



# *Zoning Board of Appeals*

September 18, 2014 - **Minutes**

New Bedford Main Public Library, 613 Pleasant Street

## **PRESENT:**

**Ian Comerford** (*Chairman*)

**James Mathes** (*Vice-Chairman*)

**John Walsh**

**Robert Schilling**

**Deborah Trahan** (*Acting Clerk*)

## *Also in attendance:*

*Dan Romanowicz, Commissioner Building and Inspectional Services*

*Jill Maclean, City Planner*

MEETING CALLED TO ORDER by Chairman Comerford at 6:05 pm.

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

## **PUBLIC HEARINGS:**

### **CASE #4157** – Variance

A motion was made (DT) and seconded (JM) that the following be received and placed on file: communication dated 8/28/14 from the Commissioner and Inspector of Buildings; communication from the Office of Planning dated 9/9/14; the appeal; the plan submitted; and that the owners of the lots as indicated are the ones deemed by this board to be those affected; and the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

Scott Collins, Swansea, MA, addressed the board on behalf of the petitioner, stating that his customer would like to finish his basement, to include a finished laundry room and a TV room/office. Mr. Collins stated the bylaw regarding height restrictions say that his building cannot be more than 2.5 stories, and even though there is to be no change in the height of the building, the finishing of the basement would break said restriction.

Mr. Collins notes that although the Assessors have the house listed as 1.5 stories, they are seeking a variance in order to finish the basement due to the height restriction.

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 hearing.

There being no board discussion on the matter, a motion was made (JM) and seconded (JW) to grant Appeal #4157, a motion to grant a variance under provisions of the city code of New Bedford to Hugo M. Teixeira (36 Cindy Lane New Bedford, MA 02740) and Seaside Basement Waterproofing Systems Inc. c/o Scott J. Collins (221 Plain Street Rehoboth, MA) relative to property located at 36 Cindy Lane, Assessor's Map Plot 82, Lot 249 in a Residential-A Zoned District, to allow the petitioner to finish the basement as plans filed, which will

require a Variance under Chapter 9, Comprehensive Zoning Sections 2700, 2710, and Table of Dimensional Requirements Appendix-B- Height of Buildings, 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 5-0

A motion was made (JM) and seconded (DT) to take Appeal #4156 next. Motion passed unopposed.

**CASE # 4156**

A motion was made (DT) and seconded (JM) that the following be received and placed on file: Communication dated 8/27/14 from the Commissioner and Inspector of Buildings; communication from the Office of the City Planner dated 9/9/14; the appeal; the plan submitted; and that the owners of the lots as indicated are the ones deemed by this board to be those affected; and the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

Mr. Comerford declared the hearing open

Architect Greg Jones of New Bedford addressed the board. He stated the applicants had owned a large motor home for a number of years and are looking to get the vehicle into a garage, as it currently sits out in the driveway on the side of the house, subject to the elements. Mr. Jones stated that these fiberglass vehicles require a considerable amount of maintenance, and as such it would be advantageous to have it placed in a garage.

Mr. Jones stated the motor home is approximately 12' tall and 40' long. He stated the garage would house the motor home, as well as a couple of other vehicles inside the property's current garage. He noted that planning had recommended against the proposal due to the existing standard 2-car garage, which Mr. Jones represented would be taken down.

Mr. Jones stated they have proposed the lowest building possible that can accommodate the motor home, namely a 13' high garage door. In an effort to keep a residential look to the proposed building, they have put a sloped roof on the building with a five on twelve pitch matching the ranch house in front of the garage. These features will take the height to 23.2' to the top of the ridge, about 5.2' taller than the 18' limit on accessory buildings.

He stated though a flat roof would bring the applicant close to the restriction limit, he did not feel it would look appropriate in this residential neighborhood and would pose structural issue.

Mr. Jones stated the project would be sided in residential material with an asphalt shingle roof, again matching the house. He noted the structure has been proposed some 65' back from the front property line, well behind the property. He stated the Camaras have spoken to their direct abutters who have no objection to the project.

Mr. Jones stated he believed that Zoning bylaws recommend getting such vehicles undercover and out of sight. He then invited questions from the board.

In response to Mr. Comerford's invitation to be heard or recorded in favor, Councilor David Alves addressed the board. He stated he is in support of the application. He noted the plans demonstrate that the building is placed far back from the road, and as such should not be an obstruction. He stated since this relocates the current garage, it is not an additional structure. Councilor Alves stated the City of New Bedford has a requirement that such vehicles, along with boats, be placed so that they are not visible to the street. He stated the Camaras are good investors within the city and each of their properties has always exceeded the city

requirements. He noted they are attempting to restrict the building to a minimum height and are combining the placement of their other vehicles into the same building, as well as trying to maintain the neighborhood aesthetics. He feels their commitment to fill a personal need within the restrictions of the board, warrants his support.

