



Zoning Board of Appeals

June 26, 2014 - **Minutes**

New Bedford Main Public Library, 613 Pleasant Street

PRESENT:

Ian Comerford (Chairman)

Allen Decker (Clerk)

James Mathes

Donald Gomes

Deborah Trahan (partial meeting)

Also in attendance:

Dan Romanowicz, Building and Inspectional Services Commissioner

Jennifer Gonet

Jill Maclean, City Planner

MEETING CALLED TO ORDER by Chairman Comerford @ 6:07 pm.

Chairman Comerford then explained the process and procedures to the applicants and those in attendance.

A motion was made (AD) and seconded (JM) to take Case #4132, a continued case, out of order, which passed unopposed.

CASE #4132

Bill Lockwood addressed the board stating the property on Kempton Street is the former Denmark Pharmacy. He stated the owner wishes to renovate the bottom floor for speculative retail/office with the upper floors being a single dwelling unit. The 1st floor is proposed to be subdivided into 3 spaces, the owner maintaining one of those spaces for himself for storage related to his electrical contracting business. One of the other spaces has a tentative commitment for a barbershop. The third space has no current proposed tenant.

Mr. Lockwood indicated there is paved parking in the back of the property laid out for seven spaces, which will contain a van accessible spaces pursuant to Planning Board discussion. He offered the board a revised plan.

A motion was made (AD) and seconded (JM) to receive the revised plan, which passed unopposed.

Mr. Lockwood stated that he calculated that 22 spaces would be needed, but the building commissioner had indicated that 18 spaces would be required, and they have seven, resulting in the request for relief.

Mr. Gomes confirmed that one retail space would be a barbershop, and then inquired as to the hours of operation. Applicant stated the hours are expected to be 8:00am to 8:00 pm. The applicant, in response to a question by Mr. Gomes question, stated they expect the building to be a neighborhood operation with primarily walk-in traffic as opposed to point of destination traffic.

Mr. Comerford confirmed that the upstairs would contain one dwelling unit.

Mr. Comerford expressed a slight concern regarding parking with only seven spaces.

Mr. Gomes noted that he believed there was one side of the street that prohibited parking. The applicant stated the building is bounded by three streets with parking on all of the streets.

In response to Mr. Comerford, the applicant stated the building had been vacant for three or four years. Mr. Gomes believed it had been vacant longer than that.

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 or recorded in opposition.

Mr. Comerford closed the public hearing.

A motion was made (AD) and seconded (JM) to grant Appeal # 4132 to grant a special permit under the provisions of the city code of New Bedford to Aramis Arias (480 Kempton Street New Bedford, MA 02740) and Lockwood Architects (P.O. Box 95, Onset, MA 02558) relative to property located at 501-509 Kempton Street, Assessor's Map Plot 57, Lots 147 and 310 in Mixed-Use-Business District, and to allow the petitioner to renovate the interior and the exterior of the building, which will require a Special Permit under Chapter 9 Comprehensive Zoning Section 2400, 2410-2432, and 5300-5360, 5360-5390 with the following conditions : 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 issued by the Department of Inspectional Services and acted upon within one year.

Motion passed 4-0.

A motion was made (AD) and seconded (JM) to take Case #4137 out of order, which passed unopposed.

CASE #4137 – Petition for variance

Communication dated 5/21/14 from the Commissioner of Buildings and Inspectional Services was read into the record.

A motion was made (AD) and seconded (JM) that the communication be accepted.

Motion passed unopposed.

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

Motion passed unopposed.

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

Motion passed unopposed.

A motion was made (AD) and seconded (JM) 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 (AD) and seconded (JM) that 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 (JM) that the communication from the Office of the City Planner be received and placed on file.

Motion passed unopposed.

Mr. Comerford declared the hearing opened and called upon the petitioner.

Petitioner John Afonso of 8 Blueberry Terrace explained that his family had outgrown their home and was looking to expand into the garage with a family room. He explained that the law requires that they take out

some 60-70% of their driveway, which represents a large expense for them, and as such they are seeking a variance.

There being no questions by the board at this time, Mr. Comerford invited anyone who wished to speak or be recorded in favor to respond.

Ward 1 Councilor James Oliveira of Briarwood Drive addressed the board. He stated he had expressed his support for the project to Mr. Afonso, as well as his assurance that the process would be followed appropriately. He expressed that he encouraged the applicant to proceed through the process and they had been cooperative.

