

**ZONING BOARD OF APPEALS
NEW BEDFORD CITY HALL
WILLIAM STREET
NEW BEDFORD, MA
Thursday, January 19, 2017**

CITY CLERKS OFFICE
NEW BEDFORD, MA
2017 APR 28 P 2:10
CITY CLERK

MEETING MINUTES

PRESENT: Leo Schick (*Acting Chairperson*)
John Walsh (*Acting Clerk*)
Sherry McTigue
Robert Schilling

ABSENT: Debra Trahan
Allen Decker

STAFF: Dan Romanowicz, Commissioner Inspectional Services
Jennifer Gonet, *Assistant Project Manager*

1. CALL TO ORDER

Acting Chairperson Schick called the meeting of the City of New Bedford Zoning Board to order at 6:05 p.m. and explained the process and protocols to those in attendance. Acting Chairperson Schick notified those on the agenda that there were four members present, and as such petitioners would need a unanimous vote. He offered petitioners the opportunity to continue their hearing to a meeting with five board members. All petitioners indicated they would proceed.

2. PUBLIC HEARINGS

ITEM 1: Case #4261- Petition of: Norbeto C. and Lucilia C. Moniz (36 Rogers Street New Bedford, MA) for a Variance under Chapter 9 Comprehensive Zoning sections 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional regulations-appendix-B, side yards), 2750 (yards in residence districts) and 2755 (side yards-driveways may extend to four (4') feet of a side yard); relative to property located at 36 Rogers Street, assessor's map 55 lot 187 in a residential B [RB] zoned district. The petitioners seek approval of a driveway that was installed without the required four foot (4') buffer as plans filed.

A motion was made (JW) and seconded (SM) that the following be received and placed on file: the communication dated 12/29/16 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner, dated 1/19/17; the appeal package; the plan submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the

lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Acting Chair Schick declared the hearing open.

Lucilla Moniz stated she was here seeking a driveway.

Acting Chair Schick clarified with Ms. Moniz that she was seeking approval of a driveway installed without the 4' buffer as included in the plans filed, now requiring a variance. Ms. Moniz confirmed.

In response to Mr. Schilling's question about any objection by abutters, Mr. Walsh noted a letter from abutter Patricia Mahoney dated 11/17/16.

Ms. McTigue stated that the water runoff was the main issue, absent the 4' buffer. Lance Moniz stated the slope of the driveway takes the water right to the street. He also noted the abutters land slopes and is higher.

Ms. McTigue noted the plans were filed with knowledge of the required 4' buffer. Mr. Moniz stated the permits were picked up by the contractor and they had no knowledge that it needed a 4' buffer. Mr. Moniz confirmed to Ms. McTigue that there was green space.

In response to Acting Chair Schick's invitation to speak favor, Jessica Pinho spoke on behalf of State Representative Tony Cabral. She stated that Representative Cabral wished to voice his support of Ms. Moniz' petition and is hopeful the board will vote in favor.

There was no response to Acting Chair Schick's further invitation to speak or be record in favor.
There was no response to Acting Chair Schick's invitation to speak or be record in opposition.

At Mr. Walsh's invitation, Mr. Romanowicz stated the inspector who went to sign off on the project noted the driveway was absent the required buffer. He stated the requirement is written on the permits to avoid these situations. He noted that the board seems to be seeing this issue more.

Mr. Walsh stated that perhaps the board has been somewhat lenient in the past, but based upon what was submitted by the applicant, he does not believe she meets the requirements to receive a variance. Mr. Walsh noted the petitioner's representation that knowing prior to the work being done that the neighbor's land was higher, and the applicant stated the 4' buffer zone would create a depression for settling water. Mr. Walsh stated he did not believe a buffer would necessarily do that, in light of grading, et cetera. He felt the conditions of the permit were ignored, and the applicant has not met the requirements to grant the variance.

In response to discussion, the result of not granting the variance would require the removal of 4' of the driveway. Ms. McTigue noted that the requirement of the 4' buffer is for the ground to absorb some of the ground water to avoid overtaxing the city storm water system.

Mr. Schilling added that had the neighbor been silent on the issue that would be one thing. But with the neighbor's letter being received, it is different. Mr. Schilling stated he appreciates the enforcement of the requirements, but feels it's a high price for Ms. Moniz to pay for a mistake made by Reis Asphalt. Mr. Moniz stated that after receiving the letter that the work did not meet code, the contractor reviewed the drawings and discovered he had made the error.

Mr. Schilling stated the removal of the four feet would likely result in suing the contractor. He felt there was adequate runoff even absent the 4' buffer. Ms. McTigue noted the space was not buildable.

In response to Acting Chair Schick, Ms. Moniz explained that she had changed contractors from Morgado to Reis and was told she did not need another permit. Mr. Moniz stated that after speaking with the contractor's secretary they admitted they would remove it if necessary.

Acting Chair Schick closed the hearing.

After further board discussion, a motion is made (JW) and seconded (RS) to approve the variance to allow the petitioner approval of a driveway installed without the required four foot (4') buffer as plans filed, which requires a variance under Chapter 9 Comprehensive Zoning Sections 2700, 2710, 2720, 2750 and 2755 relative to property located at 36 Rogers Street, assessor's map 55 lot 187 in a residential B [RB] zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances, Chapter 9 Comprehensive Zoning Sections as cited, the board finds with respect to these sections that there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. These circumstances are that according to the applicant before the work was done the neighbor's grass was higher in elevation than the applicant's and that a 4' buffer zone would create a depression for water to settle. And that due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case, that hardship, according to the petitioner, is that a 4' buffer would create a depression that would allow ice and water to accumulate. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or by-law. And that desirable relief may be granted without substantial detriment to the public good. Therefore, this motion as made includes the following conditions: that the Notice of Decision be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year from the date of decision.

Roll-call vote as follows:

Acting Chairperson Schick – Yes

Board Member McTigue – Yes

Acting Clerk Walsh – No

Board Member Schilling - Yes

Fails – 3-1

ITEM 2 – Case #4262 - Petition of: Robert J. and Pauline A. Bowcock (290 Maple Street New Bedford, MA) for a Variance under Chapter 9 Comprehensive Zoning sections 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional regulations-appendix-B, Rear yards), 2750 (yards in residence districts), and 2753 (rear yard); relative to property located at 290 Maple Street, assessor's map 44 lot 79 in a residential A [RA] zoned district. The petitioner proposes to erect an addition and a 20'x20' deck as plans filed.