In response to Mr. Comerford's further invitation to be heard or recorded in favor, Councilor Linda Morad addressed the board. She noted she had formerly represented the area the property is located within as a councilor. She noted it is a nice neighborhood where the Camaras have been long-term residents. She stated the Camaras had consulted their neighbors, who are in agreement with the construction, and she assured the board the construction would be done in an aesthetically pleasing manner to the neighborhood per the city regulations and she asked for the board's favorable consideration.

In response to Mr. Comerford's further invitation to be heard or recorded in favor, Steven Camara of Forbes Street, New Bedford, addressed the board. He stated he had gone through a lot of trouble to get the plans ready and in front of the board. He stated he had spoken to his neighbors and they were all in favor of it.

In response to Mr. Comerford's further invitation to be heard or recorded in favor, Councilor Brian Gomes addressed the board to note that he was in favor of the project and hoped the board would see the project through.

In response to Mr. Comerford's further invitation to be heard or recorded in favor, the following requested to be recorded in favor:

Councilor Steve Martins

Councilor Joseph Lopes

Councilor Naomi Carney

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

Mr. Comerford closed the public hearing.

Mr. Comerford felt the applicant was doing the project right. Mr. Schilling agreed, especially with the raising of the roof.

A motion was made (JM) and seconded (JW) to grant Appeal #4156, a motion to grant a variance under provisions of the city code of New Bedford to Steven A. and Debra Camara (1044 Forbes Street, New Bedford, MA 02745) and Gregory Jones (106 Spring Street #312 New Bedford, MA) relative to property located at 1044 Forbes Street, Assessors Map Plot 132I, Lot 31 & 32 in a Residential-A Zoned District, to allow the petitioner to erect a garage for a motor home which will exceed 18 feet in height, which will require a Variance under Chapter 9, Comprehensive Zoning Section 2200, 2210, 2330 and 2333, 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 5-0

Mr. Comerford excused himself from the next hearing and Donald Gomes sat in as an alternate board member.

**CASE #4158** – Special permit

A motion was made (DT) and seconded (JW) that the following be received and placed on file: Communication dated 8/28/14 from the Commissioner and Inspector of Buildings; communication from the Office of the City Planner dated 9/9/14; the appeal; the plan submitted; and that the owners of the lots as indicated are the ones

deemed by this board to be those affected; and the action of the clerk in giving notice of the hearing is hereby ratified.

Motion passed unopposed.

A motion was made (JM) and seconded (JW) to receive and place on file the publication by Val Garnett and titled New Bedford Tattoo Company.

Valerie Garnett of Orleans Street, New Bedford, addressed the board. She stated she is a licensed body art practitioner within the City of New Bedford.

Ms. Garnett explained that in 2008 she had worked closely with City Council to rewrite the city ordinances to bring body art establishments into the city, the first since 1975. She stated she is current on all necessary certifications and that she works closely with the board of health regarding regulations and education for licensing.

Ms. Garnett is proposing a body art establishment on Union Street. She stated she will follow all regulations, ordinances and standards, as she does at her current location. She stated she feels that a body art establishment is a great business for the downtown district, complimenting surrounding businesses, exhibit artistic expression and attract tourism.

In referencing the packet she supplied board members, she noted letter of support from Mary Kellogg of the Board of Health and former City Councilor Jane Gonsalves. Included were current credentials and certifications, and proof that in accordance with ordinances, there will be no visibility into the proposed location. She represented she will be working with the historical society on signage. She noted her hours of operation will not exceed 10:00pm. Monday through Saturday and Sunday 12:00 – 5:00pm..

Mr. Schilling inquired if Ms. Garnett had explored areas outside of downtown. Ms. Garnett explained she has a current location in New Bedford's northend, but feels that downtown would be a good location due to tourism.

Mr. Mathes informed Ms. Garnett that any approval would condition that signage would need to be flush with the façade of the structure. Ms. Garnett agreed.

In response to Mr. Mathes' invitation to speak in favor of the proposal, Barry Flynn of Dartmouth and owner of the adjacent Irish pub expressed support of the project and thought it would fit in nicely.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Councilor David Alves addressed the board in support of Ms. Garnett's application. He stated that in 2008, he was opposed to tattoos, but added that many people have them. He also stated that in 2008 Ms. Garnett came before city council as the first tattoo parlor to be established in the city, and proved to the city council she was worthy of endorsement. She satisfied and exceeded all state and local requirements. He stated she has set the standard for tattoo parlors in New Bedford and since 2008 has maintained and exceeded that standard. He stated this is not her only location and he believes the downtown location will add to the city. He stated he has no concerns about her meeting requirements.

