



## ***Planning Board***

August 10, 2016 – 6:00 PM –**Minutes**  
New Bedford City Hall, Public Meeting Room 314,  
133 William Street

**PRESENT:**

**Colleen Dawicki, Chairperson**  
**Kathryn Duff**  
**Peter Cruz**  
**Arthur Glassman**  
**Alex Kalife**

**ABSENT:**

**None**

**STAFF:**

**Jennifer Clarke, AICP, Acting City Planner**  
**Constance Brawders, Staff Planner**

**CALL TO ORDER**

Chairperson Dawicki called the meeting to order at 6:00 p.m.

**ROLL CALL**

A formal roll call was conducted confirming members present as stated above.

**MINUTES REVIEW AND APPROVAL**

A motion was made (KD) and seconded (AG) to approve the July 13, 2016 meeting minutes.  
Motion passed unopposed.

**PUBLIC HEARINGS**

**ITEM 1 – Case #23-16 - Request by City Councilor Steven Martins on behalf of Mr. Pedro Fernandes, Lusitano Food Products, LLC, for recommendation by the Planning Board for rezoning of 127 Hathaway Street and 331 Ashley Boulevard (Map 103, Lot 13) from Mixed Use Business to Residence C.**

Pedro Fernandes of Hathaway St., New Bedford, stated there were two reasons for the request. One is that commercial use is very difficult because of parking. He stated he had Norman's Meat Market and a second business that did not survive. He stated he wanted to change it to a rental apartment. He stated secondly that banks don't tend to make loans on a mixed use business property. He stated with a residential zoning he could get equity from it and purchase another city home.

In response to Mr. Glassman, Mr. Fernandes stated the garage used to be for Norman's. He stated the tenement house is driveway off-street parking at the 331 Ashley Boulevard.

A motion was made (KD) and seconded (AG) to open the public hearing. Motion passed unopposed.

There was no response to Ms. Dawicki’s invitation to speak or be recorded in favor.  
There was no response to Ms. Dawicki’s invitation to be speak or be recorded in opposition.

A motion was made (KD) and seconded (AG) to close the public hearing. Motion passed unopposed.

Ms. Duff felt the application asked the board to consider rezoning a single parcel for personal financial gain. Ms. Duff also noted the city’s desire to foster small businesses in such a mixed use business zone.

Ms. Dawicki read into the record a letter from Councilor Martins dated 8/5/16.

In discussion regarding surrounding properties, the board was directed to staff comments delineating the area.

Mr. Cruz and Ms. Duff both raised the issue of spot zoning.

Ms. Duff stated the board was being asked to change something that was inconsistent with surrounding zoning for the benefit of one person. Ms. Duff also noted the potential impact on city utilities, such as water and sewer, in changing a garage into residential unit.

Ms. Dawicki noted the standards for evaluation of rezoning requests.

Mr. Fernandes stated that as a meat shop, there were sewer drains. He stated the water comes from the house and the sewerage right to the city. He stated there are also utilities present.

In response to Mr. Cruz, Mr. Fernandes clarified that the water comes from 127 Hathaway Street and the sewer is a separate line into the city. Ms. Duff reiterated that typically residential has a higher demand on sewer use. Mr. Fernandes responded that he was planning on nothing more than a small two bedroom apartment.

Ms. Clarke stated that communication with Manny Silva of DPI who advises that the water line on Hathaway serves both buildings. She stated there is no sewer line on Ashley Blvd., but rather a spaghetti line to Tinkham Street which would be difficult and costly to change to connect on Ashley Boulevard.

There being no further questions from the board, a motion was made (KD) and seconded (AG) to recommend a request by City Councilor Steven Martins on behalf of Mr. Pedro Fernandes, Lusitano Food Products, LLC, for rezoning at 127 Hathaway Street and 331 Ashley Boulevard (Map 103, Lot 13) from Mixed Use Business to Residence C.