Upon further invitation by Mr. Comerford to be heard in favor, Councilor Linda Morad addressed the board to express her support of the petition. She stated she did not believe the change in the structure would be detrimental to the neighborhood. She expressed to the board a desire to keep good people in the neighborhood, and that this change would fit their needs.

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

The hearing was closed.

In response to Mr. Decker, Mr. Romanowicz expressed that the application was pretty straightforward.

A motion was made (JM) and seconded (AD) to grant appeal on case #4137 to Erica Caron-Afonso and John Afonso, 8 Blueberry Terrace New Bedford, MA, relative to property located at 8 Blueberry Terrace, Assessor's Map Plot 134D, Lot 68 in a Residential A Zoned District, and to allow the petitioner to convert the existing garage into a family room and bathroom, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 3100, 3110, 3130, with the following conditions: 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 issued by the Department of Inspectional Services and acted upon within one year.

Motion passed 4-0

A motion was made (AD) and seconded (JM) to take Case #4136 out of order. The motion was unopposed.

CASE #4136 – Petition for Special permit

Communication dated 5/7/14 from the Commissioner of Buildings and Inspectional Services was read into the record.

A motion was made (AD) and seconded (JM) 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.
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 affected.
Motion passed unopposed.

A motion was made (AD) and seconded (DG) that 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 the hearing open and informed the petitioner that there were only four voting members. The petitioner elected to proceed.

Kenneth Ferreira, a land surveyor, addressed the board. He explained the project had gone through extensive permitting issues, including deck construction on city property and building renovations. He stated the project architect William Lockwood and structural engineer poured a full foundation for the outdoor porch, which became an alteration of a non-conforming structure, which they are seeking allowance for this evening. Mr. Ferreira noted the city had granted license for both the deck and 30 unrestricted additional parking spaces.

In response to Mr. Gomes, Mr. Ferreira confirmed the property had been a restaurant in the past, as well as office space for the Harbor Development Commission.

Motion passed unopposed.

Mr. Decker confirmed that parking will be on the waterfront side of the structure. In response to Mr. Decker, Mr. Ferreira stated hours of operation were expected to be standard restaurant/lounge hours, open till 2:00 am. He noted that the petitioner also owns Highgrade Seafood, meaning all food products will come from a local vendor. He stated the petitioner will soon be seeking occupancy permits.

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.

Mr. Comerford closed the public hearing.

A motion was made (JM) and seconded (AD) to grant special permit under provisions of the city code of New Bedford to Black Whale LLC, c/o Albert Santos (86 MacArthur Drive New Bedford, MA 02740) relative to property located at 102-106 Co-Op Wharf, Assessor's Map Plot 53 Lot 252 and 255 in a Waterfront Industrial Zoned District, to allow the petitioner to operate a restaurant and a lounge, which will require a Special Permit under Chapter 9 Comprehensive Zoning Sections 2400, 2410, 2430, 2431, 2432 and 5300-5360, 5360-5390 with the following conditions: 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 4-0

A motion was made (AD) and seconded (JM) to take Case #4138 out of order. The motion was unopposed.

CASE #4138 – Petition for special permit

Communication dated 5/21/14 from the Commissioner of Buildings and Inspectional Services 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.

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 affected.
Motion passed unopposed.

A motion was made (AD) and seconded (DG) that 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 the hearing open and called upon the petitioner.

Keven Coldwell, registered architect of 10 Whiteweed Drive, Dartmouth, addressed the board. He stated this project was a minor interior renovation of an existing building on Pope's Island, which will occupy some 4,900 sf of a 50,000 sf building to construct a veterinary clinic and doggie daycare. He stated there would be minor demolition.

Mr. Coldwell stated the drawings were to highlight the proposed wall changes of the current Bufftree Construction office to create examination rooms for pets and reception area.

Mr. Gomes inquired if there was going to be dog boarding. The petitioner explained there would nothing overnight, but merely a dog daycare component. In response to Mr. Comerford, the petitioner indicated the location as the rear most corner of the building with no storefront.

In response to Mr. Comerford's invitation to be heard in favor, Cheryl Jackson addressed the board, stating this local clinic would be a benefit to the city. She stated the petitioner also works with the coalition for spay and neutering further helping New Bedford.

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

Mr. Gomes asked if the petitioner was present and wished to be heard.

Dr. Jacqueline Brito addressed the board, stating she was currently an ambulatory vet, and was trying to create a location in which to practice. A Dartmouth resident practicing in the area for some five years, she felt this would better serve her clientele, especially in the downtown and southend areas of the city.

