



Zoning Board of Appeals

October 24, 2013 - **Minutes**

City Hall, 133 William Street, Room 314

PRESENT:

Chairman Ian Comerford

Donald Gomes

James Mathes

Jennifer Smith

Allen Decker

Leo Schick

ALSO IN ATTENDANCE:

Dan Romanowicz Building Commissioner

Ray Khalife

MEETING CALLED TO ORDER by Ian Comerford @ 6:05 p.m. Chairman Comerford explained procedures.

A motion was made (JS) and seconded (DG) to take Case #4110 out of order. As everybody knows, there are three cases pertaining to a fairly large development project and I'd hate to think these folks would have to sit through all that. That's my motion.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the communication be received and placed on file.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the appeal be received and placed on file as well. Prior to any vote, correspondence was read into the record.

The communication having been read into the record, a motion was re-made (AD) and seconded (DG) that the communication be received and placed on file.

Motion passed unopposed.

The appeal having been read into the record, a motion was re-made (AD) and seconded (DG) that the appeal be received and placed on file. The appeal were read into the record.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the plan be received and placed on file.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the owners of the lot as indicated are the ones deemed by the board to be affected.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the communication from the city of the office planner be received and placed on file.

Motion passed unopposed.

Chairman Comerford opened the hearing.

Mr. Gomes inquired what the American Disability Act says about this stuff and asked if it comes into play for private residences.

Mr. Romanowicz affirmed that it does, and the bathroom itself in a rear yard requires a ruling from this board.

Mr. Gomes again inquired what the American Disability Act says about private residences.

Mr. Romanowicz cited that Mass General Law, Chapter 46 says we can't discriminate through zoning regulations against them for egress. They're asking for the bathroom in the rear, so they're not exempt from zoning.

Mr. Gomes commented that they're asking for a bathroom because they have somebody who has a disability as I understand it, who is wheelchair bound. He wanted to know if the Americans Disabilities Act covers private residences; and if so, did anybody look at that. It sounds like nobody looked at that. They just looked at the state code and the state law.

Mr. Romanowicz inquired if Mr. Gomes had some different knowledge, to which Mr. Gomes indicated he did not.

Unknown Male: Mr. Chairman, to the best of my knowledge, it's not. Private residences are not a covered entity under the ADA. But Danny is right, there is a prohibition for discrimination as far as changes that you would need for the egress. In other words, ramps and things like that. You've seen a lot of houses around the city retrofitted with a ramp in the front. That has to be with infringing on setbacks and that wouldn't require coming before this board. It's the fact that the bathroom is bumping out that brings it in.

UNKNOWN MALE: It's a question with if it were a certain number of units.

David Georgiano, of 24 Valentine Street, New Bedford, MA, the contractor for the applicant addressed the Board. He indicated the applicants have been going through a government funded program for about a year to try to get this funding to them so that they could get this addition or remodel in their bathroom. Walking through their house is really tight. He stated it is an old 1900's house and the layout of the house really wouldn't work even if they remodeled the bathroom they have on the second floor. They have a lift there. He stated that would require getting from the chair to the lift and then to another chair on the second floor. He stated this would be a hardship on the elderly homeowners, as well as having someone in their family as a handicap. He stated the plan submitted was the best way to go about it. He then invited questions from the board. He stated that Mr. Suarez was supposed to be here tonight but may have got tied up. He stated he had a letter from him and his wife as well basically just stating that I can speak for them.

Mr. Suarez identified himself as being present.

Ms. Smith confirmed with Mr. Romanowicz that the required rear set back is 30.

And they're going to take 12 of that. So they're going to leave 18 feet.

Mr. Comerford invited anyone else in favor of the petition to speak.

Mr. Suarez addressed the board and indicated he was seeking help as his daughter has cerebral palsy. That she is 20 years old but she's a vegetable. He stated they we're having a severe hard time because sometime she has a lift to pick her up from the bed but sometimes it breaks down. He stated he paid 700 dollars, that's only to fix that. But the woman in my house who to take care of my daughter they don't have enough strength to pick her up. So I got to pick her up to put her in the chair but the room is small. They're having a severe hard time to turn. The thing is if they give me the chair with the contractor they can do the bathroom downstairs and make it a lot easier not only for the woman but for myself too and for my daughter too. You understand? And I hope if everything goes well you know it's going to be okay.

Mr. Comerford inquired of Mr. Suarez's address, which Mr. Suarez stated was 151 Merrimack Street.

There was no response to Mr. Comerford's invitation to be heard in favor.

There was no response to Mr. Comerford's invitation to be heard in opposition.

The applicant had no rebuttal and Mr. Comerford invited questions from the board.

There being none, the public hearing was closed.

Mr. Comerford indicated that though keeping in mind this was dense neighborhood, the fact that no abutters showed up to voice any concerns, he found no issues with it. Ms. Smith agreed.

The Board declined to take any additional photos from the applicant.

A motion was made (JS) and seconded (AD) to grant Appeal #4110, a variance under provisions of the City Code of New Bedford to Justo and Betty Suarez, 151 Merrimac Street, New Bedford MA 02740, relative to property located at 151 Merrimac Street, Assessor's Map Plot 71, Lot 243, in a Residential B Zoned District; and to allow the petitioners to build a 12'x12' Handicap Bathroom, and to relieve the petitioner of Comprehensive Zoning Sections 2700, 2710, 2720, 2730, 2750, and 2755 and 2753 with no conditions; and that the project be set forth according to plans submitted with the application and that it 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.

Motion passed unopposed.

Case # 4015 - Paul and Pamela Sylvia on Beech Street, New Bedford.

Communication of 10/2/13 was read into the record.

A motion was made (AD) and seconded (DG) to have the communication received and placed on file.

Motion passed unopposed.

The appeal was read into the record.

A motion was made (AD) and seconded (DG) that the appeal be received and placed on file.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the plan be received and placed on file.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the owners of the lots as indicated are the ones deemed by the board to be those affected.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the action of the clerk in giving notice of this hearing is here by ratified.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the communication from the office of the city planner be received and placed on file.

Motion passed unopposed.

Mr. Comerford declared the hearing open.

Paul Sylvia, 19 Beech Street, owner of the property, introduced himself to the board.

He indicated the petition related to an existing deck with a property line less than 30 feet back thereby requiring the variance.

Ms. Smith confirmed that applicant was not changing the foot print of the deck at all but simply enclosing. The applicant confirmed he was not.

Upon invitation to be heard in favor, Linda Morad, 4162 Acushnet Avenue, New Bedford MA, addressed the board. She stated she has known Mr. and Mrs. Sylvia for many years and they are good people in the community. She stated they've owned this house for many years and are just trying to stay in the neighborhood that they raised their children in. She appreciated the board's support of their request to enclose their deck and to protect their cats. As an animal lover how could I not come and speak? Thank you

There was no response to Mr. Comerford's further invitation to be heard in favor.

There was no response to Mr. Comerford's invitation to be heard in opposition.

Upon opening the floor for comments, no further comments were heard and the hearing was closed.

There being no further discussion by the board, a motion was made (JS) and seconded (AD) to grant Appeal #4105, motion to grant a variance under provisions of the City Code of New Bedford to Paul and Pamela Sylvia 19 Beech Street, New Bedford Massachusetts 02740, relative to the property located at 19 Beech Street, Assessors Map Plot 56, Lot 76, in a mixed use business zoned district; and to allow the petitioner to enclose an existing 12 foot by 12 foot deck and use it as a three season room; and to relieve the petitioner of Comprehensive Zoning Sections 2700, 2710, 2720, 2730, 2750, 2753 with no conditions; and that the project be set forth according to plans submitted with the application and that it 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.