Roll Call Vote was as follows:

Board Member Kalife – No

Board Member Glassman - No

Board Member Cruz - No

Chairperson Dawicki – No

Board Member Duff – No

Motion failed

**ITEM 2 – Whalers Place Subdivision - Request by applicant to release Lots 1, 3, 4 and 10 from covenant restrictions as specified in the Form C Covenant dated August 18, 2004, as amended, and recorded in Bristol County Registry of Deeds at Book 7169, Page 163 on September 14, 2004 by Curtis. J. Mello and John E. Williams for Howland Realty Trust, for a definitive subdivision**

**known as Whaler's Place in New Bedford, MA, dated March 8, 2004, as revised thru May 11, 2004, and prepared by Prime Engineering of Lakeville, MA. Applicant: Matthew B. Antonio, Palmer River Development of Swansea, MA.**

Matthew Antonio stated the request is to issue a final release of performance covenant in exchange for cash surety. He stated the estimate from DPI is \$41,100.00, which they are prepared to post. He stated the remainder of work will be quickly done within the next 30 days. He stated the two remaining lots already have homes upon them, with one under contract for sale.

In response to Mr. Cruz, Mr. Antonio stated the road does have the topcoat asphalt paving.

Mr. Antonio inquired as to the process once the work is completed. Ms. Clarke explained that it was an administrative process.

A motion was made (KD) and seconded (AG) to open the public hearing. Motion passed unopposed.

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

A motion was made (KD) and seconded (AG) to close the public hearing. Motion passed unopposed.

In response to Mr. Cruz, Mr. Antonio confirmed the wheelchair ramp curb cuts would have tactical warning strips.

There being no further discussion, a motion was made (KD) and seconded (AG) to approve with conditions the request by applicant Matthew Antonio, Palmer River Development Company, LLC, of Swansea, MA. To substitute cash surety in the amount of \$41,100.00 and to release Lots 1, 3, 4 and 10 from covenant restrictions as specified in the Form C Covenant dated August 18, 2004, as amended, and recorded in Bristol County Registry of Deeds at Book 7169, Page 163 on September 14, 2004 by Curtis. J. Mello and John E. Williams for Howland Realty Trust, for a definitive subdivision known as Whaler's Place in New Bedford, MA, dated March 8, 2004, as revised thru May 11, 2004, and prepared by Prime Engineering of Lakeville, MA.

The Planning Board finds this request to be in accordance with City of New Bedford Subdivision Control Regulations. As a result of such consideration, the Board moves approval on the subject application with the following conditions:

- That the project shall be undertaken according to the plans submitted with the application with adherence to all notes on plans as reviewed by the Planning Board on this date;
- The applicant shall present any proposed modifications from the approved plans for consideration to the City Planner for determination as to whether the modified plan must return before this board for further review;
- That the applicant shall satisfy the obligations of the Form G Performance Bond Surety by cash deposit no later than November 1, 2016;
- That the applicant shall record the Form G Performance secured by cash deposit with the Bristol County Registry of Deeds and provide a copy for the Planning Division;
- That the applicant shall record the release of covenant with the Bristol County Registry of Deeds and provide a copy to the Planning Division.

Motion passed unopposed.

**ITEM 3 – Case #24-16 - 139 Hathaway Road-O’Reilly Auto Parts (S. B. Realty Limited Partnership, 92 Kilburn Street, New Bedford, MA 02740)-Request by applicant for modification of Site Plan approval for Case #19-16 for a minor layout adjustment for new construction of a retail building, located at 139 Hathaway Road (Map 101, Part Lot 14, 16 & 17 and Land Court Lot 11), in the Mixed Use Business and Industrial B zoning districts. Applicant’s agent: SITEC, Inc., of Dartmouth, MA.**

Steve Gioiosa of SITEC introduced Att. Beauregard, applicant’s legal counsel. Mr. Gioiosa noted the project had been before the board several times. He stated they had received site plan approval at the June 2016 meeting for a minor modification with regard to the building footprint. He stated the plan met the city standards for parking, keeping with the original approval in 2015, with all the same site improvements; i.e. lighting, drainage, et cetera. He stated some features raised concerns with Price Rite, a primary plaza tenant. Mr. Gioiosa referenced the loading area and dumpster pad in the original plan. After a point of concern was raised regarding potential vehicle conflicts, the plan was modified, repositioning the loading and dumpster pad. He stated the driveway intersection coming in from Hathaway Road has been eliminated, and the dumpster pad is better hidden. He stated this modification also extends the parking field. He noted that at the last meeting, the Planning Board requested the elimination of six parking spaces in the southeast corner, which has been done. Mr. Gioiosa stated another benefit of this change is additional storm water management to the site and an additional Stormceptor unit and water quality screening. He stated that all other storm water features, utility connections, mandated off-site improvements, et cetera, are the same.

Mr. Gioiosa pointed out the previously approved driveway connection now provides a landscaped island, eliminating some traffic movement conflicts. He stated the building footprint remains the same as that previously approved. He again noted the improved parking.