In response to a question by Mr. Gomes, Dr. Brito stated the expected hours of operation to be 9:00 to 6:30.

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

Mr. Comerford closed the public hearing.

A motion was made (JM) and seconded (DG) to grant a special permit under provisions of the city code of New Bedford to Jacqueline Brito (P.O.Box P116, South Dartmouth, MA 02748) relative to property located at 193R Popes Island, Assessor's Map Plot 60, Lot 12 in a Mixed-Use-Business Zoned District, to allow the petitioner to operate an Animal Clinic or Hospital, with ancillary animal boarding, at this location, which will require a Special Permit under Chapter 9, Comprehensive Zoning Sections 2200, 2210, and 2230 with the following conditions: 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 4-0

A brief recess was called at 6:54 pm, then hearings resumed at 7:10 pm with Attorney John Walsh present.

CASE #4141 – Petition for Variance

Communication dated 5/23/14 from the Commissioner of Buildings and Inspectional Services 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.

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) 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 (AD) and seconded (JM) that 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 (JM) 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 and called upon the petitioner.

Cynthia Kruger of 11 Shady Lane, New Bedford, addressed the board and sought to submit petitions to the board.

A motion was made (DG) and seconded (AD) to accept said petitions.

Ms. Kruger stated that in 1990 this property was given to her by her father, prior to changes in the zoning laws. She explained that she pays \$2,000 per year in taxes on her retirement salary, which creates a financial hardship for her as a senior citizen. She stated that since 2003 she has attempted to sell the property without success, and has now consulted a surveyor who has created two huge lots; one of 15,081sf and 12,359 sf. She explained that on Geraldine Street there is 50 feet of frontage and on the southwest on Tradewind again only 50 foot frontage. She is seeking approval of the two lots so they can be buildable lots and referenced a letter of recommendation

from the city planner. She feels it will bring a great deal to the neighborhood. She stated as the owner of a large 1.3 acre lot in back of the property in question, she is the main abutter and wished to be recorded as such in favor of the plan.

In response to Mr. Comerford's invitation to be recorded in favor was Ward 3 Councilor Henry Bousquet.

An audience member requested Mr. Bousquet's address, which Mr. Bousquet stated as 228 Mt. Pleasant Street.

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

In response to Mr. Comerford's invitation to be heard in opposition, abutter Jeff Stickley of 10 Hallett Lane, Dartmouth, addressed the board on behalf of opposed abutters. He submitted a petition requesting denial of the variance, and noted that some of those who had signed Ms. Kruger's petition have rescinded.

A motion was made (AD) and seconded (DG) to accept the petition and place the same on file. Motion passed unopposed.

Mr. Stickley referenced a letter stating that they wished the zoning board to uphold the regulations in force and disallow Ms. Kruger's variance request. As property abutters, they noted the 75 foot frontage requirement, and stated they expected a home would eventually be built on the lot. He stated that though the wooded lot was large enough to accommodate several home, it was oddly shaped with minimal road frontage, and as such would require a home to be constructed well behind other neighborhood homes. He stated he felt the zoning requirements were written to accommodate urban grid patterns as opposed to rural orientation, and stated they wish it to remain as such. He noted that neighboring homes are raising chickens. He stated they felt if Ms. Kruger were allowed to construct one home by keeping this a single lot, her stated hardship would be alleviated. Her reason to seek to split the lot into two lots appears to be to maximize the profit.

Mr. Stickley expressed that as neighbors they had concerns about future use and home orientations on these lots, as any homes would be not on the street, but behind their homes.

He stated that with two lots, there would be two driveways into the properties, and one of the abutters would have driveways on each side of her home where there are currently none.

He stated again that they deny the request, and do not believe the ZBA should alter existing zoning regulations merely for someone's financial gain. He stated they feel to allow this would have a detrimental effect on their property value. However, if allowed, they are seeking that any approval be conditional; namely a specific site plan for proposed home orientation and a stipulation of a buffer/privacy zone.

Mr. Stickley submitted photos to illustrate the area and the location of driveways alongside Ms. Silvia's house, and the current view behind their home. Additionally a photo that depicts the houses currently along the periphery, contrary to the home set back that would occur if the variance were allowed.

A motion was made (AD) and seconded (DG) to receive the correspondence submitted. Motion passed unopposed.