Motion passes unopposed.

Case #4106 -

Communication dated 10/2/2103 was read into the record.

A motion was made (AD) and seconded (DG) that the communication be received and placed on file.

Motion passed unopposed.

The appeal was read into the record.

A motion was made (AD) and seconded (DG) that the appeal be received and placed on file.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the plan be received and placed on file.

Motion passed unopposed

A motion was made (AD) and seconded (DG) that the owners of the lots as indicated are the ones deemed by the board to be those affected

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the communication from the office of the city planner be received and placed on file.

Motion passed unopposed.

Mr. Comerford declared this hearing open.

John Bressette of 85 Robeson Street, introduced himself to the board.

In response to an inquiry by Mr. Comerford as to the specific reasons for changing from asphalt to concrete, Mr. Romanowicz stated that if they were going to do a driveway it'd be grandfathered in, but once they start going to the backyard and once they remove it it's gone. He stated he told them if they go over it, it'd be okay. After discussion with the city solicitors, they said we have to move forward with green space.

Ms. Smith explained that for every case the board hears, they get a recommendation, from the Office of the City Planner that gives either a recommendation or some things to think about regarding the case that maybe we hadn't thought about. In the communication tonight regarding this case, one of the things the city planner says is "to ensure that the grading of the concrete is done in a manner in which it will not drain onto the abutting properties." I'm in agreement with that. Mr. Smith inquired of Mr. Romanowicz on how that would be enforced.

Mr. Romanowicz indicated the board would put that in as a condition.

Ms. Smith stated that a second condition would be included requiring the applicant to work with the city's tree warden, who is actually Ron Labelle, the superintendant of the Department of Public Infrastructure, and to pay for the procurement or purchasing of three shade trees, 3.5 inch caliber minimum, to be located within the neighborhood. The fear is that once you put concrete down, it's going to mean more potential run off from your property onto the city streets and to the storm water system, and onto your neighbors' property. That's why the board is interested in conditioning that the grading is done properly. And now the city planner is recommending that we ask that you purchase 3 trees to put into the neighborhood to mitigate the impact on the city storm water system from potential runoff.

Mr. Bressette stated that there were photos taken of that, whereas he specified there were no photos.

Mr. Comerford indicated there were pictures in the application

Mr. Bressette stated he had signed signatures of all my surrounding abutters from Willow to Cottage to Robeson.

Ms. Smith indicated that when the board went into discussion to decide whether we're going to grant this, they would need at least a verbal from the applicant that he would do the two conditions to get this done. Mr. Bressette indicated he surely would.

Mr. Mathes questioned that if the petitioner just chose to go and put concrete over the existing asphalt he wouldn't even be here. Mr. Romanowicz indicated if he did so for just the driveway. Because inside our zoning we had a lot of abutters saying that okay we have a buffer. They used to come in with letters saying my next door neighbor said it's okay. Long story short, the next door neighbor leaves, they're not taking care of it, and the cellars were getting flooded or the way that the asphalt guys or concrete guys were doing it they were sweeping everything towards the neighbor, so all their water was going on the next door neighbors. To make it more equitable for the abutters if they would've got a building permit that was grandfathered for the work that they did in the back we could say everything was grandfathered in. The driveway would be grandfathered in, but the back yard wouldn't. Mr. Romanowicz indicated he had reached out to Manny Silva and they researched it and couldn't find anything. I asked these people here to supply us with something to try to help them. We did the best we could and that's why we're in front of the board now.

Mr. Mathes stated that his specific question is for the specific area where he's going to dig up asphalt turn it into dirt and then pour concrete on top of that, if he didn't dig up that asphalt we wouldn't be here. Mr. Romanowicz indicated that was true.

Mr. Mathes stated that because he's doing it the right way, it's costing him time and money to come here, and that bugs me. Now, I'm not in charge of that. That's just the system. The other part is that there aren't any trees coming down as a result of this and there's no change in the impervious surface space as a result of this, and so I'm a little at a loss for the added expense of trees. Putting the trees there is not something that I necessarily want, but I'm just one person up here. I'm not motivated by that. The circumstances to me are strange that he even has to go through this time and expense to be here in the first place. I'm not belittling the importance of trees and vegetation.

Mr. Romanowicz indicated Mr. Mathes' comments were absolutely right. They're doing it the right way and they're here in front of you. They could have done this on a Saturday or a Sunday.

Mr. Gomes agreed the board was going to penalize him by requiring him to pay for trees.

Mr. Mathes reaffirmed that the applicant is already incurring additional expense because they're doing it the right way, and now we want to make him put trees in and addition. He stated he did not support that.

Mr. Gomes stated that board had to make sure that the neighbors are protected and that's in there in one of the conditions. But stated he did not find it fair but punitive that the applicant taking away green space in their back yard should require them to put shade trees in the neighborhood, and he would not vote for that condition. Those trees cost \$300 a piece.

Upon invitation to speak in favor, Ms. Diane Bressette, addressed the board and indicated when she conferred with the contractor, she specified that they would actually grade the backyard to go right down the driveway and bleed out and grade the correct way. The other reason why we also have a letter from a neighbor who has problems with water in his cellar and already has cement up to his foundation which butts our black top to our drive way and it would be graded so that it would help to keep water out of his cellar. So, we're helping him at the same time. And again, we're not changing any green space in our yard because it is black top. The legs from our trailer over time and heat over the summer, seep into the black top. So we can't even black top over this black top. It needs to be cement if we're going to continue using it as a storage purpose for us, which is what we've done for years.

Upon invitation to speak in favor, Mr. William Cortahalous of 90 Robeson indicated he had no problems with the applicant's proposal, stating that if not granted the applicant's boat and trailer will be in the street. People parking over here have parking space because a lot of people have driveways, opened up driveways now, making the cars disappear.

There was no response to Mr. Comerford's further invitation to be heard in favor.
There was no response to Mr. Comerford's invitation to be heard in opposition.
There was no response to Mr. Comerford's invitation for further comments from the floor.

Mr. Comerford closed the public hearing.

A motion was made (JS) and seconded (DG) to grant Appeal # 4106, a motion to grant a variance under provisions of the City Code of New Bedford to John Arthur Bressette and Diane Marie Bressette, 85 Robeson Street, New Bedford Massachusetts 02740 relative to property located at 85 Robeson Street, Assessors Map Plot 71, Lot 273, in a Residential B Zoned District; and to allow the petitioner to cement existing black top yard and driveway; and to relieve the petitioner of comprehensive zoning sections 2700,2710,2720 with the following condition: that the grading of the concrete is done in a manner in which it will not drain into the abutting properties, and that the project be set forth according to the plan submitted with the application and that it 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.

Motion passed unopposed.

Mr. Gomes and Ms. Smith expressed their gratitude that the Bressettes came and did this the right way.

With regard to the next matter, Mr. Mathes questioned the reference regarding the appeal which said see attached brief in the application. Could somebody show me where that is in the application.

(Parties recessed briefly to set up for video presentation)

Mr. Decker recused himself from Cases #4107, #4108 and #4109, as his employer Buzzards Bay Coalition is a direct abutter to the applicants.

Mr. Comerford explained the process by which the board would address the matters.

A motion was made (JM) and seconded (DG) to receive communication from the Inspector of Buildings in Case #4107 for a variance dated October 2nd from Danny Romanowicz and place it on file.