In response to Ms. Duff, Mr. Gioiosa explained the grade transition from Hathaway Road and related changes to accommodate the same.

In response to Mr. Cruz, Mr. Gioiosa confirmed there was a sidewalk to the parking area that from a slope standpoint is not ADA compliant and is not required to be. He noted the location of the ADA compliant spaces.

A motion was made (KD) and seconded (AG) to open the public hearing. Motion passed unopposed.

There was no response to Ms. Dawicki’s invitation to speak or be recorded in favor.

In response to Ms. Dawicki’s invitation to be speak or be recorded in opposition, Att. David Lavenburg, representing Price Rite, the primary tenant, stated he attended the last meeting and expressed objections, believing the plan to violate the lease the applicant. He acknowledged that many of the issues are not within this board’s purview and may be litigated. He raised issue with materials posted on-line regarding the temporary construction fence. He stated his question is, how is the temporary construction fence sited? He stated they may have an objection, depending on the applicant’s answer. He asked the board to look at the plan and the construction fence, which bisects the parking lot and the frontal parking (in front of Price Rite). He stated the fence bisects parking significantly and far away from the proposed O’Reilly building. Att. Lavenburg raised issue with the amount of parking this takes away and feels it is excessive, as well as creating safety issues with cars reaching a dead end. He stated he would like the fence moved back.

Att. Lavenburg then addressed the removed parking spaces. He stated they had previously objected to additional spaces which have not been removed. He again stated the remaining spaces in that area would interfere with their deliveries. He then offered photos to the board. He requested the additional spaces be removed.

A motion was made (KD) and seconded (AG) to accept the photos. Motion passed unopposed.

Ms. Dawicki clarified the subject spaces.

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

A motion was made (PC) and seconded (AG) to suspend the public hearing. Motion passed unopposed.

In addressing the points raised, Mr. Gioiosa stated the construction fencing in this larger scale construction project is to isolate the heavy equipment work area from the general public. He stated the applicant has shown the maximum fencing location, as illustrated on the Demolition Plan. He stated they anticipate that as construction moves, the fencing will also be relocated. He acknowledged the temporary parking lot disruptions, which the applicant hopes to minimize. He again noted that ultimately the project will improve vehicle movement and provide designated cross lanes which are presently absent. He added that the issues raised appear to be a lease consideration rather than a planning consideration.

With regard to the far eastern parking spaces, Mr. Gioiosa stated they had eliminated the spaces as agreed. He stated the spaces left will not interfere with Price Rite's use of the facility. He stated they would defer to the board, but noted that they had previously stated they see those spaces as employee spaces. He stated they would like to keep the parking as is.

Ms. Dawicki invited any further questions from Att. Lavenburg.

Att. Lavenburg stated he did not feel the applicant had explained why they need that much space for temporary fencing, and asked what heavy equipment they plan to utilize that will take up that entire parking area. He stated he also had not heard how the fencing will not affect safety. Att. Lavenburg stated the additional spaces are not in the best interest of Price Rite and their use of their loading dock. He stated that as such, the safety issues previously raised remain. He requested that the board condition the plan with the removal of the spaces.

There was board discussion and questions regarding truck maneuvers at the loading dock. Mr. Cruz raised the issue of how trailers exit and whether they trespass on railroad property, which raised safety issues.

Att. Lavenburg could not provide information on how the trailers exit. Mr. Cruz suggested the layout presented was feasible and might merely require a change in maneuvers.

Ms. Duff and Mr. Cruz both expressed that with regard to the temporary fencing, the abutters could talk more about coordination that could accommodate each other and minimize the disruption.

Mr. Glassman suggested the tenants work with the landlord over the anticipated three month major disruption during construction.

In response to Ms. Dawicki, Mr. Gioiosa agreed to a condition that would reduce and adjust the fencing area once the binder was put down, to minimize impact on the center.

Mr. Cruz suggested that the applicant give advance notification to Price Rite of fencing movements/locations. Mr. Gioiosa agreed communication was the key.

Ms. Duff asked for the profile of the elevated concrete depth for unloading on the east side. Mr. Gioiosa displayed the same. Mr. Gioiosa stated the applicant's layout presumes the access is as Mr. Cruz pointed out and not behind the Price Rite building.

There being no further questions for the applicant, a second motion was made (KD) and seconded (AG) to close the public hearing. Motion passed unopposed.

