

**ZONING BOARD OF APPEALS  
NEW BEDFORD MAIN PUBLIC LIBRARY  
PLEASANT STREET  
NEW BEDFORD, MA  
Thursday, January 18, 2018**

**MINUTES**

**PRESENT:** Debra Trahan (*Chairperson*)  
Allen Decker (*Clerk*)  
Steve Brown  
John Walsh  
Robert Schilling

**ABSENT:**

**STAFF:** Dan Romanowicz, *Commissioner Inspectional Services*  
Gloria McPherson, *City Planner*  
Jennifer Carloni, *Assistant Project Manager*

CITY CLERKS OFFICE  
NEW BEDFORD, MA  
2018 FEB 22 P 3:38  
CITY CLERK

**1. CALL TO ORDER**

Chairperson Trahan called the meeting of the City of New Bedford Zoning Board to order at 6:02 p.m. and Clerk Decker explained the process and protocols to those in attendance.

**2. PUBLIC HEARINGS**

**ITEM 1 – Case #4306 - Petition of: Peter W. Kodis III and RoseMarie Kodis (735 County Street New Bedford, MA) for a Variance under Chapter 9 Comprehensive Zoning sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Regulations, Appendix B – side yard), 2750 (yards in residence district), and 2755 (side yard); relative to property located at 735 County Street, assessor’s map 71, lot 412 in a residential A [RA] zoned district. The petitioners propose to erect a roof over the existing side porch as plans filed**

A motion was made (AD) and seconded (JW) that the following be received and placed on file: communication from the Department of Inspectional Services dated 12/21/17; communication from the Office of the City Planner dated 1/18/18; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Peter Kodis, 735 County Street, stated he had replaced a rotting side porch last year and they are looking to put a roof on the porch to mitigate weather events and UPS boxes getting wet. He stated the location of the house on the lot is 12’ to the right and 8’ to the left, with the porch sticking out the

building department said he is short 2' and needs a variance. He added he has the 8' to the property line, and an N-Star underground conduit running through the yard provides almost another four feet to the neighbor's fence. He stated the photo contains sticks and tape showing the concept of the roof.

There was no response to Chairperson Trahan's invitation to speak or be recorded in favor.

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

The hearing was declared closed.

There being no board discussion, a motion was made (AD) and seconded (JW) relative to the property located at 735 County Street, assessor's map 71, lot 412 in a residential A [RA] zoned district. The request being to erect a roof over the existing side porch as per plans filed, which requires a variance under Chapter 9 Comprehensive Zoning sections 2700, 2710, 2720 Appendix B, 2750, and 2755. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that, in respect to these sections, the application has made sufficient arguments, and in addition to the foregoing sections, the petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances, because the board has found that there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this case, the lot is unique in that it is above street grade and on a slight curve, and the main access to the existing house is via the side entrance. Due to those circumstances effecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner. In this case, without the planned roof, the side entrance continues to be open to the elements and less safe for use, an ongoing hardship for the owners. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items, along with all properly submitted materials and testimony made here, and the board's consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

No specific conditions are added to this motion, but general conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Trahan – Yes

Board Member Walsh – Yes

Clerk Decker - Yes

Board Member Schilling - Yes

Board Member Brown – Yes

Motion passes 5-0

**ITEM 2: Case #4307 – Petition of: Rodney Rizk (27 Clark Street Apt 2 New Bedford, MA) for a Variance under Chapter 9 Comprehensive Zoning sections 2700 (Dimensional Regulations), 2710 (General), 2720 (Table of Dimensional Regulations, Appendix B- Lot frontage); relative to property located at WS South Second Street (AKA ES Acushnet Avenue), assessors map 31, lot 9 in a Mixed Use Business [MUB] zoned district. The petitioner proposes to erect a 27’x35’ single family dwelling as plans filed.**

A motion was made (AD) and seconded (JW) that the following be received and placed on file: communication from the Department of Inspectional Services dated 12/21/17; communication from the Office of the City Planner dated 1/18/18; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Rodney Rizk stated he is looking to build a home on this vacant property, where there is already a foundation which will be knocked down in order to rebuild with correct dimensions. He is seeking frontage relief, where he is some 10’ short of the 75’ requirement.