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

In rebuttal, Ms. Kruger stated that her support came from New Bedford residents. Ms. Kruger stated that the animals mentioned do not belong to her land, but that one animal per every 250 feet is allowed. She again reiterated she is the largest abutter to the property, and as such, any negative effect would affect her the most. She stated as a Ward 3 Councilor for 16 years, she took care of the neighborhood and worked to get sewers, as

would the two proposed lots. She stated that neither Tradewind nor Geraldine Streets are rural. She felt while trees are important, so are homes.

Ms. Kruger stated that she had the option to create three lots and put a street in without coming before this board. She felt the 15,000 sf lot, nearly double the size of an average New Bedford lot of 8,000 sf, left plenty of room to put a house on. She stated there are no lots on Tradewind Street with trees on it but for hers. She again encouraged the board to grant the variances and provide her the opportunity to do what she has to do.

Mr. Comerford denied further comment from an audience member under rules of order.

In response to Mr. Gomes, Mr. Romanowicz stated that by splitting the lot, the petitioner would have frontage on Geraldine and Tradewind Streets; un-split, the frontage is on Tradewind Street.

Jill Maclean, city planner, addressed the board by way of clarification. She stated that as the lot exists, it is grandfathered and requires only 50 feet of frontage, which exists on Tradewind Street.

Upon Mr. Comerford's invitation for further comment in opposition, Ms. Tougas of Hallett Lane stated to the board that her understanding of Mass General Law was that financial hardship is not cause for a variance. She stated Ms. Kruger's hardship is alleviated by her selling the land without a variance. She stated she worked in New Bedford and as an abutter she is concerned about her property value with the addition of multiple driveways.

Mr. Gomes stated he believes it reads that literal enforcement of zoning ordinance can cause a hardship, financial or otherwise.

Mr. Comerford, while unsure of what Mass General Law reads, stated that variance considerations include circumstances relating to shape and topography of the property. He questioned whether \$2,000 per year is a substantial hardship.

Mr. Comerford declared the hearing closed.

Mr. Comerford commented that he felt adding two homes to the oddly shaped lot could denigrate the neighborhood somewhat.

Mr. Mathes, quoting Section 10, Chapter 40A noted that clearly substantial hardship can serve as the rationale for a variance. He stated that he is a strong believer in the rights of property owners. He also referenced the city planner letter and noted that this proposal is less intrusive than what the property could do by creating 3 lots and a street. He noted that this land was rural and trees years ago until property owners decided to do something with it. He did not believe there would be any intentional annoyance created for neighbors, as it would annoy the new owner as well. He expressed support for the proposal.

Mr. Gomes expressed that wasting such a large piece of property with only one house made no sense to him. Mr. Gomes confirmed with Ms. Maclean that the petitioner could exercise other options without appearing before this board. Ms. Maclean noted that the creation of a private street would create at least two lots and would be heard before the planning board. He felt this petition was reasonable, and he did not understand the opposition to building single family houses in single family areas.

Mr. Decker did support the applicant working with city planners to develop an appropriate buffer.

A motion was made (JM) and seconded (DG) to grant a variance under the city code of New Bedford to Cynthia G. Kruger, 11 Shady Lane New Bedford, MA, relative to property located at WS Tradewind Street, Assessor's

Map Plot 73, Lot 6 in a Residential A Zoned District and to allow the petitioner to create two house lots, which will require a variance, under Chapter 9, Comprehensive Zoning Section 2700, 2710, and 2720, with the following conditions: that the land owner provide a buffer of the size to be determined in consultation with the city of New Bedford planning department, 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 5-0

Mr. Comerford noted that Mr. Walsh recused himself from voting on the next two cases, and board member Deborah Trahan stepped in.

In response to Mr. Gomes, the solicitor noted that the technology and reasoning will apply to both of the two pending cases, as the projects are interlinked.

CASE #4142/CASE #4143 – Petition for special permit

With regard to Case #4142, correspondence dated 5/23/14 from the Commissioner of Buildings and Inspectional Services was read into the record.

With regard to Case #4143, correspondence dated 5/23/14 from the Commissioner of Buildings and Inspectional Services was read into the record.

A motion was made (AD) and seconded (DG) that the communications be received and placed in their respective files.

Motion passed unopposed.

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

Motion passed unopposed.

A motion was made (AD) and seconded (DG) that the plans 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 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 communications from the Office of the City Planner be received and placed on file.

Motion passed unopposed.

Mr. Comerford declared the hearing open and called upon the petitioner.