Ms. Dawicki discussed conditions raised to be included in any motion.

There being no further questions, a motion was made (KD) and seconded (AG) to approve, with conditions, a request by applicant for modification of Site Plan approval for Case #19-16 for a minor layout adjustment for new construction of a retail building, located at 139 Hathaway Road (Map 101, Part Lot 14, 16 & 17 and Land Court Lot 11), in the Mixed Use Business and Industrial B zoning districts as presented by applicant's agents SITEC Inc., of Dartmouth, MA.

The Planning Board finds this request to be in accordance with City of New Bedford Code of Ordinances, Chapter 9, Section 5400. As a result of such consideration, the Board moves approval on the subject application with the following conditions:

- That the applicant notify the tenant Price Rite within sufficient time as the temporary construction fence is moved to minimize disruption of the parking area, specifically in front of the Price Rite store;
- That the project shall be undertaken according to the plans submitted with the application with adherence to all notes on plans as reviewed by the Planning Board on this date;
- That the applicant shall honor outstanding stipulations of the Notice of Decision by the Planning Board date stamped by the Office of the City Clerk on 6/16/16, which incorporated the following conditions for approval:
  - Applicant agrees to accommodate Price Rite Company by eliminating parking spaces at the east side of the loading dock up to a total of six to be removed;
  - Applicant will update construction notes to planning sheets as recommended by staff, specifically construction site layout plan Sheet SL-1 and Erosion Sediment Control Plan Sheet ESC-1;
  - Applicant will honor all DPI recommendations in memos dated 8/27/15 and 11/30/15;
  - Recommendations made by staff shall be honored by the applicant;
  - As stipulated by the decision dated September 9, 2015, applicant shall have a handicap accessible ramp or curb cut installed at the pedestrian safety crosswalk;
  - Applicant shall provide handicapped parking areas, signage and pavement markings, and shall honor handicap parking spaces which will serve the business under stipulations set forth by 521 CMR 23;
  - As stipulated by the decision dated 9/9/15, the landscaping shall provide trees true to landscape plan of 2 – 2.5” caliper in diameter at the three foot rise or from the top of the burlap;

- As stipulated by the decision dated 9/9/15, the roof material shall be of EPDM or PVC in light or white color;
- As stipulated by the decision dated 9/9/15 hours of operation shall be corrected per agreement and consistency between applications for site plan approval and special permit, and no earlier than 8:00 a.m. and no later than 8:00 p.m.
- As stipulated by the decision dated 9/9/15 signage may be illuminated no later than one hour after closing time, but no later than 9:00 p.m.;
- As stipulated by the decision dated 9/9/15, days of operation shall be six days per week, from Monday through Saturday;
- As stipulated by the decision dated 9/9/15, the applicant shall clarify the party responsible for operation and maintenance associated with storage of oil materials and provide documentation for the Planning Commission case file folder;

Additional conditions shall include the following:

- That the applicant shall ensure installation and show evidence of all relative ADA parking requirements on revised plans;
- That the applicant shall submit final plan revisions to the Planning Divisions in the following format:
  - One 11x17 plan set
  - One CD or USB of plan set in PDF format
- That the applicant shall provide a copy of Notice of Decision certifying no appeal has been brought forward by the Office of the City Clerk Planning Division case file folder;
- The applicant shall present any proposed modifications from the approved plan for consideration to the city planner for determination as to whether the modified plan must return before this board for further review;
- The rights authorized by the granted modification of the plan approval must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from date granted or they will lapse.

Motion passed unopposed.

**ITEM 4 – Case 25-16 - Riverside Landing Multi-Use Development at the Former Fairhaven Mills Drive- thru Restaurant – Request by applicant for modification of Special Permit and Site Plan approval for Case #15-13 from medical ambulatory facility and drive-thru bank to medical ambulatory facility and drive-thru fast food restaurant at Riverside Landing (Map 93, Lots 261 & 292; a/k/a Map 93-2, Lots 264 & 261) in the Hicks-Logan-Sawyer District Interim Planning Overlay District (IPOD). Applicant’s Agent: Prime Engineering, Lakeville, MA.**

Rich Rheaume stated this project has been before the board for many years, with the first phase being Market Basket and the second phase a multi-use building and the Taco Bell. He stated the third phase, a medical urgent care facility, also proposed a branch bank, which was approved. He stated the urgent care facility was completed, but the branch bank did not go forward, and the applicant is seeking modification of the site plan approval and the special permit to allow a fast food restaurant to substitute for the bank.