Motion passed unopposed

A motion was made (JM) and seconded (DG) stating the appeal is as articulated in a brief from J.R. Peabody and Michael Kehoe of Partridge, Snow and Hahn dated October 15th 2003, submitted to the Zoning Board of Appeals.

Motion passed unopposed

A motion was made (JM) and seconded (DG) that the plan be received and placed on file

Motion passed unopposed

A motion was made (JM) and seconded (DG) that the owners of the lots as indicated are the ones deemed by the board to be affected.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the communication from the office of the city planner be received and placed on file.

Motion passed unopposed.

Mr. Comerford declared the hearing open.

If I could have the communication from the Commissioner Inspector of Buildings for Case #4108.

A motion was made (JM) and seconded (DG) to receive and place on file the communication dated October 2nd to the zoning board of appeals for a variance for Case

#4108 from Danny Romanowicz Commissioner of Buildings and Inspectional Services.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the appeal be received and placed on file as received from J.R. Peabody and Michael A. Kehoe in a brief dated October 15th 2013 to the zoning board of appeals.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the plan be received and placed on file.

Motion passed unopposed

A motion was made (JM) and seconded (DG) that the owners of the lots as indicated are the ones deemed by the board to be affected.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the communication from the office of the city planner be received and placed on file.

Motion passed unopposed.

Mr. Comerford declared the hearing open.

If I could have the communication from the Commissioner Inspector of Buildings for Case #4109.

A motion was made (JM) and seconded (DG) that communication dated October 2nd to the zoning board of appeals from Danny Romanowicz for Case #4109, a petition for a special permit under provision of Chapter 9 be received and placed on file.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the appeal be received and placed on file as articulated in a brief from J.R. Peabody and Michael A. Kehoe from Partridge, Snow & Hahn to the zoning board of appeals dated October 15, 2013.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the plan be received and placed on file.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the owners of the lots as indicated are the ones deemed by the board to be affected.

Motion passed unopposed.

A motion was made (JM) and seconded (DG) that the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

A motion was made (JS) and seconded (DG) that the communication from the office of the city planner be received and placed on file.

Motion passed unopposed.

Mr. Comerford declared the hearing open.

Mr. Chair, perhaps I should have done this first as the clerk referenced them as his appeals, but I would like to make a motion (JS) to receive and place on file 3 correspondences/memos all done by J.R. Peabody and Michael Kehoe of Partridge, Snow & Hahn outlining the background of the projects, the appeals, and the relief being sought.

Mr. Mathes seconded this motion, which passed unopposed.

Mr. Comerford invited the applicant to proceed with their presentation.

Jay Peabody, an attorney with law office at 128 Union St., New Bedford, MA, addressed the board. He expressed that he wanted to keep the presentation streamlined acknowledging that the ZBA had not yet seen this project like many of the other boards had. He expressed that it's a very large project and a very significant project within the city for a lot of reasons. He introduced team members, stating that Partridge, Snow & Hahn is acting as lead council for the project. In addition he introduced Tim Love from Utile, the lead architect on the project; Nick Dufraim from Thompson & Farland Engineering, the firm which has acted as lead engineer on the project; and Bob Vanasse couldn't be here but he did submit information for us to relay to the board to the extent it's necessary, and he has acted as our traffic consultant for the project. We've had two hearing with the historic commission and received the certificate of appropriateness today. We went to the joint task force and have informally presented to the various boards. We have been before planning board and have received site plan approval. He stated they appear before the ZBA tonight on two variance requests and special permit and three elements within that permit. He stated they will return to the planning board for relief by way of a special permit for off-street parking as it relates to the office building itself. Tim Love then presented the proposal.

Tim Love of the architecture planning firm Utile at 57 Summer Street, Boston, addressed the board. He stated that the proposed project is a 141 room boutique hotel with 10 condominium units on the penthouse floor, the fifth floor. The Candleworks building itself, the existing building with the current uses, will stay; a restaurant on the ground floor and office space above. He stated the business strategy for the boutique hotel in terms of its character, its scale, its location, the leverage being in a historic district has marketing that is very much about being in the historic district and really being a gateway for people traveling south on 18 and arriving in New Bedford. The hotel has been very carefully designed to be really pedestrian focused. And so what you're seeing on this diagram are visitors to the hotel coming down Route 18 traveling south, either going to the Elm Street Garage directly or coming into the drop off courtyard for valet parking back at the Elm Street Garage. All of the parking for hotel guests will be valet. The model for the scale and quality of that drop off is the Liberty Hotel in Boston on Beacon Hill.

What you're seeing in this diagram is the through lobby for the hotel. Because pedestrians can either walk from the garage if they self park. Come from other parts of the historic district, move through the lobby to a pathway system down to the new sidewalks along Route 18. The idea for this hotel is that it continues the quality of life of Front Street right into the parcel and right up through the lobby and back through again. So, we thought very carefully about this. We're actually carrying the public right through the building and out the other side. The

goal of this building is to continue with the vision of the improvement of Route 18 and actually domesticate the street there by getting a pedestrian focused building to happen right at the corner.

This gives you a sense of the massing of the hotel. This is the existing Candleworks Building. The building is comprised of two four story wings. A five story wing is positioned more or less in the middle of the parcel. These two wings are scaled to step down to meet the scale of the buildings along Front Street. This is the condominium level. The two end units have roof terraces on the ends. These three floors are 141 guest rooms. The normal public functions you would imagine happening in a hotel like this are happening at the ground level. I have more illustrations to show you how this all works.

This is a ground level plan of the project. Cars come in here. Drop off in this direction. There are a couple of convenience check in spaces off to the side; partly for valet parking management and partly for check-in. This is a fountain feature in the courtyard and is paved as a plaza space. This is the existing Candleworks Building with the existing patio. The Candleworks Building does not touch the new hotel, and the gap between the two buildings is a service court that allows for servicing into the existing Candleworks Restaurant and into the service elevator for the hotel and the kitchen of the hotel restaurant which faces out to the water. We've been very careful to organize the grading of the entire site so you come naturally off of Water Street, which sets the elevation of the lobby. We've raised the hotel restaurant a few feet so that patrons of the restaurant and on the terrace of the restaurant can see over the jersey barriers and the new Rte. 6 ramp. We wanted to make sure that the water was visible from the hotel. And that allows for access to just 10-12 parking spaces down Rodman Street for the condominiums on the top floor that are hidden under the restaurant and the terrace.

There are function rooms facing Elm Street with a separate entrance right along North Water Street. So that's basically the organization of the ground floor.

The design of the surfaces on the property pick up the qualities of the existing streetscape of New Bedford, and developers are very interested in picking up on the cobble and slate language through a more contemporary interpretation as part of the drop off too. As I mentioned, we have a flush water feature both at the car drop-off and also all the way through the lobby on the lobby terrace side, so you read those water features all the way through the ground floor of the building.

They will also going be using stone in a variety of textures for some of the site walls. This is the water feature, which when turned off in the winter doesn't look like it's missing. In terms of landscaping, there are areas, especially on the Route 18 side, to plant a combination of flower beds, smaller scale trees and nicely detailed tree grades.

Again this is a boutique hotel which is going to have a certain kind of ambiance that really leverages and pulls in the character of the historic district.

Mr. Love continued with the terraces. There's a terrace immediately off the lobby with a very slight grade ramp down to the sidewalk of Route 18. The terrace off of the restaurant and also a terrace directly accessible from the function room here. This is the service area shared by the event spaces and also by the lobby of the hotel.