Christopher Morris, engineer and project manager for Massachusetts Clean Energy Technology Center, addressed the board with regard to the relocation of AM/FM radio towers, currently directly adjacent to the South Terminal Development along the waterfront. After identifying safety concerns regarding the operation of an AM radio station in proximity to large cranes used to develop offshore wind sites and move cargo, a search was made for a more appropriate 3 acre location. The search included criteria regarding proximity to the airport

and Part 77 airspace, and meeting the Class C FCC license guidelines, which identified 24 eligible parcels for relocation; such as cemeteries, the athletic facilities. One location, Map 61, Lot 2, owned by the city, and has been put under purchase and sale agreement. The parcel is bounded on the west by the St. Mary Cemetery, on the east by Route 140, and on the south by Route 6 or Kempton Street.

The petitioner proposes developing the northern portion of the site, leaving the southern portion completely wooded. The site contains wetlands and a Conservation Commission notice of intent has been filed.

John McAllister, engineer of record for the project, addressed the board. The existing 575' guide tower off of Potomska/MacArthur Drive will be relocated into the southwestern corner of the same parcel. It will be a self-supporting structure with a transmitter station in the corner meeting all the zoning setbacks. The proposed tower will be a 597' galvanized lattice style tower. There will be no additional use of the site and routine maintenance will occur a couple of times per month. There will be no increase on public utilities and no waste water issues. Same use, just a different location.

Mr. McAllister noted that the AM tower property access requires going through St. Mary's Cemetery, and both the city and archdiocese have worked with the applicant. There is a stream and vegetative wetland which will have only a temporary impact upon installation of the grounding array. The proposed 199' guide tower is outside of the buffer zone. A very aggressive planting plan will compensate for the impact to the wetlands. A small 16x16 utility building will also be on the parcel. A grass paved structure, which has the strength of a roadway, will be installed for site access. This causes no impermeable service and is in conjunction with a robust storm water management system, a vegetated swale and a bio retention rain garden. Even the roof runoff from the utility building will be recharged. All design being done in compliance with the Mass Storm Water Policy.

Mr. McAllister noted the AM tower would broadcast 1340, and the FM 98.1. The AM tower is also available to co-locate three cellular antennas if necessary. The FM tower can co-locate another signal if necessary. The permits are currently under review with the FAA and FCC. With regard to FCC, all natural resources have been cleared, and the state historic preservation office has ruled that both will have negligible impact on any historic properties or ecological resources. The AM tower has been fully cleared of Native American resources, and the FM tower has three out of four tribes that have cleared.

Mr. McAllister noted that there will be no interference created with broadcast television. He invited any questions from the board.

Mr. Mathes stated he had observed the petitioner's public presentation at the Gomes School and commended them on all the work they had put into it. He noted the relocation of the tower appears to be even further away from the nearest home. He felt the petitioner had been very sensitive to the environmental impact and had done a good job on their plan.

Mr. Comerford inquired further into the grass pave access. The applicant explained there is both a plastic and concrete version product, and they had chosen the plastic because they anticipate so little traffic. The product is frequently used in professional athletic facilities, where parking is generally once a week for a game.

The applicant commented that while strong enough to hold vehicle loads, the substructure is permeable enough to do a better job than a normal lawn at absorbing and recharging storm water.

There was 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,

Ms. Trahan inquired as to required bonds. Mr. Romanowicz indicated there was a bond on the wireless.

The solicitor noted that regarding the tower, it is not treated any differently than any other wireless tower which must meet requirements. At certain times a bond was put up to make sure it comes down, as certain developers, unlike these, have abandoned something, leaving the city to deal with it. He stated the applicant will have to abide by the requirements of the ordinance and get a bond of some sort. Absent a requirement, it is a decision for the city/building department.

Mr. Decker had a question regarding the consultants comment about a post construction noted for the FM tower, but saw no mention of a re-inspection for the AM tower.

Ms. Maclean noted she intended to raise that question with the solicitor.

Solicitor Markey suggested authorizing Mr. Romanowicz to hire the consultant for both, one or neither, at his discretion, having a sense of any such necessity as he sees the project go forward.

Ms. Trahan confirmed that Ms. Maclean's letter was part of the case record. She then made a motion (DT) to accept and place on file the communication from J&J Communications, which was seconded (DG/JM). Motion passed unopposed.

Mr. Comerford closed both public hearings.