Mr. Rheaume stated the bank was approximately 2,800 sf and the proposed fast food restaurant would be 2,300 sf. He displayed the locations and explained that all utilities had been brought to the site; water, sewer, et cetera. He stated part of the approval was a 2’ high retaining wall along the frontage of the area using reclaimed granite, which was constructed. He stated the current overgrown grass area is

ready for construction.

Mr. Rheume displayed the site layout plan showing the proposed restaurant, parking and drive-thru lane, et cetera. He stated the building re-orientation allows for an additional landscaped strip. He stated the proposal has the same amount of parking spaces and impervious area.

Mr. Rheume then displayed the landscape plan and discussed the proposed plantings. He then discussed sidewalks, lighting, et cetera, which has already been constructed. He displayed the building elevations, and discussed the brick to be used and presented material samples. He stated the approved sign was a 7' high 32 sf monument sign. He stated it was constructed at a smaller scale with the top two panels used by the urgent care center. He stated the lower two panels will be used by Popeye's fast food restaurant. He stated the only other signage would be on the building itself.

Mr. Rheume stated there are two waivers requested. One is for the reduction in parking space size from 9x20 to 9x18, the industry standard, allowing for more landscape area. He noted the cars along Coggeshall Street will overhang the proposed lawn area by 2 feet. He noted the waiver had been previously approved. He stated the second waiver is for submission of a drainage report, noting the project will have the same grades and same amount of impervious area going to the same catch basins and Stormceptors, and another storm water report would be redundant.

He stated the Conservation Commission commented that it was not under their jurisdiction. He stated DPI comments would be part of approval conditions but for one, stating that DPI asked for the developer to donate some fifteen trees to the city. He stated that has not been required of any other project and the board should not agree to extort trees from a developer, and as such the applicant objects to that single DPI request. He invited questions.

In response to Mr. Glassman, Ms. Duff stated trees are generally required every 20-30' on center.

Ms. Clarke stated DPI uses a calculation and the board can adopt that requirement. Ms. Duff confirmed with Mr. Rheume that the DPI request is for trees that may be planted elsewhere in the city. He stated that the required trees had been planted along Veteran's Memorial and the Coggeshall Street frontage. There was brief discussion about the DPI request for the tree donation.

In response to Mr. Cruz, Mr. Rheume stated the cars cue in the 18' wide lane, and the cars are able to exit in the bypass lane, which is approximately 12' wide. Mr. Rheume stated Popeye Corporation deliveries come in 1-2 time per week at off-peak hours possibly in eighteen wheelers. He explained the turn maneuvers and exits for the same. Mr. Cruz expressed he felt it was a tight movement.

In response to Ms. Duff, Mr. Rheume stated there was a possibility of pedestrian traffic between the urgent care and the Popeye's. He stated they could do a crosswalk, but anticipates minimal traffic. There was brief discussion about peak business hours for the Popeye's.

In response to Mr. Cruz, Mr. Rheume stated the 9x18 area near the dumpster was a possible parking space, which is included in the space count.

In response to Ms. Duff, Mr. Rheume explained entrances in relation to handicap spaces and pedestrian traffic into the forty-six seat restaurant. He again noted the majority of the Popeye business is takeout.

Ms. Duff felt the landscaping was appropriate, but noted she has observed some foot traffic on Mitchell Street going through the development. Mr. Rheume went over the sidewalk system. Ms. Dawicki

suggested a crosswalk and expressed a desire to keep pedestrians off the landscaped areas.

There was further discussion regarding the directing of potential foot traffic.

Mr. Cruz confirmed that a do not enter sign would be posted for the bypass lane, as well as stop signs at entrances/exits.

In response to Ms. Dawicki, Mr. Rheume stated the roofing is a membrane over rigid insulation covered by white gravel.

In response to Mr. Cruz, Mr. Rheume indicated the drainage systems and locations. Mr. Cruz expressed concern about any potential problem with puddling/pooling near the accessible parking area and suggested drainage into the grass.

A motion was made (KD) and seconded (AG) to open the public hearing. Motion passed unopposed.

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

A motion was made (KD) and seconded (AG) to close the public hearing. Motion passed unopposed.