This is the entrance to the residential units upstairs with a dedicated elevator that goes down to the parking area with a walkway back to the dedicated residential lobby. The residents would have access to all the amenities of the hotel.

This is a rendering looking up North Front Street, showing the scale of the Candleworks Building. This is the entry vestibule to the event spaces; the drop off patio; the water feature; and the canopy that comes out. The two 4 story wings are granite.

This is the hotel canopy itself. It runs all the way through as a ceiling feature from the North Water Street side, all the way through the ceiling, and then reappears on the Route 18 side as a decorative feature. It is designed with low level lighting over the entrance courtyard to appeal to people even walking by in the evening.

The building cross section shows is how the building is organized. This is the lobby level happens as North Water Street is coming down. About halfway down the street sets up the lobby level. You'll see the restaurant is slightly up to give it better views to the water. And then the function space actually steps down a little bit to meet the grade at Elm Street. Three levels of guest rooms of hotel rooms equaling 141. The residential units on top. There's a partly submerged, partly exposed basement level that includes a fitness area, a swimming pool, and also the hotel service functions. This is where we're sneaking in the parking for the residential units under the restaurant.

I want to walk you through how the plans work, both moving down first and then moving up. As you run down Rodman Street, you get access to a very small parking area under the restaurant and the terrace. That allows for direct access, which is the orange color, to the residential elevator. Meanwhile the servicing and loading for the hotel comes into a service corridor, comes down to a service elevator, and then makes its way back to a back of house area that services the function room above. You can even bring restaurant catering down, sneak it across and sneak it back up. So, you don't have servicing coming through the lobby. It's almost like a Swiss watch. And then hotel guests can come down to this level to use the pool, the fitness area and the spa. Because of the way the grading works, the grading drops down this way. The pool has half arch windows that allow light to come in at this level. Moving up to the guest rooms, they occupy all three wings of the building. The guest elevators come up here in a typical hotel layout.

This is the residential floor. There's security key access for the residents right from the hotel using the hotel elevators, but also a dedicated residential elevator. There are ten units, the larger units have roof gardens; one facing the water and one facing the historic district. The other units are a mix of one bedrooms and two bedrooms that occupy the center run of the building.

We're very excited about the mix of uses on the property. We like the fact that there is office, ten residents, and a fairly intimate hotel that will drive the right balance of activity over a longer period of the day. But nothing in excess. It's kind of intimate at all scales. We think that that will contribute to the kind of quality of life of the whole Front Street, North Water Street neighborhood in terms of the level of activity.

Our references for the building were a series of larger buildings that were torn down during urban renewal when Route 18 came through. There were 4½ story buildings mixed in among the wood framed buildings that survived north of Front Street. We had a lot of the discussion with the historic commission and with the national park service to, in a way, justify some of the materials and scale that we were using.

We've also been looking very carefully at the larger pallet of the materials in the historic district and downtown, including even the Save Buzzards Bay Building which has a combination of granite and brick. Certainly the library, and the way that you get different materials working in a very harmonious way in the downtown, including even more recent buildings like the whaling museum.

This is a view looking on North Water Street down, one of the key views because there's a beautiful cadence to the buildings along North Front Street. This was really this inspiration for us to push the hotel back and only have another four story wing come out to North Water Street to pick up that rhythm. And what's nice is that because North Water Street is also dropping down to Elm Street, we can actually get these corners to more or less line up across the horizontal.

This is a view coming in on Route 18 south. It's in a little bit closer maybe than I would like it to be. I wish it was more back under the bridge coming under. But we wanted to show more of the detail. These are the large

window of the function rooms facing back to that key intersection. This is the national park service sign that was recently installed. You can see the terraces is coming off the function room and the lobby and you can see the canopy beyond.

In terms of the design development for the project we've been collecting these kind of more detailed inspiration shots. These are the kind of handsome not overly fussy details that we're proposing as we move forward. If you look at these details, they're not decorative, they're very kind of straight ahead. The use of granite and brick, even the use of color for some of the trim. This is really where we're headed next with the project. This is what we're marketing in terms of the project. This is climbing up the Route 6 ramp looking at the Route 18 side of the project. This is looking north on Route 18. This is a more recent rendering that we were asked to do by the historic commission. This is an accurate digital model of the context, not an artist's impression, testing the scale of the building standing at the Union Street crosswalk looking back. This was an instrumental view for the historic commission to understand how the hotel picked up that rhythm looking north to north west.

This is one of the granite wings that's meant to mimic the granite of the Save Buzzards Bay Building. Mr. Love concluded his overview of the project.

The speaker indicated he was going walk through a couple of elements of the project he thought were important to talk about. Some of the unique parts of this project and some of the reasons we did certain things. We talked about the Candleworks Building. Tim mentioned the Candleworks Building is not going to touch the new structure. That decision was driven by and large through the Parks Service and the Historic District as well as the fact that we see the Candleworks Building as a vital historical asset to New Bedford. We're thinking probably in the top 3 of the most valuable assets in the parks district/historic district of New Bedford. In order to not connect the two buildings, you can't have two primary use structures on the same lot in New Bedford. So, what we ended up doing is we did a Form A plan, which is just a lot delineation which can be done through planning. And we created a lot here around that Candleworks Building to avoid any interconnect and to promote the integrity of the Candleworks Building going forward. We don't have to upgrade it .we don't have to do anything to it that would detract from its value within the city as it now exists.

The seconds issue was parking. There's really no parking other than the below grade parking for the ten residential units that is in this building. So we've got 12 parking spaces designated for the fifth floor residents which has separate access off of Rodman, it's underground and it's only for the residents. We have this front area which we can call parking but it's not. It's truly a service area. This is a valet parking plan. We're not intending that anybody park here other than coming and going checking in or out of the hotel. When we talk about relief, some of the relief is parking in the front of our building. We're not calling parking. We'd call it parking and seek the proper relief, but this is really service area. The parking is going to be negotiated with the City of New Bedford. We've already started conversations with the mayor's office and they're for it. We'll likely use a now underutilized municipal parking lot. So, as you think about the relief we're looking for, if parking is a consideration we would absolutely assume that you would condition any relief on us getting that parking agreement, because we can't do the project without it.

The third thing is sort of the mixed use nature of the setting by preserving this building and keeping intact the office use, having a restaurant and being able to develop this underutilized portion of the city. It's been a parking lot as long as I've been around. This is truly the gateway to this portion of the City of New Bedford and we think to be able to have this mixed use functionality tied to a historic and architecturally significant structure is neat. When we talk about relief that was sort of the genesis of getting here, is how to make the best use of this site so we can promote the district, that portion of the city and act as a gateway. So, from my perspective we've got three items of relief that we have to go through. I'll leave that up to you how we're going to manage that process.

Mr. Comerford inquired if anyone else from the team of people would be speaking about this project. Mr. Peabody indicated they were brought to be available should questions arise. With regard to the various items of the relief, Mr. Peabody stated he was happy to rely on his brief, but would be happy to elaborate.

Mr. Comerford opened the floor for anyone in favor of this project.

Derek Santos of the New Bedford Economic Development Council at 1213 Purchase St. addressed the board stating this process had begun 13-14 months ago. When the planning for Route 18 began, we had always identified this site as an in-fill construction site as part of Route 18. It's one of the reasons why the Elm Street intersection looks the way it does and one of the reasons why the pedestrian overpass has been demolished to allow for that type of infill.