A motion was made (JM) and seconded (DG) to grant a special permit under provisions of the city code of New Bedford to Massachusetts Clean Energy Technology Center (63 Franklin Street, Third Floor Boston, MA) and Apex Companies, LLC. (1213 Purchase Street, Room 301 New Bedford, MA) relative to property located at 50 MacArthur Drive, "AKA" as ES R South Front Street, Assessor's Map Plot 31, Lot 234 in a Waterfront Industrial Zoned District to allow the petitioner to relocate the existing FM Radio Tower into another location on the site, which will require a Special Permit under Chapter 9, Comprehensive Zoning Sections 4900-4951C, 5300-5330, and 5360-5390 with the following conditions: that the Commission of Buildings and Inspectional Services have the discretion to have G&G Communications do a final site inspection, 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 5-0.

A motion was made (JM) and seconded (DG) to grant a special permit under provisions of the city code of New Bedford to Massachusetts Clean Energy Technology Center (63 Franklin Street, Third Floor Boston, MA) and Apex Companies, LLC. (1213 Purchase Street, Room 301 New Bedford, MA) relative to property located at 1277 Kempton Street, "AKA" R NS Kempton Street, Assessor's Map Plot 61, Lot 2 in a Residential A Zoned District to allow the petitioner to relocate the AM Radio Tower from 50 MacArthur Drive to this location, which will require a Special Permit under Chapter 9, Comprehensive Zoning Sections 4900-4951C, Sections 5300-5330, and 5360-5390 with the following conditions: that the Commission of Buildings and Inspectional Services be given the discretion to have G&G Communications perform a final site inspection, 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 5-0.

CASE #4140 – Petition for Variance

Correspondence dated 5/22/14 from the Commissioner of Buildings and Inspectional Services 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.

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 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 the hearing open and called upon the petitioner.

Robert M. Labonte of 966 Pontiac Street, New Bedford, addressed the board. He noted the construction was one story with a full she dormer on one side, and not a total two story. He stated the neighborhood houses were built in 1958 and did not have much frontage. He stated he had a construction company and had many tools hanging around the yard that he wanted to get into storage. Mr. Labonte stated he is encroaching 4' on his neighbor's property and he is present and has no problem with the proposed construction.

In response to Mr. Comerford's invitation to be heard in favor, Antone Martin of 956 Pontiac Street addressed the board. As next door neighbor on the left of Mr. Labonte's property front, he expressed his approval of the project.

In response to Mr. Comerford's invitation to be heard in favor, Ronald Labelle addressed the board on behalf of his daughter Caitlyn Houbre. He stated there should be a letter submitted by his daughter in opposition. He stated that his daughter has changed her opinion and wishes to be noted as being in favor. She lives in Florida. He presented that her concerns had been met and she was no longer in opposition.

In response to Mr. Comerford's invitation to be heard in favor, Councilor James Oliveira of 39 Briarwood Drive asked to be recorded in favor of the project.

In response to Mr. Comerford's invitation to be heard in favor, Councilor Linda Morad of 4162 Acushnet Avenue stated to the board that she had known Mr. Labonte and his family for 40 years. She stated the family had lived in this home Mr. Labonte's entire life and they had been active within the neighborhood. She stated he was seeking to use his yard to accommodate his tools in an enclosed area, and expected the board would agree there was a benefit to being able to put the stuff away, as the remainder of the yard is well-maintained. She requested the board grant the petition.

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.

Mr. Comerford closed the public hearing.

A motion was made (JM) and seconded (DG) to grant variance to Robert M. LaBonte (966 Pontiac Street New Bedford, MA) relative to property located at 966 Pontiac Street, Assessor's Map Plot 127E, Lot 324 in a Residential A Zoned District, and to allow the petitioner to erect a 24' x 36' two-story garage addition, which will require a Variance under Chapter 9, Comprehensive Zoning Sections 2000, 2300, 2310, 2330, 2331, 2700, 2710, 2720 2750, and 2755 with the following conditions: : 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 4-1.

Election of Officers was held at this time.

A nomination of Allen Decker for **Clerk** was made (IC) and seconded (DG). The nomination passed unopposed.

A nomination of Ian Comerford as **Chairman** was made (JM) and seconded (AD). The nomination passed unopposed.

Deborah Trahan declined proposed nomination as vice chair.

A nomination of Bob Shilling as **Vice Chairman** was made (JM) and seconded (DG). The nomination passed unopposed.

Whereupon Chairman Comerford adjourned the meeting at 8:37 pm.