A motion was made (JW) and seconded (SM) that the following be received and placed on file: the communication dated 12/29/16 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner, dated 1/19/17; the appeal package; the plan submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Acting Clerk Walsh noted a letter dated 1/5/17 received from City Councilor Winterson, which then was motioned (JW) and seconded (SM) to be received and placed on file. Motion passed unopposed.

The letter was read into the record.

Acting Chair Schick declared the hearing open.

Robert Bowcock of 290 Maple Street stated that he and his wife have lived in this 100 year old house since 1984. He stated he is proposing to put a one-story addition onto the west side of the house located on this unique piece of property. He stated the way the house currently sits on the lot encroaches within the 30' buffer required by current zoning, but does meet the side and front yard requirements.

Mr. Bowcock stated they only found out about the encroachment after having the plans drawn and the lot surveyed. He stated the need to do this is from his wife becoming handicapped. He stated she could also access their above-ground pool without climbing stairs and ladders per their plan to install a deck on the rear of the house. He explained the height of the deck and stated it is consistent with other decks in the same block.

Mr. Walsh inquired regarding the application section requiring the applicant to list any circumstances related to soil conditions, et cetera, which Mr. Bowcock did not fill out. After direction from Ms. McTigue, Mr. Walsh apologized for not seeing the attachment addressing the same.

Ms. McTigue discussed the height above grade for the deck. Mr. Bowcock noted the granite foundation is 3'-4' above ground level, explaining they would exit the back of the house with one step down to the deck.

There was no response to Acting Chair Schick's invitation to speak or be record in favor.

There was no response to Acting Chair Schick's invitation to speak or be record in opposition.

Mr. Schilling confirmed that all abutters were notified and they provided no response.

Acting Chair Schick closed the hearing.

There being no further discussion, a motion was made (JW) and seconded (SM) to approve the variance to allow the petitioner to erect an addition and a 20'x20' deck as plans filed which requires a variance under Chapter 9 Comprehensive Zoning Sections 2700, 2710, 2720, 2750 and 2753, relative to property located at 290 Maple Street, assessor's map 44 lot 79 in a residential A [RA] zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances, Chapter 9, above cited sections, the board finds that in respect to these sections, the requirements are met. In addition to the foregoing sections, this petition has also been found to be in accordance with MGL Chapter 40A, §10 relative to the granting of variances, because the board has found that there are circumstances relating to the soil condition, shape or topography which especially affect the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. These circumstances are that the lot was established prior to any zoning requirements, and that the house was situated in the lot such that if a variance was not granted the homeowner would have to incur significant expense to design a structure addition that would comply with zoning requirements. The previous statement explains the hardship, which is the expense involved. The board finds there are circumstances relating to the soil conditions which effect the land but not the district. Due to those circumstances we find that literal enforcement would have a substantial financial hardship to the applicant. Also, the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or by-law. And that desirable relief may be granted without substantial detriment to the public good. Therefore, in light of its review of the specifics noted in this motion, the board finds the material presented is complete, and after its' careful consideration of the petitioner's request, the Zoning Board of Appeals finds the petitioner satisfactorily meets the basis of the requested relief. Therefore, this motion is made and includes the following conditions: that the project be set forth according to the plans submitted with the application, that the Notice of Decision be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year from the date of decision.

Roll-call vote as follows:

Acting Chairperson Schick – Yes

Board Member McTigue – Yes

Acting Clerk Walsh – Yes

Board Member Schilling - Yes

Passes 4-0

ITEM 3 – Case # #4264 - Petition of: Popes Island Harbor Development Corp. c/o Mark W. White (867 Middle Road Acushnet, MA 02743) and Kenneth Tetrault (74 Willis Street #2 New Bedford, MA) for a Special Permit under Chapter 9 Comprehensive Zoning sections 4200-4267 (Body Art), and 5300-5330 & 5390 (Special Permit); relative to property located at 213 Popes Island, Assessor's map 60, lot 12 in a Mixed Use Business [MUB] zoned district. The petitioner proposes to operate a body art establishment, tattoo and piercing doing business as Flyin Aces Tattoo as plans filed.

A motion was made (JW) and seconded (SM) that the following be received and placed on file: the communication dated 12/30/16 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner, dated 1/19/17; the appeal package; the plan submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified. An additional motion was made (JW) and seconded (SM) to also receive and place on file communication from Brenda Wise dated 1/9/17, an abutter indicating she has no concerns.

Motion passed unopposed.

Kenneth Tetrault stated he was here for a special permit to change tenancy. He stated his current tattoo studio is located at 858 Kempton Street, and he would like to relocate it to 213 Popes Island, Lot 12.

Ms. McTigue inquired as to the reason for the move. Mr. Tetrault stated the owner of his current location is planning to sell the property and Mr. Tetrault doesn't want to wait until the last minute to find adequate space. He stated he has looked at other locations, but they did not fall within zoning requirements. He stated that in addition, the new location has great parking and accessibility, as opposed to his current basement location with limited parking which affects his business.

In response to Mr. Walsh, Mr. Tetrault confirmed he is relocating his business to somewhere where he would be surrounded by businesses and not residences, as well as better lighting.

In response to Ms. McTigue, Mr. Tetrault confirmed he would be keeping the same number of booths and discussed his planned changes to the new location.

In response to Ms. Gonet and Ms. McTigue, Mr. Tetrault acknowledged he is presently proposing 3-5 employees servicing 4-8 patrons per day.

There was no response to Acting Chair Schick's invitation to speak or be recorded in favor.

There was no response to Acting Chair Schick's invitation to speak or be recorded in opposition.

Acting Chair Schick closed the public hearing.