Councilor Alves stated Ms. Garnett meets all zoning requirements at this site, and he believes it will be a unique addition to the downtown area, stating that body art has complimented a number of waterfront communities, namely Newport. He stated military, waterfront and tattoos are synonymous. He noted with the coast guard academy being established here, this will complement our waterfront history. He stated Ms. Garnett knows the business and he supports this asset for our city. He stated his appearances before the board are limited to those projects h

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Ward 4 Councilor Dana Barrow addressed the board. She stated she visited the site and spoke to several neighbors, both business and resident, and everyone seemed excited. She feels it will be a good addition to our artistic growing downtown. She stated as the vice president of Aha, she is always concerned about our downtown branding and feels this fits in well.

Councilor barrow noted that tattoos are generally seen as young and hip, but many professionals and older people have them as well. She stated she is in favor of businesses owned by local women that bring money into our city.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Councilor Brain Gomes expressed support of this project. He stated Ms. Garnett has exemplified excellence and professionalism in the tattoo field and he assured the board she is right for downtown and will do a good job. He stated tattoo parlors have become part of business districts.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Councilor Joseph Lopes stated he has known Ms. Garnett for some thirty years and knows she loves and is committed to our city. He stated he spoke in Ms. Garnett's favor four years ago regarding her northend shop and speaks in her favor now. He noted the board of health letter expresses that she goes above and beyond to make sure this art remains in its confines. He stated Ms. Garnett's impeccable running of her businesses makes it a model, and she will do the same on Union Street. He stated Portland New Hampshire has many tattoo parlors next to their downtown bars and restaurants, much like the atmosphere in our downtown. He stated he supports Ms. Garnett.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Jeff Sanders of Unions Street addressed the board as the direct abutter to the proposed site. He stated after researching the project he supports it. He stated this is something the historic district needs.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Councilor Steve Martins addressed the board. He proudly noted her first business is in his district. He acknowledged the common hesitation about tattoo parlors, but Ms. Garnett and her team have done everything right. He stated this well run business is something we want more of in our city. He noted Ms. Garnett has always addressed any concerns and is a pleasure to work with. He stated he is in support and believes this will be a great asset to downtown. He encouraged the board to make a favorable recommendation.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Councilor Linda Morad requested she be recorded in favor of the project.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Councilor Kerry Winterson expressed his support for the project.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Councilor Naomi Carney requested she be recorded in support of this project. She expressed she has known Ms. Garnett for a very long time and she is an asset to the city. She noted that body art is a big thing right now.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Ryan Mcfee of Union Street, a working artist in the city, feels the city is getting better and better each year. He stated that a working tattoo artist will help the neighborhood.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Jay Lanagan of Union Street, a direct abutter and building resident, addressed the board. He noted that the building formerly housed Pizan Pizza, which was highly successful until the Route 18 project cut access to the area causing many of the businesses to fail. Now that the highway project is complete and sidewalks have been extended and

cobblestone installed, he feels the area has been given the opportunity to start over. He stated this property has been available for two years. He stated his partners in the Rose Alley Ale House and Cork Wine and Tapestry declined to move into this lower Union Street location believing the market to be weak and undeveloped. Mr. Lanagan expressed that he too had initial reservations about a tattoo parlor, but in his analysis, visiting Ms. Garnett's shop unannounced, he learned quickly that she was a sophisticated business owner. He stated expecting a rough draft of the interior layout, he instead received fully scaled drawings. He observed how her business was run, seeing both police officers and Bay Sox players getting tattoos, and realizes her clientele is no different than those he serves at Rose Alley and Cork. He noted the time spent with clients going over their planned tattoos and the resulting happy customers. He stated he is excited about the traffic this will bring to the neighborhood, noting this expensive luxury item is art. Mr. Lanagan noted his rising taxes on this vacant building, and welcomes someone who can create and sustain jobs, and deliver unsubsidized cash flow to our city. He supports this project and the opportunity it presents.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Trisha Xiarhos addressed the board. As a registered nurse in the city, she informed the board she is extensively tattooed and is beyond satisfied with Ms. Garnett's work. She stated she is in favor of the project.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Patricia Pacheco of Buttonwood Street New Bedford, addressed the board. She stated she has known Ms. Garnett for quite a long time and is tattooed. She stated there are some shops she would not consider stepping foot in, but Ms. Garnett's shop is incredible. Her shop is clean and she highly supports Ms. Garnett.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Sharon DeMello of Pleasant Street stated she is very much in favor. She stated Ms. Garnett does not allow any loitering outside her business. She feels Ms. Garnett will bring that type of respect to downtown, complimenting how hard the city has worked to restore respect in our downtown area. She stated Ms. Garnett goes above and beyond.