Board Member Decker confirmed the applicant has frontage on two streets, neither of which meets the minimum requirement.

In response to Chairperson Trahan, Mr. Rizk stated he had purchased the property some two to three years ago. Chairperson Trahan noted that at the time of purchase, this was not a buildable lot. Mr. Rizk stated he did not know that when he made the private sale. He added the lawyer told him there was a foundation, so it was buildable.

Board Member Decker confirmed with the petitioner that this would be a residential construction for himself.

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

An abutter in the audience confirmed that this was a residential dwelling only.  
The hearing was closed.

After brief board discussion, a motion was made (AD) and seconded (JW) relative to the property located at WS South Second Street (AKA ES Acushnet Avenue), assessors map 31, lot 9 in a Mixed Use Business [MUB] zoned district, for petitioner to erect a 27’x35’ single family dwelling as per plans filed, which requires a variance under Chapter 9 Comprehensive Zoning sections 2700, 2710, 2720 Appendix B. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that this petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances, because the board has found that there are circumstances related to the soil conditions, shape or topography which

especially effect the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this case, the existing state of the lot is unique for the district in its zigzag shape, with frontage on two streets, neither of which has the necessary minimum frontage required. Due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner. In this case, not granting the variance prevents the planned residential construction and the applicant would face a continuing hardship as he plans to live on premises. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good. In fact, the relief requested would allow a currently vacant lot to support a use (a house) that benefits the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items, along with all properly submitted materials and testimony made, and the board's consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

No specific conditions are added to this motion, but general conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Trahan – No

Board Member Walsh – Yes

Clerk Decker - Yes

Board Member Schilling - Yes

Board Member Brown – Yes

Motion passes 4-1

A motion was made (AD) and seconded (JW) to hear both of the following cases simultaneously.

Motion passed unopposed

**Item 3 – Case #4308/Case #4309 –**

**Case #4308** - Petition of: TRI – The Resource, Inc. c/o Michael Galasso (200 Plamer Avenue Falmouth, MA) for a Variance under Chapter 9 Comprehensive Zoning sections 3000 (general regulations), 3100 (parking & loading), 3110 (applicability), and 3130 (table of parking & loading requirements, Appendix C – two family); relative to property at 29 South Seventh Street, assessors map 46, lot 162 in a Residential A [RA] zoned district. The petitioners propose to convert a 4 unit dwelling to a 2 unit dwelling as plans filed.

**Case #4309** - Petition of: TRI – The Resource, Inc. c/o Michael Galasso (200 Plamer Avenue Falmouth, MA) for a Special Permit under Chapter 9 Comprehensive Zoning sections 2400 (nonconforming uses & structures), 2410 (applicability), 2430 (nonconforming structures, other than single and two-family

**structure), and 5300-5330 & 5360-5390 (special permit); relative to property located at 29 South Seventh Street, assessors map 46, lot 162 in a Residential A [RA] zoned district. The petitioners propose to convert a 4 unit dwelling to a 2 unit dwelling as plans filed**

A motion was made (AD) and seconded (JW) regarding Case #4308, that the following be received and placed on file: communication from the Department of Inspectional Services dated 12/27/17; communication from the Office of the City Planner dated 1/18/18; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

A motion was made (AD) and seconded (JW) regarding Case #4309, that the following be received and placed on file: communication from the Department of Inspectional Services dated 12/27/17; communication from the Office of the City Planner dated 1/18/18; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

Michael Galasso, project manager and court appointed receiver for the abandoned property, explained their renovation program and noted the presence of Kit Wise. He stated this is their 10<sup>th</sup> property in the city. He stated they are seeking a parking relief variance and special permit to allow for a two family residence in this four apartment 1807 built building.

Christopher (Kit) Wise discussed the facts relating to the requested relief for parking and the request for special permit to establish a two-family dwelling in a one-family zone. He noted the grandfather clause is no longer in force. He explained the proposed renovations, including a 106 s/f addition on the second floor to enhance the units. He assured they would do their best to respect the historic fabric of the house.

Chairperson Trahan inquired as to the limited time requirements on the receivership paper and the estimated costs. Mr. Galasso stated they simply go back to court to update their schedule and budget.