He stated that several years ago they did a downtown land use and master plan with the help of Mass Development, the EDC, the planning office, and a host of downtown partners to identify underutilized sites in the downtown for development. The whole purpose of that was to create a more vibrant and more active investment climate. Projects that have either come before you or other boards include the Standard Times Building and this hotel. Specifically because that plan identified underutilized parcels for potential acquisition or redevelopment, we've had numerous developers come in and a couple that are being looked at now. This was identified as one of those sites in that second plan. One of the reasons why the Candleworks site was acquired was because of its infill development potential from both Route 18 planning and that downtown planning. We never assumed that before Route 18 was really ever punch listed out we would be at this stage in development of infilled projects. The project represents around a 15 million dollar investment. The hotel itself will create somewhere in the neighborhood of 50 jobs between the hotel and the restaurant that's in their proper. But as we all know from Richard Lafrance's hotel right down the street, the real impact is beyond that. It is the conferences that will come to that space. As a point of reference, it's about 50% larger than the space at the Waypoint. So now we really start to create the downtown canvas that's always been envisioned where you start to have a hotel working with the park service, working with the whaling museum, the hotel on the waterfront coming into play, all these things coming into play to really drive the economic development of New Bedford.

Mr. Santos continued, stating they see the hotel as one of three projects in the next five years that we really need to create critical mass in downtown. Hotel, graduate housing and other market rate housing projects are really needed to drive investment and head count so we can sustain the shops on the retail levels that we have and also help attract new ventures. The EDC supports and is in favor of all of the different variances that are before you. We're not opposed to any of them. The developer has sought to work with the city, its offices, the planning office, the historic commission, WHALE and other stake holders from day one to make sure we have a transparent process to understand everything through planning, everything through permitting, everything through the details of construction. We have had that team working for an extended period of time. We've had permitting task force meetings in this room to review that. Preliminary meetings with both planning board and historic, follow up meetings with planning board where we received approval. Two follow up meetings with the historic commission. And that level of thoughtful review and transparency with the development team has made what's really a complex project, and a large project for review, go as smoothly as it has.

We are supportive of anything that can be done to help expedite what has been a complex permitting process, but one that has been thoughtful throughout for everybody. So if there are any questions for the EDC we'd be happy to answer them but we wanted to voice our support and those are the reasons why we support the project.

In response to a question from Ms. Smith about the cost of the project, Mr. Santos stated the value of the project was somewhere between 12 and 15 million dollars. What does that mean to the city? That means an estimated value of \$300,000 per year depending on how the tax rate shifts over time in new tax revenue, every year being an additional \$300,000. So its value in terms of tax base is substantial. Its value in terms of wage dollars that

come into the city are substantial. But as I mentioned before, it's the spinoff that happens beyond that that really starts to create a multiple layer impact for downtown.

Ms. Smith confirmed her assumption that the project would generate jobs in construction and then ultimately in staffing. Mr. Santos stated EDC was basing the numbers for this hotel after we know exactly what happened at the 109 room Fairfield. This hotel being about 40% larger, the 50 jobs estimated between hotel and restaurant is likely to be conservative. That does not include the Candleworks Restaurant and that does not include any of the office jobs in the Candleworks Building itself. Construction jobs, based on the LaFrance project, will be in excess of 100 from beginning to end.

Ms. Smith inquired of the timeline, assuming approvals were granted, before they open the door.

Mr. Santos indicated the steps after permitting are developing the financing plan, developing the full range hospitality study that will work hand in hand with the financing plan and securing the final flag. Once we get through that, as any other normal construction project, design development progresses, goes through the permitting set, goes to bid. We would love to see ground breaking basically this time next year, Fall of 2014. Depending on how winter treats us, it's anywhere between a 13 month to 16 month construction cycle. That's generally the time frame at this point.

Mr. Gomes asked if the Candleworks building was currently vacant.

Mr. Santos stated there was a build out going right now for the first floor restaurant. The third floor has one office occupied and one vacant. And the second floor has a single tenant. Mr. Santos stated that there will be offices, residences, hotel and two restaurants on the site.

Mr. Schick, having owned a business on Water Street years ago and being involved with the Zeiterian Theater, inquired whether the city had done any study on the impact of the sewerage. He stated there is a sewerage problem when we get a very good rainfall. In fact, Mayor Mitchell was present at one of the productions at the Zeiterion when the water was flowing up through the johns in the bathrooms. There is a problem with the water coming down from the hill from the different sewerage systems. He asked about any impact on a hotel located at the bottom of that hill.

Mr. Santos stated that the issue was brought up in great detail at the planning board. Thompson & Farland worked extensively with DPI before that review. One of the advantages of the hotel at this site and of the Route 18 project is all of that infrastructure underground has been updated as part of that project. So, all of that has been addressed. In addition to that, DPI had requested that lines be explored, and that's been done to ensure that all those issues have been squared away. One of the big parts of the 12 million dollar Route 18 project that you don't see is all the infrastructure underground that's been updated and put in place.

There was no response to Mr. Comerford's further invitation to be heard in favor.

In response to Mr. Comerford's invitation to be heard in opposition, John Meldon of Allen's Neck Road in Dartmouth addressed the board, stating he was in opposition to the project primarily because he owns the building directly next door on Water Street, which is the J.J. Bestbank Building. He stated the way I understand it is all the servicing and all the two restaurants plus the conference area is all going to be served by Rodman Street. It's ridiculous in my opinion to try to service 150 rooms plus 2 restaurants and a conference area all by coming in the traffic on Rodman Street. They have only 6 parking spaces in this whole complex. I don't know how they're going to service 150 rooms with 6 parking spaces. They don't have a deal with the city yet for the Elm Street garage, and the Elm Street garage is full. He stated, I'm all for things to be happening downtown. I own three buildings in the historic district. But I just think the project is a little bit overwhelming for what the area is. Leo had a business on North Water Street and it's a pretty congested street as it is now. There's no

parking. I've got 30 well paid employees on North Water Street and they all have parking problems. So, to put a hotel there with 150 rooms and the condos I think is absurd. I don't know how they're ever going to get around the parking issue down there. I think there's so much that we haven't heard. I've been to some of these meetings, and they're supposed to have 200 parking spaces, they've got 6. That's pretty ridiculous. Derek Santos talks about what a great guy this guy is. Well, I've got some questions about the developer. I know nothing that he's done elsewhere in hotel development, and his own department took back a \$250,000 loan from the guy. So, I think there's a lot of issues that I think have to be vetted in this situation and I don't think they have been. The parking thing is a huge issue for me. The safety issue is an issue on Rodman Street, the parking is an issue, the congestion is an issue, and the whole mix of everything down there is an issue. Mr. Look mentioned to me the other night at the historic mission that he couldn't get a curb cut on Route 18. Well, that's not true. Curb cuts are available off state highways. They're not easy to get but he can get one, and he flat out said he couldn't get one. That's my short synopsis. Phil Beauregard represents me so. Any questions that you may have for myself.

Mr. Comerford asked Mr. Meldon to speak to his statement that the Elm Street garage is full. I never park there, but I would imagine there would be parking spaces there.

Mr. Meldon stated that his employees regularly cannot get parking spaces in there. I have a parking space at Hiller Printing, a building I presently have under agreement to buy. So, I'm triply concerned here because I own three buildings now, and this is another building that I'm buying and it's abutting this as well. The Elm Street garage, as far as I know, is pretty much at max capacity because they eliminated the Custom House Square parking.

There were no other questions from the board for Mr. Meldon.