In response to Mr. Mathes' further invitation to speak in favor of the proposal, Veronica Gomes, a customer of Ms. Garnett, states her shop is always clean and professional, and she supports the project.

The following responded to an invitation to be recorded in favor:

Jessica Alvernaz;  
Alan Messier;  
Donna Drouin;  
Mr. Bernado;  
Linda Garcia;  
Jennifer Deslauriers;  
Kevin Mello;  
Sonia Roderigues;  
John Gomes;  
Monica Landis;  
Male:  
Female:  
Peter Medeiros;  
Female;  
Vanessa Connors;  
Carlos Mota;  
Chris Miggs;  
Dylan Travers;  
Mary Pomer;  
Lisa Salgado;

Leah Harrison.

In response to Mr. Mathes' invitation to speak or be recorded in opposition, Kevin Dawson of Front Street, an abutter, addressed the board. He stated he is not in favor of having this business as an abutter to his marine accounting business. He stated his forty year business includes lawyers and bankers and he does not understand why the city spent millions on expanded sidewalks for outside dining and then installs businesses that will not utilize them. He stated you can't get to his business any longer because of all the parking that has been sacrificed. He stated he does not think this type of business will blend in with his business and he is against it.

There was no response to Mr. Mathes' further invitation to speak or be recorded in opposition.

By way of rebuttal, Jay Lanagan spoke on behalf of the applicant. He stated he has been there for ten years. He stated that there is another outdoor restaurant planned at the very location of 29 Union Street, in spite of Mr. Dawson's concerns that a tattoo parlor will not bring clientele to the outdoor restaurants. Mr. Lanagan stated that auxiliary businesses are needed in addition to restaurants to bring people downtown. He stated that like the excitement that came with the downtown location of the registry, where many people would come to conduct registry business and spend additional money while in the area, this business serve people who are undertaking an artistic event costing hundreds of dollars. He felt it important that this business is unsubsidized. He stated the people present who have spoken in favor represent a cross section of the community that is passionate about the city and is spending money within it.

Mr. Gomes inquired whether it were likely that someone with a tattoo appointment might be likely to visit a restaurant prior to or after their appointment. Mr. Lanagan agreed and stated this will bring people already spending money, and the restaurants become an amenity rather than merely an attraction.

The public hearing was closed.

Mr. Walsh noted that Ms. Garnett had mentioned the interior will be screened from public view and suggested that be an imposed condition.

Mr. Schilling noted all the positive comments received on Ms. Garnett's operation of her business. He did have a concern about branding that area of Union Street and felt this business would be more appropriate five or six blocks up Union Street. He believed the current tourism trend was older people visiting the Whaling Museum and Seaman's Bethel. He was hopeful there would be a bounce back of lower Union Street businesses, but did not believe this business was the best branding of that area for the downtown.

Ms. Trahan stated that in her nine months in businesses in that area people are making reservations at her studio and dining out before or after. She expressed she is in favor of the project.

Ms. Mathes felt the applicant's presentation was outstanding. He feels that years ago that area was a ghost town after 5:30 and is now alive and bustling thanks to the investment by the arts community and the university. He stated New Bedford has been touted as an authentic seaport and he believes this to be an appropriate businesses to compliment the cobblestones and vessels across the street, and the history of the city. He expressed his support.

A motion was made (DT) and seconded (DG) to grant a special permit under provisions of the city code of New Bedford to Valerie Marks Garnett and Venessa Kollars (67 Orleans Street New Bedford, MA 02745), New Bedford Tattoo Company LLC (29 Union Street New Bedford, MA 02740), and Fuji Real Estate LLC c/o Jason P. Lanagan (29 Union Street New Bedford, MA), relative to property located at 29 Union Street, Assessor's Map Plot 53, Lot 198A in an Industrial-A Zoned District, to allow the petitioner to operate a body art establishment as plans filed, which will require this Special Permit under Chapter 9, Comprehensive Zoning

Sections 4200-4267, 5300, 5310-5330 and 5360-5390 with the following conditions: that the business sign be mounted flush to the façade and the interior be completely screened from the street, and that the project be set forth according to the 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 4-1

There being no further business, the meeting was adjourned at 7:10 pm.