In response to Board Member Schilling, Galasso stated this would be a for sale two-family, and not rental units.

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

The hearing was declared closed.

There being no board discussion on the matter, a motion was made (AD) and seconded (JW) relative to the property located at 29 South Seventh Street, assessors map 46, lot 162 in a Residential A [RA] zoned district, to convert a 4 unit dwelling to a 2 unit dwelling as per plans filed, which requires a variance under Chapter 9 Comprehensive Zoning sections 3000, 3100, 3110, and 3130 Appendix C.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that this petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances, because the board has found that there are circumstances related to the soil conditions, shape or topography which especially effect the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this case, the location of the existing structure and its size is such that there is no capacity on the lot to provide the necessary parking.

Due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner. In this case, requiring the creation of parking would necessitate reconfiguring the existing structure, creating a hardship due to substantial costs. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items, along with all properly submitted materials and testimony made, and the board's careful consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

No specific conditions are added to this motion, but general conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Trahan – Yes

Board Member Walsh – Yes

Clerk Decker - Yes

Board Member Schilling - Yes

Board Member Brown – Yes

Motion passes 5-0

A motion was made (AD) and seconded (with regard to Case #4309, relative to the property located at 29 South Seventh Street, assessors map 46, lot 162 in a Residential A [RA] zoned district, to convert a 4 unit dwelling to a 2 unit dwelling as per plans filed, which requires a special permit under the provisions of Chapter 9 Comprehensive Zoning sections 2400, 2410, 2430-1432, and 5300-5330 and 5360-5390.

Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that in respect to these sections the following applies:

- As concerns the social, economic or community needs served by the proposal, this proposal provides housing in a residence zoned property;
- As concerns traffic flow and safety, including parking and loading, this petition actually lessens the loading and parking requirements as the prior use was 4 units and is currently proposed as 2 units.
- As concerns the adequacy of utilities and other public services, this proposal is neutral, as it will use existing utilities and public services;
- As concerns the neighborhood character and social structure, this proposal proposes a use that is not out of character for the neighborhood;
- As concerns impacts on the natural environment, this proposal is neutral, as the proposed changes are within the existing footprint of the building;
- As concerns the potential fiscal impact, including the impact on city services, tax base and employment, this proposal returns a currently vacant property into a residential use, benefitting the tax base with actually less impact on city services.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items, along with all properly submitted materials and testimony made, and the board's consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief.

No specific conditions are added to this motion, but general conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Trahan – Yes

Board Member Walsh – Yes

Clerk Decker - Yes

Board Member Schilling - Yes

Board Member Brown – Yes

Motion passes 5-0

**ITEM 4: Cases #4310/Case #4311**

**#4310:** Petition of: Union Street Place, LLC c/o William A. Krause III (204-206 Union Street New Bedford, MA) for a Variance under Chapter 9 Comprehensive Zoning sections 3000 (general regulations), 3100 (parking & loading), 3110 (applicability), and 3130 (table of parking & loading requirements, appendix C); relative to property located at 204-206 Union Street, assessor's map 46 lot 38 in a Mixed Use Business [MUB] zoned district and the Downtown Business Overlay District [DBOD]. The petitioner proposes to change the use of the second floor to two residential units as plans filed.

**#4311:** Petition of: Union Street Place, LLC c/o William A. Krause III (204-206 Union Street New Bedford, MA) for a Special Permit under Chapter 9 Comprehensive Zoning sections 4500-4572 (Downtown business Overlay District (DBOD), and 5300-5330 & 5360-5390 (Special Permit); relative to

**property located at 204-206 Union Street, assessor's map 46, lot 38 in a Mixed Use Business [MUB] zoned district. The petitioner proposes to change the use of the second floor to two residential units as plans filed.**

A motion was made (AD) and seconded (JW) regarding Case #4310, that the following be received and placed on file: communication from the Department of Inspectional Services dated 12/27/17; communication from the Office of the City Planner dated 1/18/18; the appeal package and the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

A motion was made (AD) and seconded (JW) regarding Case #4311, that the following be received and placed on file: communication from the Department of Inspectional Services dated 12/27/17; communication from the Office of the City Planner dated 1/18/18; the appeal package as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

William Krause stated he had purchased the property some 2 years ago, where there had been a fire. He stated the property has been a downtown eyesore ever since. He is looking to make two residential units on the second floor of this commercial property, with the first floor remaining retail/commercial space. He stated he seeks a variance for parking and a special permit to put in the residential units. He stated the previous owners had already made a studio apartment.