After brief discussion, a motion was made (JW) and seconded (SM) to approve the special permit to allow the petitioner to operate a body art establishment, with tattoo and piercing, doing business as Flyin Aces Tattoo as plans filed, which requires a special permit under Chapter 9 Comprehensive Zoning Sections 4200-4267, and 5300-5330 & 5390, relative to property located at 213 Popes Island, Assessor's map 60, lot 12 in a Mixed Use Business [MUB] zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances, Chapter 9, above cited sections, the board finds that with respect to these sections the conditions have been met. In addition to the foregoing sections, this petition has also been found to be in accordance with the City of New Bedford Code of Ordinances Chapter 9, Section 5300 -5330, 5360-5390, relative to the granting of special permits because the board found 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. After consideration of the following, the board found with respect to social, economic and community needs

served by the proposal, the special permit is servicing an existing need. With regard to traffic flow and safety, the board has found it will have no negative impact at the new location and would likely have a positive impact at the old location, because there would be a traffic decrease there. With respect to the adequacy of utilities and other public services, the business will use existing utilities. With respect to neighborhood character and social structures, the business will now be located in a mixed use business district and is consistent. Impacts on the natural environment are neutral. With regard to potential fiscal impact, including impact on the city services, tax base and employment, this will have a neutral to positive effect, as the business would continue to employ its present employees and may employ additional employees in the future. In light of its review of the specifics noted within the motion, the board finds the material presented is complete, and after careful consideration of the petitioner's request, the Zoning Board of Appeals finds the petition satisfactorily meets the basis of the requested relief. Therefore, with the following conditions: that the project be set forth according to the plans submitted with the application, and that the Notice of Decision be recorded with the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Roll-call vote as follows:

Acting Chairperson Schick – Yes

Board Member McTigue – Yes

Acting Clerk Walsh – Yes

Board Member Schilling – Yes

Passes – 4-0

ITEM 4 - CASE #4265 - Notice is given of a public hearing on the petition of: Ryan W. Pina (42 Briarwood Court New Bedford, MA) for a Variance under Chapter 9 Comprehensive Zoning sections 2300 (Accessory Buildings and Uses) 2330 (accessory structures), 2338 (protection of swimming pools and fish ponds), 2700 (dimensional regulations), 2710 (general), 2720 (table of dimensional requirements-appendix-B-Height of buildings, # of stories); relative to property located at 42 Briarwood Court, assessor's map 136-C, lot 79 in a residential A [RA] zoned district. The petitioner proposes constructing habitable space in the basement and attic and is seeks approval of the existing extension of the deck/structure as plans filed.

A motion was made (JW) and seconded (SM) that the following be received and placed on file: the communication dated 12/30/16 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner, dated 1/19/17; the appeal package; the plan submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Armando Pereira, Comprehensive Design Build Services, passed out photos to the board. He described the 2010 and 2007 Google images.

A motion was made (JW) and seconded (RS) that the photos be received and placed on file. Motion passed unopposed.

Mr. Pereira stated the existing .237 acre parcel consists of a wood framed, single family two-story dwelling with an unfinished attic which is somewhat framed. He stated there is an unfinished basement. He stated the structure was built in 1971 and has a pool installed in 1974, with the second floor addition erected in 2008. He stated there is deck on the east side flush with the interior of a sunroom. He stated the applicant acquired the property through a 2016 foreclosure. Mr. Pereira stated they are seeking to finish the basement for a recreation room area, and to finish the attic space. He stated they are also requesting to keep the existing deck and guardrail.

Mr. Pereira went over drawings, explaining the apparent uses of the previous owner. He went over the first floor, sunroom and deck, as well as the bedrooms. He then went over the second floor of the dwelling. He stated they submitted a first proposal with the first and second floors, and now this subsequent submittal for the basement and attic. He explained the plan for the basement, and went over the changes made to the first floor and second floor.

Mr. Pereira then covered the proposed changes for the attic space. He then referred the board back to the photos, pointing out the pre-existing deck area as well as an addition and the sliding doors.

He stated any potential to add an addition to the house is landlocked.

In response to Mr. Walsh, Mr. Pereira confirmed they cannot expand the building, but can expand the square footage of living space, without creating a detriment to the neighborhood. He noted a dried up creek in the back of the property presenting conservation issues.

Ms. McTigue confirmed there was no room for expansion on the property.

Mr. Pereira confirmed for Mr. Walsh that the footprint stays the same.

A female audience member spoke and was interrupted from speaking further.

There was no response to Acting Chair Schick's invitation to speak or be record in favor.

In response to Acting Chair Schick's invitation to speak or be record in opposition, abutter Grace Silveira, 39 Briarwood Court, stated she is likely the last of the original persons from when the properties were constructed. She commended Mr. Pina for his excellent job with the property, which she feels adds value to the neighborhood. She stated her concerns were regarding traffic. She stated she is sorry she did not come to the prior hearings regarding construction of homes, because she now has water in her basement. Ms. Silveira stated she is concerned about other people moving into the property, which will create traffic and parking problems. She commented on the activities on the property over the years. She thinks she may be in favor, but is concerned about the number of stories.

Mr. Pereira stated it would be a garrison.

Ms. McTigue stated that parcel look-up will tell what the structure is.

Ms. Silveira stated she was concerned that whatever they do will effect her property when she tries to sell.

Mr. Walsh explained this was a single family residence.

Ms. McTigue stated it is listed as a colonial style.

Ms. Silveira tried to date the erection of the sunroom/deck/railing.

Acting Chair Schick closed the hearing.

A motion was made (JW) and seconded (SM) to approve the variance to allow the petitioner to construct habitable space in the basement and attic and have approval of the existing extension of the deck/structure as plans filed, which requires a variance under Chapter 9 Comprehensive Zoning Sections 2300, 2330, 2338, 2700, 2710, 2720, relative to property located at 42 Briarwood Court, assessor's map 136-C, lot 79 in a residential A [RA] zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances, Chapter 9, above cited sections, the board finds that with respect to these sections the criteria has been met. In addition to the foregoing sections, this petition has also been found to be in accordance with MGL Chapter 40A, §10 relative to the granting of variances, because the board has found that there are circumstances relating to the soil condition, shape or topography which especially affect the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. These circumstances are that based upon the size of the existing lot and the size of the building upon it, the homeowner cannot expand the square footage of the building and remain in compliance with zoning ordinances. The proposed plan will increase living space without increasing the footprint. Due to those circumstances especially effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner. The hardship is that if the variance were not granted, the applicant could not maximize the use of his property and the value of his property. Also, the desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or by-law. And the desirable relief may be granted without substantial detriment to the public good. Therefore, in light of its review of the specifics noted in this motion, the board finds the material presented is complete, and after its' careful consideration of the petitioner's request, the Zoning Board of Appeals finds the petitioner satisfactorily meets the basis for the requested relief. Therefore, this motion is made and includes the following conditions: that the project be set forth according to the plans submitted with the application, that the Notice of Decision be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year from the date of decision.