In response to Mr. Comerford's invitation to be heard in opposition, Phil Beauregard addressed the board, stating he was going to be very short because the merits going back and forth of the congestions -- I own the Robeson house so I'm not an abutter, an abutter or an abutter, but from a factual point of view I can certainly endorse that my client John Meldon is quite correct about the parking and the congestion. He stated that from a legal point of view he keeps thinking and knowing that the concept of hardship is something that needs to be established. I know that it can't be a self created hardship, which generally goes along with the proposition that you go in, you buy a parcel, you invest into it, and it is what it is. You can't come back later because you've got a plan that can make it more lucrative. Mr. Meldon didn't address the financing. There's other things I'm involved in that make me question the financing. If you find that the conditions have been met for the issuance of a variance, the hardship, and the criteria have been met, then I would tend to think that those facts aren't there that would support that. For that reason we're going to be keeping a very close eye on this.

There being no response to Mr. Comerford's further invitation to be heard in opposition, the floor was opened for rebuttal.

Jay Peabody stated that in terms of parking they realize they can't do this project without parking. There will have to be something agreed to between the city and the developer. So again, if the project were conditioned upon securing the proper parking, we would be fine with that. In terms of congestion and traffic, we did address this issue when we were at the planning board meeting. Clearly parking and related traffic are in their jurisdictional purview, and they did ask the questions about congestion, turning, queuing, radiuses, our plan to have valet. Bob Vanasse was there at that meeting. He submitted a traffic plan and provided testimony at that meeting. Since then I've heard through Mr. Meldon that they had concerns along the service entrance along Rodman Street. I'm happy to answer any questions about that service entrance if they're specific and pointed. I do have a memo which I am happy to submit to the zoning board of appeals from Mr. Vanasse, our traffic consultant who addressed that specific issue of what exists there now as it relates to the Candleworks Building

and what will exist as it relates to service when this project is built. I'd like to enter the memo into the record through you Mr. Chairman.

A motion was made (DG) and seconded (JS) to accept and place on file the memorandum from Robert Vanasse of Vanasse Associates, Inc., dated October 23, 2013 on the subject of Candleworks hotel/service traffic. Motion passed unopposed.

Mr. Peabody stated that Attorney Beauregard had referenced hardship. When we originally presented my memo in support of all the various requests for relief I think is fairly substantive and has grounds for each of the items requested in the relief. If you want to ask specific questions about the items, I'm happy to answer them. But, I think the briefs themselves speak for themselves.

Mr. Comerford invited questions.

There being no questions from the board, Mr. Comerford invited comment from anyone who wished to be heard in favor, without response.

Mr. Comerford invited comment from anyone who wished to be heard in opposition and/or rebuttal.

Phil Beauregard stated that he didn't know whether the parking thing is something that's going to be resolved before we make a vote here. I'm a little unclear on what happens with the parking. And with the noise and the service.

Mr. Gomes stated that if the board decided to vote on this, they could make it conditional.

Mr. Beauregard continued stating that though the applicant stated the building had tenants in it. He is right next door and there's no tenants in the building. There's a restaurant that has a one year lease, and someone on the 3rd or 4th floor. Other than that I don't think there's any tenants in the building. Mr. Beauregard stated that he had an account with that firm reported to be on the second floor, and they've all moved out. The building is basically vacant right now I think that's the correct answer to your question.

There's a new restaurant going in that has a one year lease. He raised the issues of safety, noise and the whole traffic congestion thing. He was also concerned about who was financing the project.

Mr. Comerford stated that if you're going to put 150 places to sleep downtown, you're going to need places to park. Since we don't have a parking agreement. If we had a signed parking agreement from the Elm Street garage, we would just go forth with that. The project can't go forth if there's no parking. We have to make that a condition, but it doesn't have to specify the Elm Street garage. We can just specify that they make arrangements for 200 parking spots or however many you would require for that spot.

Mr. Gomes stated that if they were going to valet parking, they can use the Zeiterion parking which is never full, but for events. It was originally anticipated that U-Mass and BCC students would fill it, but Mr. Gomes did not believe it was full.

Mr. Chairman, might I suggest if you're going to condition it upon the parking that you specify the number of the spaces to have under agreement and the duration of that agreement, so there is some sort of finality to that agreement.

Mr. Comerford inquired as to what the number was.

An unknown male stated I did provide as part of the special permit petition for the hotel a form of a zoning chart, a zone data table. The ordinance of the city requires a total of 170 spaces for the hotel and related

amenities. We are providing 18 spaces as part of our proposal, so the variance is for 152 spaces as to the hotel. The other parking is through special permit the planning board

Mr. Comerford confirmed that the applicant is providing 18 spaces; 12 underground and six surface.

Unknown male stated that there's 170 required as part of the zoning. With the condo it's 2 per residential unit totaling 20. The hotel is 1 per employee and 1 per the 150 rooms, totaling 170. The office has separate relief that we have to get through planning, and we'd ask that they condition their approval similarly on the number of spaces that we don't have for the office building.

Mr. Beauregard stated that his understanding is that according to zoning, they need 323 spaces. And they need employee spaces. So, I don't know where all these numbers are coming from, but they need a lot of parking for 150 units plus employees.

Applicant representatives stated that the jurisdiction of the ZBA is as to parking and the hotel, and they are asking for a special permit for 152 spaces from this board. I am asking separately for a similar special permit as to the office and the restaurant for the Candleworks. That's through planning and that's going to be on November 13th.

Mr. Chair. As Attorney Beauregard's pointed out, there are two separate requests for reduction in parking. This board has a jurisdiction for the downtown overlay district. The trigger for that is the hotel with the condos on top. That's a separate lot. So, the relief being sought here tonight is a special permit under the overlay for a reduction in the parking for the hotel and the condominium. They are scheduled to be in front of the planning board for a reduction in parking under the planning board's purview which is simply the Candleworks Building. So that's the variance or the difference between the two numbers. So, if this board is going to condition our parking relief, I'd ask that you consider 152 spaces of off street parking.

Mr. Beauregard stated they needed 323 originally.

Applicant representative stated 170 were needed.

Mr. Comerford inquired if, when the applicant goes to the planning board, they will be asking for relief of 160 spots.

Mr. Gomes interrupted make an inquiry. In response to a question by Mr. Gomes, Mr. Romanowicz stated they need 150 for the hotel, 38 for the restaurant, conference area 24, for a total required of 232 parking spaces. They're providing 18. So, 214.

To be clear, they're not looking for relief from 214. They're looking for you to let them get that somewhere else.

Mr. Gomes stated that if the board decides they want to vote this variance today, whoever's making the motion I hope is going to put a condition that they provide alternative parking somewhere in the amount of whatever amount they want; whether it's 214 or 200 or 175. It doesn't matter to me. So, long as the condition is in there that they provide parking for the people that are going to utilize the hotel. The Candleworks Building is a whole other issue.

Applicant representative suggested that any off street parking would be upon agreement and in the number as to meet the otherwise required parking under the ordinance. That satisfies our condition.

Mr. Beauregard suggested that the applicant should be aware that they're locking themselves in to a certain number in Elm Street. I know there is available parking in Elm Street. I don't know the exact number of available parking.

Mr. Gomes reiterated that he just wants to make it that they provide proof or confirmation that they the required number of spaces according to the ordinance somewhere else, and it's confirmed in writing.

Mr. Bailey stated that the condition should simply say that no building permit should issue until the applicant submits to the zoning board a demonstrated right to utilize sufficient parking per the zoning requirements of the City of New Bedford

It should say a minimum amount of time. If you don't word it right, they can come into you with a short term agreement, and I don't think that meets the intent of what you want to do.