In response to Chairperson Trahan, Mr. Krause stated his plan was to let the commercial tenant use the finished basement for storage.

Chairperson Trahan, in addressing the parking issue, noted that while having been a cheerleader for the development of our downtown, where she herself has a business, she stated that residential unit owners are parking in the metered spaces for two days on Saturday and Sunday, negatively impacting downtown business customers looking for parking to visit the merchants.

Board Member Schilling, being a downtown resident, encouraged parking accommodations to keep downtown from becoming a dead zone, and noted the underutilized parking garages available. Board Members Walsh and Brown agreed. Chairperson Trahan noted that in the past the board had conditioned acquisition of parking in one of the city garages.

There was no response to Chairperson Trahan's invitation to speak or be recorded in favor.

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

The hearing was declared closed.



After board discussion, a motion was made (AD) and seconded (JW) regarding Case # 4310, relative to property located at 204-206 Union Street, assessor's map 46 lot 38 in a Mixed Use Business [MUB] zoned district and the Downtown Business Overlay District [DBOD], wherein the petitioner proposes to change the use of the second floor to two residential units as per plans filed, which requires a Variance under Chapter 9 Comprehensive Zoning sections 3000, 3100, 3110, and 3130 Appendix C. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that this petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances, because the board has found that there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this case, the structure entirely fills the existing lot, leaving no ability to provide the parking. Due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner. Without the variance, creating parking would require reconfiguring the existing structure, creating a substantial hardship due to said costs. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items, along with all properly submitted materials and testimony made, and the board's consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief. No specific conditions are added to this motion, but general conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Trahan – Abstains  
Clerk Decker - Yes  
Board Member Brown – Yes

Board Member Walsh – Yes  
Board Member Schilling - Yes

Motion passes 4-0

A motion was made (AD) and seconded (JW) regarding Case # 4311, relative to property located at 204-206 Union Street, assessor's map 46 lot 38 in a Mixed Use Business [MUB] zoned district and the Downtown Business Overlay District [DBOD], wherein the petitioner proposes to change the use of the second floor to two residential units as per plans filed, which requires a special permit under Chapter 9 Comprehensive Zoning sections 4500-4572, 5300-5330, and 5360-5390. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that in respect to these sections the following applies:

- As concerns the social, economic or community needs served by the proposal, this proposal provides additional residential units on a property not currently being used, as well as additional retail space on the first floor;
- As concerns traffic flow and safety, including parking and loading, the proposal has limited impacts due to available nearby garages and other surface parking.
- As concerns the adequacy of utilities and other public services, this proposal is neutral, as it will use existing utilities already on-site;
- As concerns the neighborhood character and social structure, the existing character of this district is mixed use and the proposal fits within that character.
- As concerns impacts on the natural environment, this proposal is neutral, as there are no exterior changes or reduction of the building proposed.
- As concerns the potential fiscal impact, including the impact on city services, tax base and employment, this proposal returns a currently vacant property to use, providing an improved tax base at minimal additional impacts to city services.
- As regards the Downtown Business Overlay District, the proposed project does not cause substantial detriment to the neighborhood.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items, along with all properly submitted materials and testimony made, and the board's consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief. No specific conditions are added to this motion, but general conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Trahan – Abstains  
Clerk Decker - Yes  
Board Member Brown – Yes

Board Member Walsh – Yes  
Board Member Schilling - Yes

Motion passes 4-0

**ITEM 5 -Case #4312- Petition of: Karmal Management LLC. (9265 Estero River Circle Estero, FL) and Heather Hopkins Dudko (2 Phoebe Way Worcester, MA) for a Variance under Chapter 9 Comprehensive Zoning sections 3200 (sign regulations), 3210 (purpose), 3210 (general regulations), 3250 (regulations governing particular types of signs), and 3255 (area restrictions for ground signs); relative to property located at 1389 Phillips Road, assessor's map 132, lot 585 in a Mixed Use Business [MUB] zoned district. The petitioners propose to alter a preexisting nonconforming ground sign by installing new panels totaling 75 square feet in area with the overall height to remain at 20 feet as plans filed.**

A motion was made (AD) and seconded (JW) regarding Case #4310, that the following be received and placed on file: communication from the Department of Inspectional Services dated 12/27/17; communication from the Office of the City Planner dated 1/18/18; the appeal package and the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by this board to be the lots affected; and the action of the clerk in giving notice of the hearing as stated be and hereby is ratified.