After brief discussion regarding the contents of any motion, a motion was made (KD) and seconded (AG) to approve, with conditions, a request by applicant for a special permit and site plan approval for a drive-thru fast food restaurant at Riverside Landing (Map 93, Lots 261 & 292; a/k/a Map 93-2, Lots 264 & 261) in the Hicks-Logan-Sawyer District Interim Planning Overlay District (IPOD).

The Planning Board finds this request to be in accordance with City of New Bedford Code of Ordinances, Chapter 9, Section 4610. As a result of such consideration, the Board moves approval on the subject application with the following conditions:

- That the applicant agree to install a four foot wide concrete walk from the urgent care property to the newly proposed Popeye's with striping across the drive area at the entrance to the Popeye's;
- That the applicant agree to install appropriate signage at the Popeye's – a Do Not Enter on the exit area and appropriate stop signage as well;
- That the applicant agree to modify the curbing around the accessible parking area in the southwest corner in front of the proposed Popeye's to allow for drainage in the event of water or ice pooling;
- That the project shall be undertaken according to the plan submitted with the application with adherence to all notes on plans as reviewed by the Planning Board on this date;
- The applicant shall present any proposed modifications from the approved plans for consideration to the city planner for determination as to whether the modified plan must return before this board for further review;
- That the board grant and incorporate the petition for waiver and that these waivers be noted on the final plan provisions for historical reference;
- That the applicant have the elevation plans stamped by a registered architect as stipulated under 5440 of the City Ordinances for final consideration, review and approval by the planning board agent;
- That the hours and frequencies of deliveries be clarified and provided to the city planner prior

to the issuance of a certificate of occupancy;

- That the memorandum from DPI dated 8/1/16 be incorporated as part of this decision;
- That the conditions of the previously notice of decision by the Planning Board for Case #15-13 dated stamped by the Office of the City Clerk on 7/23/13 remain in effect as relevant to this application;
- That the applicant shall ensure installation and show evidence of all relative ADA parking requirements on revised plans as set forth by DPI;
- That the applicant shall submit a final plan revision to the planning division in to the Planning Divisions in the following format:
  - One 11x17 plan set
  - One CD or USB of plan set in PDF format

And shall ensure that these same plans are properly submitted to DPI;

- That the applicant shall provide a copy of Notice of Decision certifying no appeal has been brought forward by the Office of the City Clerk for the Planning Division case file folder;
- That the applicant shall present any proposed modifications from the approved plans for consideration to the city planner for determination as to whether the modified plan must return before this board for further review;
- That the rights authorized by the granted modification of the plan approval must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from date granted or they will lapse.

Motion passed unopposed.

Board Member Glassman recused himself from the following matter.

**ITEM 5 – Case -26-16 - 314 Church Street – Assured Collision – Request by applicant for site plan approval for a commercial business expansion at 314 Church Street (Map 113, Lot 68, 174, 175 & Map 109, Lots 237, 238, 239 & 240) in the Residence-B and Mixed Use Business (MUB) zoning districts. Applicant’s Agent: Farland Corp, New Bedford, MA.**

Nick Dufresne of Farland Corp Civil Engineers explained the proposed project consists of two lots on the east side of Church Street. He stated the building on-site was previously Monroe Electric. He stated Lot 74, located in a Residence B district, is an existing paved parking area. He stated the applicant who recently purchased the property intends to use the building and adjacent lot to expand his towing business. He stated the existing building will convert to some 4,500 sf of office space for the business and the rest will be garage storage for the tow vehicles. He stated the use requires 23 parking spaces, one of which will be handicap accessible, and will be located on the Princeton Street lot. He stated the single change to the building footprint will be the set back of the existing wall on Church Street some 6.5’ to allow exiting trucks room to check traffic on Church Street.

Mr. Dufresne stated that a new apron in front of garage doors and concrete sidewalks will be installed along the Church Street frontage. He stated the deteriorating façade will be updated.

He stated the proposed parking area will include landscaped islands and will be striped. He stated a landscape buffer of 16 arborvitae trees will be planted on the easterly property line.

Mr. Dufresne noted that impervious surface has been reduced by 400 sf. He stated sidewalks, grass strip, and handicap accessible ramps will be installed along Church Street. He stated the project will be an improvement to the site and neighborhood by updating a vacant warehouse, improving an existing

parking lot, providing tow service to the city, as well as jobs.

Mr. Dufresne displayed and discussed the existing conditions plan. He then displayed and discussed the proposed site plan. He stated a vinyl fence has been installed on the property line since the submission of the plans. He invited questions.