Roll-call vote as follows:

Acting Chairperson Schick – Yes

Board Member McTigue – Yes

Acting Clerk Walsh – Yes

Board Member Schilling - Yes

Passes 4-0

3. OLD BUSINESS/NEW BUSINESS:

Mr. Walsh noted a letter received from Att. Thomas Crotty dated 12/13/16 requesting the board reconsider its decision in Case #4236. A motion was made (JW) and seconded (SM) to receive and place on file. Motion passed unopposed.

A motion was made (JW) and seconded (SM) that given the fact that there is not a full board this evening, nor are all members present who voted on the initial case, he moved that the matter be tabled until the sitting board for the case is reconvened. Motion passed unopposed.

4. APPROVAL OF MINUTES

A motion was made (JW) and seconded (RS) to approve the minutes from the meetings of November 17, December 6 and December 15.

5. ELECTION OF OFFICERS:

John Walsh nominated Debra Trahan for Chair, Leo Schick for Vice-chair, and Allen Decker for Clerk. After discussion with Ms. Gonet, John Walsh nominated Debra Trahan for Chair, Sherri McTigue for Vice Chair and Allen Decker for Clerk. Ms. Gonet suggested the matter be tabled to the next meeting.

6. ADJOURNMENT:

There being no further business to come before the board, the meeting was adjourned at 7:28 p.m..

Next meeting – February 16, 2017

**ZONING BOARD OF APPEALS
NEW BEDFORD CITY HALL – Room 306
WILLIAM STREET
NEW BEDFORD, MA
Thursday, February 16, 2017**

MEETING MINUTES

PRESENT: Debra Trahan (*Chairperson*)
Allen Decker (*Clerk*)
Leo Schick
Sherry McTigue
Robert Schilling

ABSENT: None

STAFF: Dan Romanowicz, Commissioner Inspectional Services
Jennifer Gonet, *Assistant Project Manager*

CITY CLERKS OFFICE
NEW BEDFORD, MA
2017 APR 28 P 2:07
CITY CLERK

1. CALL TO ORDER

Chairperson Trahan called the meeting of the City of New Bedford Zoning Board to order at 6:04 p.m. and explained the process and protocols to those in attendance.

2. APPROVAL OF MINUTES

None

3. PUBLIC HEARINGS

ITEM 1: Case #4217- Request for extension (administrative)

A motion was made (AD) and seconded (SM) to take the above case out of order. Motion passed unopposed.

Board Member Decker recused himself from hearing this matter and left the room. Chair Trahan remained the petitioner that in Board Member Decker's absence, the petitioner needs all four board member votes. The petitioner chose to go forward.

Att. Marc Deshaies, counsel for the YWCA of Southeastern Massachusetts, presented regarding the special permit granted approximately a year ago. He stated that the special permit, under zoning by-laws, needs to be exercised within one year. He stated there had been a change in architects and as well as funding issues. He stated he expects the necessary plans to be ready in 4-6 weeks. He addressed

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other funding applications in process for the development, and stated they expect to break ground in September 2017. Att. Deshaies asked for a one year extension of the permit to February 18, 2018.

There being no questions of the board, a motion was made (DT) seconded (RS) to grant the petitioner's request.

Roll-call vote as follows:

Chairperson Trahan – Yes

Board Member McTigue – Yes

Board Member Schilling - Yes

Board Member Schick - Yes

Motion passed – 4-0

Board Member Decker returned to the meeting after case #4217 concluded.

ITEM 2: Cases #4266/#4267 - Public hearing on the petition of: Brian Andrade, Trustee of Broadway Laundry Realty Trust (173 Rear Broadway Taunton, MA 02780) and Signs by Tomorrow (65 Belmont Street South Easton, MA 02375) for an Administrative Appeal under Chapter 9 Comprehensive Zoning sections 5223 (administrative appeal for Prohibited signs), 3210 (general regulations), 3220 (prohibited signs), and 3222; relative to property located at 80 Summer Street, assessor's map 58 lot 414 in a mixed use business zoned district [MUB]. The petitioner proposes to change the face design and add a digital display to an existing ground sign as plans filed.

Case #4267 - Public hearing on the petition of: Brian Andrade, Trustee of Broadway Laundry Realty Trust (173 Rear Broadway Taunton, MA 02780) and Signs by Tomorrow (65 Belmont Street South Easton, MA 02375) for a Variance under Chapter 9 Comprehensive Zoning sections 3200 (sign regulations), 3201 (Purpose), 3210 (general regulations), 3254 (ground signs), 3255 (area restrictions), 3256 (location restrictions); relative to property located at 80 Summer Street, assessor's map 58 lot 414 in a mixed use business zoned district [MUB]. The petitioner proposes to change the face design and add a digital display to an existing ground sign as plans filed.

Per a suggestion from Clerk Decker, a motion was made (LS) and seconded (SM) to place both cases together.

Roll-call vote as follows:

Chairperson Trahan – Yes

Board Member McTigue – Yes

Clerk Decker– Yes

Board Member Schick - Yes

Board Member Schilling - Yes

Motion passed – 5-0

In regard to Case #4266, a motion was made (AD) and seconded (SM) that the following be received and placed on file: the communication dated 1/30/17 from the Commissioner of Buildings & Inspectional

Services; communication from the Office of the City Planner, dated 2/26/17; the appeal package as submitted; the plans as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

In regard to Case #4267, a motion was made (AD) and seconded (SM) that the following be received and placed on file: the communication dated 1/30/17 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner, dated 2/26/17; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Chair Trahan declared the hearings open.

Jim Haluch, of Signs by Tomorrow (65 Belmont Street S. Easton, MA), stated he appears representing Laundry Mat Holding Company, d/b/a Easy Clean Laundry Center. He stated the hearing is in regard to the roadside pylon sign at 80-82 Summer Street. He stated they are looking to take down the actual sign on the existing pylon pole and replace it with a new internally illuminated sign as presented to the board, along with a small digital display mounted below. Mr. Haluch stated that the current sign is 28 sf., the city allowing 25 sf.. He stated they are requesting 31.5 sf.

Mr. Haluch stated the city setback requirement is 6', the sign currently being within that. He stated the signs will actually be smaller and therefore produce some gain on the setback, but will not achieve the full 6 feet.

He noted that the board has allowed other businesses to have the digital display.

In response to Board Member Schick, Mr. Haluch stated the digital display has the capability of producing multicolor characters. Board Member Schick noted there have been issues in the past with bright colors and constant flashing messages. Mr. Haluch stated there are sign sensors installed that allow the sign to dim in the evening, which can be controlled.