Motion passed unopposed.

The hearing was declared open.

Heather Dudko, of National Sign, representing SevenEleven. She stated they are seeking to alter a preexisting non-conforming ground sign. She stated the store, currently operating 24 hours a day, has contracted with BP Petroleum for the gas, resulting in a canopy and wall sign change. They seek to alter the ground sign by removing and replacing the panels in the structure, with poles and overall height remaining in place. They seek to replace the three 25' panels and replace gas pricing to an LED pricing board. She stated that per the Planning Board, they will remove the light bars, repaint the poles and update some landscaping. She stated the variance is needed because this exceeds the 25 s/f size allowed for ground sign and overall height, but noted the current size of the sign.

There was no response to Chairperson Trahan's invitation to speak or be recorded in favor.

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

The hearing was closed.

There being no board discussion, a motion was made (AD) and seconded (JW) relative to property located at 1389 Phillips Road, assessor's map 132, lot 585 in a Mixed Use Business [MUB] zoned district, wherein the petitioners seeks to alter a preexisting nonconforming ground sign by installing new panels totaling 75 square feet in area with the overall height to remain at 20 feet as per plans filed, which requires a variance under Chapter 9 Comprehensive Zoning sections 3200, 3210, 3210, 3250, and 3255. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9, Comprehensive Zoning Sections as cited, the board finds that this petition has been found to be in accordance with M.G.L Chapter 40A, Section 10, relative to the granting of variances, because the board has found that there are circumstances related to the soil conditions, shape or topography especially effecting the land or structure in question, but which do not generally effect the zoning district in which the land or structure is located. In this case, given the location of the existing ground sign, a unique situation exists with three ground signs in close proximity to each other due to an existing driveway providing access to an adjacent property. Due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the zoning ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner. In this case, not granting the variance creates a hardship promoting the existence of the convenience store due to its setback from the street, making it difficult for the public to know it's there. The desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And the desirable relief may be granted without substantial detriment to the public good.

In light of its review of the specifics of this case, the applicable sections of the city's zoning ordinance, the findings subsequently made based on these items, along with all properly submitted materials and testimony made, and the board's consideration of the petitioner's request, the Zoning Board of Appeals finds that the petition satisfactorily meets the basis of the requested relief. No specific conditions are added to this motion, but general conditions are as follows: that the project be set forth according to the plans submitted with the application; that the applicant shall ensure a copy of the Notice of Decision bearing certification from the City Clerk's Office be recorded at the Registry of Deeds; and that the rights authorized by the granted variance must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from the date the decision was granted or they will lapse.

Roll-call vote as follows:

Chairperson Trahan – Yes	Board Member Walsh – Yes
Clerk Decker - Yes	Board Member Schilling - Yes
Board Member Brown – Yes	
Motion passes 5-0	

### **3. APPROVAL OF MINUTES**

A motion was made (RS) and seconded (JW) accept the meeting minutes of September 28, 2017 and December 14, 2017.

Motion passed unopposed.

### **4. OLD/NEW BUSINESS:**

Election of officers

After discussion, Board Member Schilling

A motion was made (JW) and seconded (SB) nominated Debra Trahan as Chairperson and Alan Decker as Clerk, with the Vice-Chairperson election position being tabled. Motion passed unopposed.

Ms. Carloni discussed with Board Members their city e-mail.

### **5. ADJOURNMENT:**

A motion was made (RS) and seconded (SB) to adjourn.

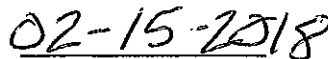
Motion passed unopposed.

Whereupon the meeting was adjourned at 7:40 p.m..

ATTEST.



Allen Decker, Clerk



Date