In response to Ms. Dawicki, Mr. Dufresne stated the operation hours of the towing facility will be 8:00 - 5:00. The business will have seventeen employees. He stated tow trucks will be housed in the building until needed. Once retrieved, vehicles will be stored in the fenced-in area on Lot 238 at Clifford and Church Street. He stated no changes are planned for that lot.

In response to Ms. Clarke, Mr. Dufresne stated that he anticipates the vehicles to be regular automobiles. He stated he thinks the large vehicles now present on the property are due to ongoing construction in the building. Once complete, he stated the intent is for the towing trucks to be stored inside the building.

Mr. Dufresne submitted photos.

A motion was made (KD) and seconded (PC) to receive the photos. Motion passed unopposed.

In response to Mr. Cruz, Mr. Dufresne stated the garage doors in front are expected to be the main entrance/exit for the tow trucks. He stated ventilation and oil/water separators will be installed. He added that there is no proposed maintenance or repair within the garage.

In response to Mr. Cruz, Mr. Dufresne stated the area Mr. Cruz questioned is for extra tow vehicle parking. He added larger vehicles will be away from residences and located on the Church Street side.

In response to Ms. Dawicki, Mr. Dufresne explained there was a potential for trucks to use Princeton Street, depending on the call location. He noted there was access from Clifford Street into the storage lot, explaining gate locations. There was discussion by Ms. Clarke about minimizing negative impact on the surrounding neighborhood. Mr. Dufresne noted that tow vehicle lights are not required on-site and will be shut off, as will back up alarms.

Ms. Duff noted the challenge as the site is located adjacent to a residential area. She noted new construction would require 35% open space. Mr. Dufresne noted the addition of planned green space areas. He answered further board questions regarding screening on the property.

Will Needle, President of Assured Collision, stated there is no planned use for the back of the building but for a possible dumpster.

Ms. Dawicki noted the DPI request for street trees.

Mr. Dufresne stated there was no lighting proposed for the parking area. He stated that night tows are expected to be brought into the garage facility and brought out to the lot during regular business hours.

A motion was made (KD) and seconded (PC) to open the public hearing. Motion passed unopposed.

In response to Ms. Dawicki's invitation to speak or be recorded in favor or opposition, Elizabeth Mitchell of 319 Irvington Street stated there currently were vehicles in and out of the property in front of her home. She expressed concern on whether the trucks will still be there once the garage is built.

She stated when trucks come down her street the whole house shakes. She stated she wants to make sure the property is only going to be used for storage and not for fixing vehicles, as she has asthma and is concerned about any fumes. She also expressed concern about the trucks moving in and out in the snow. Ms. Mitchell said she is fine as long as this is only for storage and they keep it clean.

There was no response to Ms. Dawicki's further invitation to speak or be recorded in favor or opposition.

In rebuttal, Mr. Dufresne stated that once construction is completed the vehicles and trailer behind the building will be removed, leaving only the dumpster. Mr. Dufresne again stated the main access used will be Church Street. Mr. Dufresne did not anticipate snow removal problems on the property, with the extra spaces available for snow storage. Mr. Dufresne again stated there is no planned or proposed mechanical work to be done on the site.

In response to Mr. Cruz, Ms. Clarke confirmed that a different permit is required for auto body shops.

Ms. Mitchell inquired as to any future plans to fix vehicles.

Ms. Clarke explained that the enforcement officer makes the decision whether a use is allowed. She explained that she believed additional approvals would be needed for a repair facility.

Ms. Dawicki encouraged Ms. Mitchell to speak with the owner and exchange contact information in the event that additional concerns arise.

A motion was made (KD) and seconded (PC) to close the public hearing. Motion passed unopposed.

In response to Ms. Duff, Mr. Dufresne stated ventilation would be included in the architectural package submitted to the building department, but he confirmed that to his knowledge there would be a ventilation system venting to the roof. He again reminded the board the vehicles will be pulling in and out and are not expected to be left running.

In response to Ms. Duff, Mr. Dufresne confirmed with Mr. Needle that the current roof is okay and they do not anticipate installing a new roof.