Board Member Schilling confirmed that neighboring property owners have been notified of the hearing.

In response to Board Member McTigue, Mr. Haluch stated there should not be movement in these displays. He stated the owner expects to change the message once a day.

In response to Board Member Schick, Mr. Haluch stated the sign will be off by eleven o'clock, and would not come on prior to six a.m.

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In response to Board Member Schilling, Mr. Haluch explained that the Easy Clean Laundry Center sign [as shown on the rendering submitted] will not be digital, but is internally LED illuminated, which will be less bright than the current sign.

In response to Board Member Decker, Mr. Haluch confirmed the sign will be visible on both sides.

Board Member McTigue expressed concern about the lower sign being within arm's reach of potential vandalism and not necessarily safe to someone on the sidewalk.

Chair Trahan affirmed that concern and any associated liability.

Board Member Decker inquired as to the issue that prevents the sign from being moved back to comply with the lot line setbacks. Mr. Haluch stated one issue is the significant cost, another is the loss of parking spaces.

There was no response to Chair Trahan's invitation to speak in opposition.

Mr. Haluch added that the owner has a few of these businesses in the Taunton/Raynham area, noting that the properties are extremely well kept and the owner takes pride in his property.

Mr. Haluch could not confirm Chair Trahan's inquiry as to whether the property was transferred in 2015.

Board Member Schilling noted the lower 7' sign display is 26" away from the sidewalk.

Chair Trahan inquired as to employment numbers. Mr. Haluch could not answer.

Chair Trahan noted for the record that the owner should be present to answer the board's business questions. She stated too many applicants send others to represent them and the board cannot get needed answers because the representatives cannot answer.

Chair Trahan stated she had received a number of complaints and meeting minutes for variances given where the board allows the representation of applicants that any problems will be taken care of, yet that representation is absent in their submissions and what is ultimately recorded. Therefore the board cannot enforce such problems, because people aren't doing what they tell the board at their hearings that they will do. She felt conditions need to be included.

Board Member Schick stated that he too was disappointed that one of the owners was not present.

Board Member Schilling inquired of any current procedure to request someone with ownership interest to appear. Chair Trahan noted that applicants can sign a paper allowing someone to represent them at the meeting.

Board Member Schick stated that he felt the matter should be continued.

Chair Trahan stated the applicant's paperwork indicates that there are currently five employees, and he expects the addition of the sign will increase that number to ten. She stated she cannot ask the owner why he believes that, because he is not present and Mr. Haluch cannot answer such questions.

Chair Trahan expressed that board decisions need to be based on information received, and when information is lacking it is hard for the board to make an appropriate decision.

Board Member Schilling stated he was prepared to vote yes based on what he has before him, but understands that the board desires someone with an ownership interest to appear.

A motion was made (LS) and seconded (SM) to continue these matters to the next Zoning Board meeting and requests that an owner or someone with ownership interest appears at the same.

Motion passed 5-0.

Board Member Schilling again suggested the information be included in future hearing scheduling.

Board Member Decker stated that often the board determines that another department in the process will be addressing potential problems noted.

Chair Trahan again stated she has had meeting minute requests. As an example she referenced that board requiring flowers or fence between the properties, and that applicants agree at the meeting and two years later they haven't complied. She suggests more specificity in the future.

4. ELECTION OF OFFICERS:

Board Member Leo Schick volunteered for the position of vice chair. Board Member Decker compiled the slate as Debra Trahan as the Chair, Board Member Schick as the vice chair, and Board Member Decker as the clerk.

There was no response to Chair Trahan's invitation for any other interest in positions.

A motion (AD) was made and seconded (SM) that the names as mentioned was the slate of officers for calendar year 2017.

Roll-call vote as follows:

Chairperson Trahan – Yes

Board Member McTigue – Yes

Clerk Decker– Yes

Board Member Schick - Yes

Board Member Schilling - Yes

Motion passed – 5-0

5. ADJOURNMENT:

There being no further business to come before the board, the meeting was adjourned at 6:36 p.m..

Next meeting – March 16, 2017

**ZONING BOARD OF APPEALS
NEW BEDFORD CITY HALL - 3rd Floor
WILLIAM STREET
NEW BEDFORD, MA
Thursday, March 16, 2017**

CITY CLERKS OFFICE
NEW BEDFORD, MA
2011 APR 28 P 2:10
CITY CLERK

PRESENT: Debra Trahan (*Chairperson*)
Allen Decker (*Clerk*)
Leo Schick
Sherry McTigue
John Walsh

ABSENT: Bob Schilling

STAFF: Dan Romanowicz, Commissioner Inspectional Services
Jennifer Gonet, *Assistant Project Manager*

1. CALL TO ORDER

Chairperson Trahan called the meeting of the City of New Bedford Zoning Board to order at 6:10 p.m.. Clerk Decker explained the process and protocols to those in attendance.

2. OLD BUSINESS

ITEM 1: Cases #4266/4267-

#4266 -Petition of Brian Andrade, Trustee of Broadway Laundry Realty Trust (173 Rear Broadway Taunton, MA 02780) and Signs by Tomorrow (65 Belmont Street South Easton, MA 02375) for a Variance under Chapter 9 Comprehensive Zoning sections 3200 (sign regulations), 3201 (Purpose), 3210 (general regulations), 3254 (ground signs), 3255 (area restrictions), 3256 (location restrictions); relative to property located at 80 Summer Street, assessor's map 58 lot 414 in a mixed use business zoned district [MUB]. The petitioner proposes to change the face design and add a digital display to an existing ground sign as plans filed.

#4267 Notice is given of a public hearing on the petition of: Brian Andrade, Trustee of Broadway Laundry Realty Trust (173 Rear Broadway Taunton, MA 02780) and Signs by Tomorrow (65 Belmont Street South Easton, MA 02375) for an Administrative Appeal under Chapter 9 Comprehensive Zoning sections 5223 (administrative appeal for Prohibited signs), 3210 (general regulations), 3220 (prohibited signs), and 3222; relative to property located at 80 Summer Street, assessor's map 58 lot 414 in a mixed use business zoned district [MUB]. The petitioner proposes to change the face design and add a digital display to an existing ground sign as plans filed.

A motion was made (AD) and seconded (LS) to re-open the above cases.
Motion passed unopposed.

