for extension letter dated May 10, 2022, wherein the applicant seeks a six-month extension to allow for construction of a single-family dwelling.

Motion passed unopposed.

Chairperson Parrish informed the petitioner that the extension request has been granted.

**ITEM 3- CASE #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.

A motion was made (LC) and seconded (RS) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated May 6, 2022; staff comments from the Department of City Planning dated May 2, 2022; 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

*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/>*

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 and noted that Board Member Brown is recusing himself. She confirmed the remaining quorum and offered an extension to the petitioner to be heard before the full board. The petitioner did not respond.

**ITEM 4 – CASE #4482 - Petition of: Lori & Robert Pinard (43 Seymour Street, New Bedford, MA 02744) for a Variance under Chapter 9, Comprehensive Zoning Sections 2710 (general), 2720 (table of dimensional requirements - Appendix B, side yard ft.), 2750 (yards in residence district), 2755 (side yard) and Generators (Must be in the rear yard); relative to the property located at 43 Seymour Street, Assessors' Map 4, Lot 122, in a Residential A [RA] zoned district. The petitioner is proposing the installation of a generator located in the side yard per plans filed.**

A motion was made (LC) and seconded (RS) to receive and place on file the communication from the Commissioner of Buildings & Inspectional Services dated May 6, 2022; staff comments from the Department of City Planning dated May 2, 2022; letter in opposition from Christine Parkinson dated May 9, 2022; reference photos submitted by the applicant on May 11, 2022; 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 and invited the petitioner to address the matter before the board.

Bob Pinard explained their request for approval to locate a generator on the side of their property as opposed to the rear of the house. He explained their future plans for addition work on the house to include a bedroom in back of the house. He noted they were initially unaware of any zoning issue until applying for the permit, and therefore are seeking a variance. He noted the cement pad sitting on a gravel base and the adherence to requirements for setbacks, adding that they will have shrubbery around it along with fencing. He noted the cost increase associated with locating the unit in the rear of the house, which they are not prepared for.

Board Member Brown inquired as to a neighbor with a generator. The petitioner noted that placing the proposed generator in the rear of the residence brings it even closer to the home behind them. Board Member Brown confirmed the timeframe for building onto the rear of the residence. The petitioner explained the same. Board Member Brown raised the claim that this would obstruct ocean views as well as create fear regarding carbon monoxide and explained his reasonings on the same.

Board Member Schilling inquired as to noise and the times the generator runs. Mr. Pinard addressed the same, noting the infrequency.

In response to Chairperson Parrish's invitation to speak or be recorded in favor, Antonio Nogueira, neighbor, stated he had no issues and does not see any view obstruction.

In response to Chairperson Parrish's further invitation to speak or be recorded in favor, Mark Nowell, neighbor at 62 Hudson Street, stated he had no issues after researching the generator brand for noise.

There was a male public participant who questioned the decibel levels. Chairperson Parish explained that what is before the board is a setback issue, decibels being outside of their consideration.

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

The hearing was declared closed.

After brief remarks by Board Member Brown, and there being no further discussion, a motion was made (LC) and seconded (RS) to grant a variance under provisions of the City Code of New Bedford, relative to the property located at 43 Seymour Street, Assessors' Map 4, Lot 122, in a Residential A [RA] zoned district, to allow the petitioner to install a generator located in the side yard per plans filed, which requires a variance under provisions of Chapter 9, Comprehensive Zoning Sections 2710, 2720 - Appendix B, 2750 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 the generator installation is on top of a concrete slab, sits upon a gravel bed surrounded by grass and shrubbery and will be concealed by fencing. 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, excessive additional costs estimated at over \$8,000 for digging trench and extending gas piping, electrical et cetera. The desirable relief may be granted without nullifying or substantially derogating from the intent of purpose of the zoning bylaw. A located generator on the side meets standard installation and safety operation requirements and views will be concealed by fencing and horticulture. Desirable relief may be granted without substantial detriment to the public good. During the limited times the generator is running, a side location only impacts one neighbor with an existing generator. A backyard location would impact three neighbors.

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.

*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/>*

**ROLL CALL VOTE:**

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

Board Member Schilling – Yes  
Chairperson Parrish – Yes

**Motion passed 5-0**

Chairperson Parrish confirmed there is still no one present to respond to Case #4481. At the Chairperson's request and noting Board Member Brown's recusal on the matter, a motion was made (LC) and seconded (RS) to continue this matter to the June 16, 2022, meeting.

**Motion passed unopposed.**

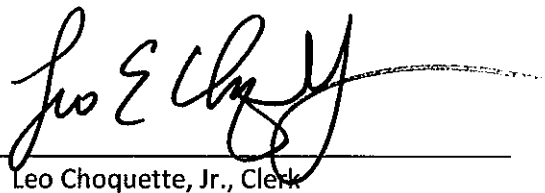
**3. OTHER BUSINESS:**

A motion was made (RS) and seconded (SB) to approve the meeting minutes.  
Motion passed unopposed.

**4. ADJOURNMENT:**

Chairperson Parrish declared the meeting adjourned at 6:34 p.m.

**NEXT SCHEDULED MEETING JUNE 16, 2022**

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

\_\_\_\_\_  
11/2/23  
Date