Mr. Needle, in an effort to assure Ms. Mitchell, stated they are Triple A affiliated, doing between 77,000 and 82,000 calls per year for them between their two locations, with 27,000 – 31,000 in New Bedford annually. He stated drivers take the trucks home and primarily all vehicles will be coming out the front door onto Church Street. There was discussion regarding limiting exiting onto Princeton Street. Mr. Needle noted that limitation would leave trucks be running longer due to unlocking and relocking fences and may affect the neighbors. There was brief discussion on potential curb cut and lot reconfiguration. Board Member Cruz was designated to work with the applicant on these issues.

Ms. Dawicki read into the record an abutter's letter of 8/5/16 from the Alves. She noted several of the issues in the letter had already been addressed in the proceedings.

After discussion on conditions for motion content, a motion was made (KD) and seconded (PC) to approve, with conditions, a request by applicant for site plan approval for a commercial business expansion at 314 Church Street (Map 113, Lot 68, 174, 175 & Map 109, Lots 237, 238, 239 & 240)

located on a .94 +/- acre site in the Residence-B and Mixed Use Business (MUB) zoning districts as presented by Applicant's Agent Farland Corp, of New Bedford, MA.

The Planning Board finds this request to be in accordance with City of New Bedford Code of Ordinances, Chapter 9, Section 5400. As a result of such consideration, the Board moves approval on the subject application with the following conditions:

- That the building be used for the storage of vehicles and not the service of vehicles;
- That the applicant agree to work with a board member regarding the egress of trucks to least impact the residential areas, specifically those in the Princeton Street area;
- That the applicant agree that safety lights and backup alarms on vehicles be turned off after business hours;
- That the project be undertaken according to the plan submitted with the application with adherence to all notes on plans as reviewed by the Planning Board on this date as modified by the conditions of this decision;
- That the applicant shall have the elevation plans stamped by a registered architect as stipulated under 5440 of the City Ordinances for final consideration, review and approval by the planning board agent;
- That the applicant shall undertake the parking calculations to include the requirements for office use and storage of road side assistance vehicles on final site plan revisions;
- That the applicant shall ensure installation and show evidence of all relevant ADA parking requirements as set forth by DPI on final site plan revisions;
- That the planning board incorporates the memorandum from DPI dated 7/26/16, and that the DPI memorandum stipulates cement ribbon sidewalks and granite curb. The applicant shall delete reference to bituminous concrete on final plan revisions;
- That the applicant shall adhere to the stipulations set forth under Sections 3300 and 3332 and Appendix B of the zoning code whereby green space in Mixed-Use Business and Residence-B must compromise a minimum of 35% of the site plan for Map 113, Lot 68, 174/175 and Map 109, Lots 237, 238, 239 and 240;
- That the landscape buffering plan be presented for review by the planning board and consideration and approval;
- That as the commercial business is adjacent to a residential zone, the applicant shall provide a lighting plan to illustrate the location of site illumination for consideration as relates to the building, not the parking lot;
- That the applicant shall update plans to note the 4' chain-link fence as shown on the Layout Utilities and Grading Plan of Map 113, Lot 177 has been replaced with a vinyl fence;
- That the applicant shall change all Hay references to Straw on the final plan revisions;
- That the applicant shall ensure operations on site shall subscribe quiet hours between 10:00 p.m. and 7:00 a.m. as stipulated under City Ordinance 17-15B;
- That the applicant remove any barbed wire fencing on property lines abutting residential zones below a height of 8' above grade as stipulated under Municipal Code 2339;
- That the applicant shall submit final plan revisions to the Planning division in the following format:
  - One 11x17 plan set
  - One CD or USB of plan set in PDF format

And shall ensure that these same plans are properly submitted to DPI;

- That the applicant shall provide a copy of Notice of Decision certifying no appeal has been brought forward by the Office of the City Clerk for the Planning Division case file folder;
- That the applicant shall present any proposed modifications from the approved plans for

consideration to the city planner for determination as to whether the modified plan must return before this board for further review;

- That the rights authorized by the granted site plan approval must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from date granted or they will lapse;
- That landscape and lighting plans can be reviewed by the planning staff.

Motion passed unopposed.

### **OLD/NEW BUSINESS**

Ms. Clarke stated notices were received from the neighboring towns of Dartmouth and Freetown. Notice was also received from Buzzards Bay Coalition advocating for EPA action at Slocum and Little Rivers. She noted the documents were available for review in the planning office.

### **ADJOURNMENT**

There being no further business before the board, a motion was made (KD) and seconded (AG) to adjourn. Motion passed unopposed.

Meeting adjourned at 8:35 p.m.

NEXT MEETING  
Wednesday, September 14, 2016