Clerk Decker, upon notation from Mr. Walsh, stated that Case #4267 is an administrative appeal, for which he had no prepared explanation to read to the public. He believed the applicant of an administrative appeal needs four affirmative votes in order to prevail.

Jim Halleck, Signs By Tomorrow, representing the Laundromat Holding Company. He stated they are looking to install a pylon sign outside the building, including a digital display unit. He inquired as to whether he needed to reiterate all the details gone through at the prior meeting, but stated his understanding was that the board had questions they wanted the owner present to answer.

The board declined to have the variance package presentation repeated.

Mr. Halleck reiterated that they believed they had met the burden for their reasons for having the sign and digital display. He stated that the future sign would be so much nicer than what was present, and he believed the board should take that into consideration.

Brian Andrade, Lordan Road, Raynham, invited questions from the board.

Chairperson Trahan noted that some information on opening days and hours had been provided. Chairperson Trahan noted that within the petition it mentioned a doubling of employees, which left the board wondering about the sufficiency of the parking.

Mr. Andrade stated there are presently three employees who, for the most part, are part-time workers. He stated they are presently open from 7:00 a.m. to 9:00 p.m.. He stated with the display they expect to advertise and get more drop off service, as opposed to walk-in service. He stated they believe the sign will attract dry cleaning and drop-off service.

In response to Board Member Schick, Mr. Andrade stated the sign operation hours would be 7:00 a.m. to as late as possible. Mr. Halleck stated the sign display will be programmed to turn on and off per city by-laws, which he stated is typically no earlier than 6:00 a.m. and has to be off by either 10:00 or 11:00 p.m..

Board Member Schick inquired as to whether the digital display would be multi-color or single color. Mr. Halleck stated the display proposed is a multicolor, but can be made monochrome.

Board Member Schick inquired as to an output/lumen rating. Mr. Halleck stated he did not have the maximum lumens the sign can generate with him. Mr. Schick stated there had been a sign in the city that was so bright it was blinding to on-coming traffic. Mr. Halleck stated today's digital displays have sensors that will automatically turn down the brightness as it gets darker.

In response to Board Member Schick, Mr. Halleck stated the sign is capable of animation and flashing, but most business owners find it makes no sense to change the message more than every seven minutes.

Board Member Schick noted a neighboring residence and he is concerned for the intensity of the sign disturbing them.

In response to an inquiry by Board Member McTigue, Chairperson Trahan noted that owners had been notified of this matter, which does not mean that the residences' occupants had.

There was board discussion about conditioning that the sign change no more than every seven minutes.

Chairperson Trahan stated the application states there are now five employees and the applicant expects to have ten. Mr. Andrade stated he presently has three employees. In response to Chairperson Trahan, Mr. Andrade stated there are thirteen parking spaces.

In response to Board Member McTigue, Mr. Andrade stated they have not touched the present sign. Board Member McTigue stated her biggest concern was the closeness to the sidewalk and the height as a safety issue. She stated the zoning officer would determine if the height was satisfactory.

Mr. Halleck stated that with the digital display they will be at a lower height, but with the new sign and digital display they will be farther away from the sidewalk than the current sign, and the new sign would not be over the sidewalk area.

Board Member McTigue inquired as to installation of some protection to the base, such as rocks. Mr. Halleck stated there is presently a steel pole in a footing with an aluminum shroud around it which is destroyed. Board Member McTigue re-iterated her desire to see some protection, and her concern about the safety of people walking under this 6' sign.

Mr. Halleck stated the current sign is 8'.

Board Member McTigue stated that her thought was to protect the base so the pedestrians could not walk under the sign. Mr. Andrade stated they could add bollards to the corner of the sign. Board Member McTigue also noted it could be a target for vandalism.

Mr. Andrade noted all the work he had done on the building, and referred the board to the proposed plan, containing a before and after.

Mr. Walsh noted that the sign and digital display would be 6' when it should be 8' under the ordinance.

Mr. Halleck stated the applicant is more than happy to put any necessary barrier. In response to Board Member Schick, Mr. Halleck stated the reason for the sign being 6' is so that they could use the existing steel pole. He stated that raising the signs could require a new pole, which would be a huge cost burden to the applicant.

Board Member McTigue suggested the possibility of putting the digital sign on the building.

Mr. Romanowicz stated the applicant is seeking appeal because the digital display is prohibited. He stated the applicant seeks the variance to cover the sign regulations, general regulations, ground sign, area restrictions and distance restrictions. He read the related ordinance for the board.

Mr. Walsh suggested that the board first vote on the appeal, as that will determine whether the board can move onto the variance. He stated his understanding of the appeal is that Mr. Romanowicz has made a decision that the digital display is in violation of Chapter 9, Section 3230. Mr. Walsh added that he too believed it to be in violation. He stated he believed the board's job was to decide whether Mr.

Romanowicz was in error and had misinterpreted the ordinance. He stated he felt the board had no leeway regarding the regulation; which either prohibits the proposed sign or it does not.

Chairperson Trahan inquired whether Mr. Andrade would still change the sign if the board denied the digital sign. Mr. Andrade stated he had to change the sign due to the wrong name being on the present sign. Mr. Halleck noted that other businesses have a digital sign.

Chairperson Trahan stated that each application is individual and in this case the location is heavily residential, and she is concerned that the residents did not receive notice of this matter and had no chance to appear and voice their concerns. She invited any alternative from the applicant.

Mr. Halleck disagreed that the sign would be flashing and would be a detriment to the folks sleeping. He stated if the only concerns for the board are the flashing and brightness of the sign, the applicant will gladly re-propose or stipulate that. He stated the board could deem those things as part of the acceptance.

Mr. Andrade welcomed any stipulation from the board. He stated that at that point he would decide if he would proceed with the digital sign.

There was no response to Chairperson Trahan's invitation to speak or be recorded in opposition, noting there was also none at the prior meeting on this matter.

Chairperson Trahan declared the hearing closed.
She noted the discussion and vote would be on Case #4267.

Mr. Walsh reiterated that the appeal is on whether or not Mr. Romanowicz's decision that the digital sign is in violation of Chapter 9, 3220 is valid or invalid.

Ms. McTigue noted that all cases before the board go against someone or the code in general. It's not that Danny's right or wrong. It's in this case do we think it's okay or it's not.

Board Member Schick expressed he would at least want a condition on the digital display.

Mr. Walsh repeated his position that he will be looking at whether the digital display is a violation of the four corners of the statute, and Chapter 9, 3220 stating these signs are prohibited. He stated he did not believe the board could re-write the regulations, as this is not a request for variance.