Mr. Beauregard stated that normally if you're going by code, you put parking spaces on land that you're getting a variance on. In this case, what are they going to come forward with if there's a condition that's enacted here. Are they going to be required to produce something on a handshake? Six months; 6 years; 20 years; 30 years? Obviously the parking need is going to continue so long as the hotel is viable and used. So, it needs to be something that the board can assure itself that the parking will be there so long as it's required.

Unknown male stated that it you could say that the permit is only valid as long as they have demonstrated to the zoning board the ability to utilize. That takes the duration out of the equation. In other words, your permit's no good unless you have a demonstrated ability. This is a special permit for the parking, which is a little different. Ordinarily a variance runs through the land, but this is a special permit which is a little bit different consideration. This board can condition a special permit generally far more than you can condition a variance. I would suggest to you that it would make sense to say that that permit is only valid if the holder of the permit can demonstrate to the zoning board that they have the ability to legally utilize a sufficient number of parking under the City of New Bedford zoning bylaw.

Mr. Beauregard suggested another question would be a rather interesting enforcement problem for Mr. Romanowicz and the City Solicitors Office once that lease for parking is gone and they don't have the benefit of it anymore, what are you going to do; shut down the hotel?

Unknown male stated that the city would have a pretty good negotiating position if they want to charge for parking. I agree it is a problematic enforcement condition, but if the applicant's willing to put themselves under that gun, it's the board discretion on that point.

Attorney Beauregard stated that another issue is that Rodman Street in not a public way. It's a private street. So, one of the issues I have is all these trucks and support vehicles are going down. Jay says it's the same truck, it's just going to have more stuff on it. That's not true by any means. That street will be clogged all the time. That's a private street that I own. The city does not own it. So that's another issue.

Upon inquiry by Mr. Comerford, Mr. Beauregard could not answer whether he pays to maintain that street or to plow.

An unknown male stated he didn't think anyone realized until there was some research done dating back to the early 1970's that the city had at one point discontinued Rodney St. and never re-accepted it. It was part of a redevelopment authority project that had to do with where the Candleworks parking lot is now and a couple of other pieces of land. The city for whatever reason they wanted to at the time thought that they should put everything in the purview of the redevelopment authority at the time. The redevelopment authority recorded the taking for that land and the city discontinued Rodney St. in association with that project. I have a feeling that it had to do with the pedestrian foot bridge and where the footprint of that might or might not have ended up. But for whatever reason when the project was done, the city didn't reaccept Rodney St.. It had always been assumed as public. In fact if you look at the Route 18 plans submitted on the redesign of Route 18 it's listed as a public street.

Mr. Mathes stated that in terms of who owns it you've articulated there's a question there. But somebody built it, somebody maintained it, somebody's plowed it, and my guess is that that was a public effort.

Unknown male stated that there's a statute in Massachusetts that applies here which is that each owner would own to the middle of the street.

Attorney Beauregard added that is subject to the right of both owners to pass and repass, and I have litigated this issue. There's no question that Rocket and Meldon own the halfway point of the way.

Mr. Meldon stated that safety and congestion are an issue, but he knows that he owns that street.

An unknown male clarified that it is also owned by the coalition and New Bedford Ship Supply, because you only own to the edge of your property line. So the coalition building is down further, so they would own the other half. There's four owners.

Ms. Smith sought clarification on an issue by Attorney Baily, who confirmed that the condition the board was trying to wordsmith about the parking would be attached to the special permit. The variance has to do with setbacks

Mr. Comerford invited comment from anyone in the audience who wished to be heard.

An unknown female stated she was just wondering is there any way that the servicing which is going to happen on Rodman Street can be done before and after work hours?

Mr. Comerford stated there were already ordinances on the books about delivery times.

An unknown male stated that the board could condition it. Distribution will be the same as all the other businesses downtown and so unless you condition the whole downtown you can't condition one building.

Mr. Mathes and Mr. Comerford disagreed and stated that the board can condition one building if warranted.

An applicant representative stated that in the memo Bob Vanasse he researched the traditional cycle of deliveries to the area. Particularly the downtown historic district and related restaurants, so that's linen, liquor and food service. He opined based on that cycle, we'd like to not have to avoid that cycle because from a cost perspective it makes sense for us to do everything that everybody else does already. With all due respect you can decide what you want, but that is what that cycle is based on.

Mr. Comerford, invited final rebuttal remarks without response. He thanked everyone for their time and being so cordial, and closed the hearing.

He open for board discussion.

Mr. Mathes stated that while liking the thought of a project going on that piece of property, one of the votes that I've taken here before had to do with hardship, and I'm sitting here and I'm thinking about this place. I'm thinking about the number of cars for the people who are going to be staying in the place, going to eat in a restaurant the of size proposed, and a function taking place, and how many vehicles that could represent. When voting on things in the past, there have been times when a hardship can be articulated by the person requesting the variance or special permit. But I felt that approving it could result in creating a hardship for other properties that are adjacent to it. And a few months ago I didn't vote to support one because I didn't want to transfer the hardship from one property owner to another. Everything about your project excites me, in particular with the work I have done in the city for a number of years. But I don't know of any other property seeking to service that volume of people and facilitating it with what would have to be significant 24 hour valet service into a garage that the lower floors are leased out to existing clients and have been for a long time. So the valets would

be going to get the vehicle and bring it back, but for those who chose not to use a valet they're going to be going up to the 3rd or 4th floor in a garage where things happen. A model of that kind in Boston is very different than a model of that kind in New Bedford. It puts me in a really awkward position here, because every fiber of my being likes what I saw, but I just really worry that it will create untenable hardship for the people who own the buildings right around that. And that in my judgment would be doing something, in my own opinion, that is unfair to someone else.

Ms. Smith responded that though the folks in opposition had left and can't be asked, she was thinking about hours of operation. She believes the double bank building is offices and primarily operates Monday through Friday 9-5. When thinking about a full service hotel in the middle of July with a wedding going on in the function and people out in the restaurant, that's probably Saturday night, when there are no workers parked in Elm Street garage, and there are no 9-5 business people around that would be impacted. She stated that she came into downtown New Bedford this afternoon at 3:00 and found two parking spaces on the street no problem. In addition, anecdotally, she has pulled into the Elm Street garage and hesitantly drove by all the Standard Times parking that is always empty and a Standard Times worker said just pull in, we've been decimated so badly with our staff we're not using 1/16th of what we've leased here. Acknowledging Mr. Mathes' comments, she stated she really thinks about use and hours, and just doesn't see full capacity on a Saturday night in July competing with the 9-5.

Mr. Mathes stated that he had twice been to the other new hotel when they've had functions that he wanted to go to that were well attended and probably around 80-90% occupancy, and drove up and parked where I work and walked back down because I couldn't find a place to park, and they have a lot more than 18 parking spaces.

Applicant representative stated, I have one or two observations, as I understand the negotiations between the city and the applicant, it would be for a set number of spaces to use, not assign, so they wouldn't be reserved wherever they might be available in the garage. The flip side of what you just said about the hotel that exists now I think goes with what the proposed condition is. In other words, the disservice was done in that because if you recall there was a certain number of spaces required for that hotel that was reduced in response to the request. So that in turn took that hardship and put it on Waterfront Grill, the piers, and the other businesses around there without really taking care of it. So, the overflow goes to the neighbors there without addressing it. They just reduced it. I think in this scenario you're being proactive in one sense and saying you have to demonstrate you have x amount of those spaces somewhere else to park all those people. It's a little better than simply reducing the number down and saying we know you need more spaces but we're going to let you get away with this number, and whatever happens to those additional cars we don't particularly care about. So, the scenario you're talking about is at least a little different in the sense that you're requiring the applicant to have that number of spaces somewhere. To my understanding there are spaces in Elm Street as was pointed out. You have the Standard Times which has a lease, but there are available spaces, and there is negotiation going on between the parking department, the mayor and the applicant as to that. I think, as far as this board's concerned, if you condition it as Mr. Gomes said, it doesn't matter to us who you have the agreement with, but you have to demonstrate to this board that you having parking for x number of cars somewhere.