Board Member Decker believed Mr. Walsh's comments to be on point, and stated he was inclined to vote against it.

Ms. McTigue noted she had seen such signs, but not near residents, and they are on the building or in a large parking plaza.

After further board discussion on content, a motion was made (AD) and seconded (JW) in Case #4267, concerning property located at 80-82 Summer Street, assessor's map 58 lot 414 in a mixed use business

zoned district [MUB], to approve an administrative appeal as follows: To allow the petitioner to change the face design and add a digital display to an existing ground sign as per the plans filed per the administrative appeal process under Chapter 9 Comprehensive Zoning Section 5223, 3210, 3220 and 3222 relative to property located at 80-82 Summer Street, assessor's map 58 lot 414 in a mixed use business zoned district [MUB]. Having reviewed this petition in light of the City of New Bedford Code of Ordinance Chapter 9, section as cited, and under the provisions of MGL Chapter 40a Sections 7, 8 and 14, the board finds the following facts:

- That as proposed, the digital element of the sign will be capable of animation intermittence movement and flash as concerns said lighting
- That the zoning enforcement officer has determined this element violates Section 3222 of the City of New Bedford Zoning Ordinance
- That the petitioner is asking for an appeal of the said finding of violation by the zoning enforcement officer

Roll-call vote as follows:

Chairperson Trahan – No

Clerk Decker– No

Board Member Walsh - No

Board Member McTigue – No

Board Member Schick - No

Motion failed – 5-0

After board discussion and consultation with Mr. Romanowicz, there was a concern that as advertised, the petition's request for variance in Case # 4266 could not be voted upon as it too includes the digital sign. Mr. Walsh noted that the board could carve out the digital sign component as a condition.

Mr. Andrade noted that he can replace the existing sign. The variance was for a digital display underneath, and as such he does not believe he needs a variance any longer. Mr. Andrade stated he is only putting a new face on the existing sign, making it a round circle instead of a rectangle.

Mr. Andrade withdrew his request for variance without prejudice.

A motion was made (AD) and seconded (JW) in regard to Case # 4266 to allow the petitioner to withdraw his request for variance without prejudice.

Motion passed unopposed.

PUBLIC HEARINGS:

ITEM 1 - Case #4268 – Petition of: 899 Pleasant Street, LLC (34 Hillman Street New Bedford, MA 02740) and Architectural Consulting Group, Inc. c/o Michael W. Josefek (2206 Acushnet Avenue New Bedford, MA 02745) for a Special Permit under Chapter 9 Comprehensive Zoning sections 2200 (use regulations), 2210 (general), 2230 (tables of use regulations-appendix A, #20 Medical Office, Center, or

Clinic), and 5300-5390 (Special Permit); relative to property located at 899 Pleasant Street, Assessor's Map 58, Lot 300302, 304, 499 in a Mixed Use Business [MUB] zoned district. The petitioner proposes to erect a dental office as plans filed.

Board Member Decker disclosed that the petitioner is his dentist. He stated he did not believe this would impact his impartiality. Board Member Decker stated he was happy to recuse himself, and noted that in his absence the petitioner would need four affirmative votes.

Mike Josefek, Architectural Consulting Group, after consulting with Mofta El-ghadi, he stated it was acceptable to go forward with Board Member Decker present.

In regard to Case #4268, a motion was made (AD) and seconded (SM) that the following be received and placed on file: the communication dated 2/24/17 from the Commissioner of Buildings & Inspectional Services; communication from the Office of the City Planner, dated 3/16/17; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Chairperson Trahan declared the hearing open.

Mike Josefek displayed for the board the current site, which has an 1860 structure on it with a garage that may have formerly been a barn. He noted a large parcel of land and a parking area behind the structure where a house was apparently torn down in the past creating a parking lot. He drew the board's attention to the assessor's map, noting the property is comprised of five separate lots to be combined into two lots. Mr. Josefek stated they had met with representatives from various city departments, and originally all the old buildings were to be taken down. He stated that after discussion with Historic and Building and Planning, it was agreed to try and save the building in spite of the additional cost. He stated they had the engineer do a Form A, not yet submitted, where the barn will be moved to the other lot, saving the historic structure to be made into an office. Mr. Josefek noted in its current state it does nothing positive for the neighborhood. He stated the proposal is to put an addition sympathetic to the historic nature of the current structure.

Mr. Josefek displayed and discussed the floor plan cutaway showing existing conditions, adding that they will maintain the original fabric as much as possible and restore it. He stated all materials used will be historically appropriate. He stated plans will include removing the tin siding, installing new windows, and maintaining the trim, keeping the historic aspect of the current structure.

Mr. Josefek stated that having worked on many historic restoration projects with the city, what will be built alongside will not replicate the current structure, so that the new addition will look somewhat the same, but will have visible nuances which still fits the character and the neighborhood. He felt this would bring new life to the corner and eliminate current foot traffic and the empty parking lot.

Mr. Josefek stated the doctor has had his current operation in cramped quarters down the hill for some fourteen years. He stated the petitioner is providing the same community services up the hill with some expansion and more advanced technology than what is currently available to him.

Mr. Josefek noted the petitioner's commitment to New Bedford by purchasing property and generating more taxes. He stated the site is fully served by all utilities, including underground electric. With regard to traffic flow and safety, he stated there are nine employees anticipated throughout the day from 8:00 or 9:00 a.m. to 5:00 p.m. He stated the practice generates approximately four people per hour. He noted they had started site plan review, which has been continued. He stated they will meet all site plan requirements, including a new underground retention area.

Mr. Josefek stated there will be no additional impact on the natural environment and the impervious surfaces should not increase, as they are looking at pervious surface for additional required parking, eliminating any need for a parking variance.

He stated that turning this structure into a house would be less beneficial to the city regarding taxes and burdens on city services. He stated they would be a handicap accessible main entry as well as an elevator.

Mr. Josefek invited questions.

Board Member McTigue confirmed the dental practice will be on the first floor. Mr. Josefek stated the second floor is not currently being looked at, but in the future it may be developed into office space. He stated the two stories fit far better than erecting just a one-story building.

Chairperson Trahan inquired as to the need for two separate lots. Mr. Josefek stated that after discussion with city boards, the garage/barn that was originally to be taken down was instead slated to be kept standing and moved to the other lot. He stated parking from the two structures will be shared.

Chairperson Trahan noted that with two separate lots one could later be sold. Mr. Josefek stated you can legally have shared or joint parking by deed. He stated that not saving the garage/barn is not a problem for the petitioner. It was something that was being done for the city because the historic department wanted to save it. He stated they won't keep it at the expense of the whole project.

Mr. Romanowicz added that you can only have one major building on a lot. That is why they are moving the barn onto a separate lot.

Mr. Josefek referenced the Standard Times Building project he had worked on and the parking accommodations that included use of the parking garage. He stated shared parking is addressed like an easement. He again stated they are happy to let the city have the barn and move it themselves, but were trying to be cooperative.

Chairperson Trahan expressed further concern about the potential for any future sale of the additional lot and its lack of parking. Mr. Josefek again expressed willingness to take the garage/barn out of the mix and have it gotten rid of if the city wants to come and pick it up.

Mr. Romanowicz added that the building is over 75 years old and could be up to a year delay to be moved.

Board Member Decker referenced a note from the city planner regarding the square footage of the improvements not matching in the application and the drawings, which would affect the required parking. Mr. Josefek stated he believed it had been corrected with amended drawings and parking plans. He assured the board there was more than enough parking.

Board Member Decker inquired as to the future additional impervious surface versus green space. Mr. Josefek reiterated the planned changeover to a pervious parking area, stating there is little more than a few percent additional impervious surface anticipated.

Board Member McTigue confirmed the plans before the board were the older version. Mr. Josefek further explained the planned changes to the board, including recharge areas.

Mofta El-ghadi, petitioner, addressed the board, stating that with regard to the barn, the historic commission informed them. He stated he loves the building's aesthetics, but originally intended to tear it down and build a more modern looking office. He stated that he saw the inside as well and then wanted to duplicate the aspects and felt it would look beautiful and fit the area. Mr. El-ghadi stated he has no intention of selling anything, stating the concern was the historical commission's desire to keep the structure, wherein the compromise was to move it over. He again stated he had no intention of selling that lot or anything.

Chairperson Trahan explained her concern to Mr. El-ghadi that if he sold his business, someone else could sell. She noted that the board decision would go onto the property permanently, and someone else may not share his intentions.

Mr. El-ghadi stated he just wanted to make clear that he had no intention of selling anything.

Chairperson Trahan inquired as to the petitioner's willingness to have a conditions of approval that it would be two separate lots, but not sold separately.

Mr. El-ghadi felt he could not answer that question without thinking and talking about it.

Chairperson Trahan expressed that while loving the project, she is concerned that board decisions have been made and then later turned around, either by sale or people not doing what they said they would, against the intentions the board was granting.

Mr. Josefek stated the special permit is only being sought because the MUB requires a dental office to go for a special permit. He stated as a lawyer's office, there would be no need for a special permit. The need arises because of his practice. He stated they could have legal discussion, but were not prepared tonight to address legal what ifs. He stated that as a lifelong resident, there are many things that bother him in the city, but stated they are trying to accomplish something positive.

There was no response to Chairperson Trahan's invitation to speak in opposition.

Upon invitation, Mr. El-ghadi stated his practice has moved from Foster to Hillman and now hopefully back up. He stated one primary reason for this move is the lack of Comcast cable. He stated he has a limited amount of internet capability, and with the advent of technology, such as scanning, more high speed technology is necessary. He stated his current location can no longer account for the need. He stated it makes far more sense to invest in the proposed new location.

Mr. Josefek invited questions.

Chairperson Trahan closed the hearing.

There being no further board questions, an amended motion was made (AD) and seconded (LS) with regard to Case #4268, 899 Pleasant Street, LLC of 32 Hillman Street, relative to property located at 899 Pleasant Street, Assessor's Map 58, Lot 300-302, 304 and 499 in a Mixed Use Business [MUB] zoned district, to approve a special permit to allow the petitioner to erect a dental office as per plans filed, which requires a special permit under Chapter 9, Comprehensive Zoning Sections 2200, 2210, 2230 Appendix A, and 5300-5390, relative to property located 899 Pleasant Street.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances, Chapter 9 Comprehensive Zoning Sections, as cited, the board finds that with respect to those sections the petition is in compliance. In addition to the foregoing sections, this petition has also been found to be in accordance with the City of New Bedford Code of Ordinances, Chapter 9, Sections 5300-5330 and 5360-5390, relative to the granting of special permits, because the board found that 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.

In consideration of the following sections, the board has found that regarding the social, economic or community needs served by the proposal, the proposal keeps an existing dental practice in operation, continuing to serve community needs. Regarding traffic flow and safety, including parking and loading, the board has found the proposal adequately addressed on-site traffic flow and adds additional parking spaces. Regarding adequacy of utilities and other public services, the board has found the proposal is neutral because existing adequate utilities are in place. Regarding the neighborhood character and social structures, the board has found the proposal fits within the neighborhood's character, inclusive of mixed use business and its development. Regarding the impacts on the natural environment, the board has found that the proposal includes pervious pavement for additional parking, thereby not adding significant impacts. Regarding the potential fiscal impact, including the impact on city services, tax base and employment, the board has found that the proposal adds to the city's tax base without significant increased demand on the city's services.

In light of its review of the specifics noted within this motion, the board finds that the material presented is complete and after its careful consideration of the petitioner's request the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief. Thereby, with the following conditions: that the project be set forth according to the plans submitted, that site plan review with the City of New Bedford Planning Board be achieved, and that the Notice of Decision be recorded at the Registry of Deeds and a building permit be issued by the Department of Inspectional Services and acted upon within one year from the date of decision.

Zoning Board of Appeals
2/16/17
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Roll-call vote as follows:

Chairperson Trahan – Yes
Clerk Decker – Yes
Board Member Walsh – Yes

Board Member McTigue – Yes
Board Member Schick – Yes

Motion passes

3. APPROVAL OF MINUTES:

A motion was made (SM) and seconded (JW) to approve meeting minutes dated January 19, 2017, for Case #4261, Case #4262, Case #4254, and Case #4265. Clerk Decker abstaining.

A motion was made (AD) and seconded (LS) to approve meeting minutes of February 16, 2017 for Case #4217, Case #4266 and Case #4267

Motions passed unopposed.

4. ADJOURNMENT:

After a reminder that board members complete their ethics test, the meeting was adjourned at 7:48 p.m..

The next Zoning Board of Appeals Meeting is scheduled for April 27th, 2017