Mr. Mathes indicated that was not his point. My point is that you can have a contract with the city and show it to me tonight that you've got 250 spaces in the Elm Street garage, and that does not convince me in New Bedford the people that live in New Bedford and the surrounding area are going to say I want to go to this facility and so that means I park in the Elm Street garage. As a matter of fact, I think that's unlikely. That's an opinion not based on any science or fact. Because we still like to park in front of the store we shop in. This isn't Boston, and the model this is based on is a Boston model.

Applicant representative said it's not without precedence. The Standard Times building was built with no ---

Mr. Mathes clarified where he was coming from, stating he was worried that this project will create very real hardship for other property owners adjacent to them, specifically parking. If x,y z local non-profit has a noon time event there tomorrow that has 100 people registered to be there that's likely 80-90 cars. It's going to start at noon, people are going to begin arriving around 11:45 right up until maybe 12, and you're going to deal with 80 cars with valets, going up multiple floors, park it, run back down to get the next one. I just don't see that happening. You know the function room's one thing. Restaurants have trickle in trickle out, but there's still a lot of cars there. A 161 seat restaurant, conservatively at least 50 cars if it's full. I like what I saw and I think it's beautiful for New Bedford and I would want it to be booming with people and activity in there so it's successful, which means it's going to have an impact on other properties around. I can't get past that I don't like assisting someone on there hardship and as a result creating a hardship for somebody else. If something like that happened and I was on the wrong end of that stick, I know how I would feel. And frankly, I don't like that I feel that way, because I love what I see but parking in that part of the city, that many cars, and having virtually nothing to offer but kids who are going to drive your car up to the garage and bring your key back for you.

Applicant representative stated people can also park themselves as it's open to the public.

Mr. Schick stated that the New Bedford Festival has held fundraising events at the Old Dartmouth Historical Society and in our 10th year we had over 600 guests come. They parked. Of course it was in the evening hours. Most functions happen in the evening hours anyway, except for a wedding, but those are usually on the weekends when there's nobody down there anyway. I think with the permit specifying x number guarantee that they'll be adequate parking, and he is not that concerned with the overflow for functions. When people come downtown for functions, they don't go to the Elm Street garage they park on the streets. Again the Zeiterion parking is four blocks away. Maybe if they needed overflow they could contract with that. Most valet services, get into your car, then the other valet coming back delivering your car picks up the other valet person or they have a car that they run people back and forth. In the instance where you said you might be afraid of people going into the Elm Street garage at night, if your valet takes you in a cart and drops you off at your car then you're all set. So, I'm not that concerned.

Mr. Comerford stated he was not concerned about parking in New Bedford. He goes downtown, it doesn't matter if it's Monday or Sunday, and parks with less than a two minute walk to anywhere I go. He doesn't see that parking issue yet. Obviously we need to park 150 hotel guests somewhere, but I don't see that. I skipped three spots and parked right in front of city hall at 5:50 this evening. It's Thursday. There's parking in the city at the moment.

Ms. Smith wanted to go on record but not in an effort to act like this is not an important issue. I think part of our responsibility is to look at the big picture benefit related to the big picture risk. I heard you Jim. This is the first time I've seen this presentation and I'm blown away. I have a sense of pride for this city that we're actually entering the big league a little bit. I would like nothing more than to have the problem of 600 people in downtown New Bedford on a Saturday afternoon looking for parking. I understand that people can be turned off by that, but the benefits of this project are too big for us to not approve the project tonight with the stated good faith effort of these guys and a requirement that they figure this out before they can actually move forward. I feel okay with that. I think the benefits far outweigh the risks in this project, and I feel a responsibility to vote in that vein this evening.

Mr. Schick stated that if you've ever had guests come in from out of town that are going to stay in the hotel downtown. There booked for the whole summer, you can't get a room down there. It's just booked solid and we've had to put visiting guest artists somewhere and we have to rent an apartment because we can't get them into the hotel.

Mr. Comerford invited the making of a motion and a vote, if that pleases the board, unless anyone would like to continue discussion.

Ms. Smith sought and received confirmation from Attorney Baily that the only one with a condition is #4109, which is the special permit?

A motion was made (JS) and seconded (DG) to grant Appeal #4107, a motion to grant a variance under the City Code of New Bedford to Candleworks Ventures, LLC. 72 N. Water Street, New Bedford, MA 02740, relative to property located at 72 N. Water Street, Assessor's Map Plot 53 Lot 68 and 291 in a Mixed-Use-Business Zoned District, and to allow the petitioner to renovate the building into a 160 seat restaurant 4,166 sf. of gross floor area, and upper floors; and to relive the petitioner of Comprehensive Zoning Sections 2700, 2710, 2711 and 2730; and that the project be set forth according to plans submitted with the application and that it be recorded with the registry of deed and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Motion regarding #4107 passed.

Mr. Comerford invited a motion on #4108.

A motion was made (JS) and seconded (DG) to grant Appeal #4108, a motion to grant a variance under provisions of the City Code of New Bedford to Candleworks Ventures, LLC and New Bedford Parcel A LLC, 72 N. Water Street, New Bedford, MA 02740, relative to property located at East South N. Water Street, Assessor's Map Plot 53 Lot 68 and 291 in a Mixed-Use-Business Zoned District; and to allow the petitioner to build a five (5)-Story Hotel with 141 Rooms, a 4,745 sf. Conference Center, a 150 Seat Restaurant and 10 Condominiums; and to relieve the petitioner of Comprehensive Zoning Sections 4540 and 4544; and that the project be set forth according to plans submitted with the application and that it be recorded at the registry of deed and a building permit be issued by the Department of Inspectional Services and acted upon within one year.

Motion regarding #4108 passed.

Mr. Comerford invited a motion on #4109, for special permit.

A motion was made (JS) and seconded (DG) to grant Appeal #4109, a motion to grant a special permit under provisions of the City Code of New Bedford to Candleworks Ventures, LLC and New Bedford Parcel A LLC, 72 North Water Street New Bedford Massachusetts 02740, relative to property located at east south North Water Street Assessor Map Plot 53 Lot 68 and 291 in a Mixed Use Business Zoned District; and to allow the petitioner to build a five (5) story hotel with 141 rooms, a 4745 sf conference center, a 150 seat restaurant, and 10 condominiums; and to relieve the petitioner of Comprehensive Zoning Sections 4500 through 4572, Sections 5300 to 5330, 5360 to 5390 with the following condition: that no building permit will be issued until the applicant submits to the zoning board of appeals a demonstrated legal right to utilize the required number of parking spaces according to the city zoning ordinance.

Unknown made added I would also say that the special permit will not continue to be valid unless they continue to have that.

Ms. Smith added a second condition for the special permit would only remain valid as long as the applicant demonstrates a legal right to utilize the required number of parking spaces according to the city zoning ordinance.

Motion regarding #4109 passed.

Mr. Comerford thanked everyone and wished the applicant good luck. He stated the board had approval of meeting minutes which they did not have, and that the next zoning board meeting will be November 21st at 6:00 pm.

Meeting was adjourned.