



**PATRICK J. SULLIVAN
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City of New Bedford

Planning Board

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NEW BEDFORD PLANNING BOARD

New Bedford Public Library
Pleasant Street
New Bedford, MA

March 13, 2019

MEETING MINUTES

CITY CLERKS OFFICE
NEW BEDFORD, MA
2019 APR 11 A 10:12
CITY CLERK

PRESENT: Kathryn Duff, *Chairperson*
Arthur Glassman, *Vice-Chairperson*
Alex Kalife, *Clerk*
Kamile Khazan
Peter Cruz

ABSENT: None

STAFF: Tabitha Harkin, *City Planner*
Jen Carloni, *Staff Planner*

1. CALL TO ORDER

Chairperson Duff called the meeting to order at 6:02 p.m.

2. ROLL CALL

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

Chairperson Duff welcomed the public and advised that Cases #18-53/#18-54 would be continued to the April 10, 2019 meeting. Additionally, reporting that Cases #19-03/#19-04 were also requested to be continued to April 10, 2019.

3. APPROVAL OF MINUTES

At Chairperson Duff's request, a motion was made (AG) and seconded (PC) to approve the minutes of January 2019 and February 2019 minutes.

Motion passed unopposed.

Chairperson Duff reported that a review of a minor plan amendment to a previously approved site plan had been handled administratively on Case# 18-50, regarding a ground sign change for 101 Belleville Avenue. A motion was made (AG) and seconded (PC) to approve the administrative in-office change. A roll call vote of the approval passed unanimously.

CONTINUANCES

Case #18-49: WS Acushnet Avenue - Request by applicant for **Special Permit** for a reduction in the number of parking spaces required for a 1,040 SF hair salon establishment located at WS Acushnet Avenue (Map 98 Lot 278) on a 2,592 SF site in a Mixed-Use Business [MUB] zoned district. Applicant: Beira Properties, LLC (12 Plumleigh Drive Dartmouth, MA 02747). Applicant's Agent: Architectural Consulting Group, Inc. (2206 Acushnet Avenue New Bedford, MA 02745).

Chairperson Duff read into the record a related letter.

A motion was made (AG) and seconded (KK) to accept the letter.

Motion passed unopposed.

A motion was made (AG) and seconded (PC) to continue the hearing to the April 10, meeting.

Motion passed unopposed

CASE # 18-53/Case # 18-54

Case #18-53– Request by applicant for Site Plan approval for new construction of a 5,275 SF retail convenience store with gas station and a 2,640SF carwash; located at 2904 Acushnet Avenue, 2914 Acushnet Avenue, and ES Acushnet Avenue (Map: 130D Lots: 117, 247, 248, & 447) on a 2.25+ acre site in a Mixed Use Business & Residential A zoned district. Owner: MIH1, LLC (401 County Street New Bedford, MA 02740), Kevin Burgess (2904 Acushnet Avenue New Bedford, MA 02745), and Neil A. & Erica S. Meunier (2194 Acushnet Avenue New Bedford, MA 02745). Applicant: Farland Corp. (401 County Street New Bedford, MA 02740).

Case #18-54 - Request by applicant for New Ground Sign Site Plan approval for two pylon signs for a convenience store with gas station and car wash; located at 2904 Acushnet Avenue, 2914 Acushnet Avenue, and ES Acushnet Avenue (Map: 130D Lots: 117, 247, 248, & 447) on a 2.25+ acre site in a Mixed Use Business & Residential A zoned district. Owner: MIH1, LLC (401 County Street New Bedford, MA 02740), Kevin Burgess (2904 Acushnet Avenue New Bedford, MA 02745), and Neil A. & Erica S. Meunier (2194 Acushnet Avenue New Bedford, MA 02745). Applicant: Farland Corp. (401 County Street New Bedford, MA 02740).

Chairperson Duff reported that the request was received via e-mail and, after review, she signed the same. Upon her request a motion was made (AG) and seconded (PC) to continue the hearing on the matters to April 10, 2019.

Cases #19-03/#19-04 -

Case #19-03 - Request by applicant for Site Plan approval for new construction of 2,002SF fast-food restaurant with drive-thru window; located at 970Ashley Boulevard(Map:127D,Lots:89 and 98)on a 0.45+

acre site in a Mixed Use Business[MUB] and Residential B[RB] zoned district. Owners: John T. Ricciuti, Trustee of the Ricciuti Realty Trust II (970 Ashley Boulevard New Bedford, MA 02745). Applicant: Yearly Grind II Realty, LLC (PO Box 51147 New Bedford, MA 02745).

Case #19-04 - Request by applicant for a Special Permit for a reduction of the number of parking spaces required for a proposed 2,002 SF fast-food restaurant with drive-thru window; located at 970 Ashley Boulevard (Map: 127D, Lots: 89 & 98) on a 0.45+ acre site in a Mixed Use Business [MUB] and Residential B [RB] zoned district. Owners: John T. Ricciuti, Trustee of the Ricciuti Realty Trust II (970 Ashley Boulevard New Bedford, MA 02745). Applicant: Yearly Grind II Realty, LLC (PO Box 51147 New Bedford, MA 02745)

A motion was made (AG) and seconded (PC) to continue the hearing on the matters to April 10, 2019. Motion passed unopposed.

4. PUBLIC HEARINGS

ITEM 1 – Case #19-05:

Case #19-05 – Request by applicant for Site Plan approval for the installation of a new ATM at an existing drive-thru island; located at 145 Cove Street (Map:20 Lot:104,158,102, & 103) on a .50+ acre site in a Mixed Use Business[MUB] zoned district. Owners: Bank of America (101S.Tyron Street Suite 400 Charlotte, NC 28280). Applicant: Bisbano & Associates (188ValleyStreet Providence, RI 02909).

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

Bruce Bisbano, of Bisbano & Associates Architects, displayed the plans for conversion of an existing ATM island to provide for increased customer access. He stated the work is basically dealing with some asphalt and concrete. They do not believe there will be any negative traffic flow impact.

In response to Chairperson Duff, Mr. Bisbano stated there will be patching of asphalt, noting the same on the display photo. He stated the ATM is a 24/7 use.

He stated the only concrete replacement will be the island, and work will address signage and striping. Chairperson Duff requested lighting improvement, with the applicant narrowly focusing lighting with use of LED lighting. Mr. Bisbano suggest they would use four fixtures. He also responded to signage addition questions and addressed underground trenching.

Board Member Khazan confirmed two ATMs only, with no live teller access.

Board Member Cruz inquired as to location of the additional signage and confirmed there would be no illumination.

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

A motion was made (AG) seconded (AK) to close the public hearing.

A motion was made (AG) and seconded (KK) to approve the request for site plan approval for installation for a new ATM at an existing drive-thru island; located at 145 Cove Street (Map:20Lot:104,158,102, & 103) on a .50+ acre site in a Mixed Use Business [MUB] zoned district with the following conditions:

- That new LED lighting is installed, two in each bay for a total of four;
- The project shall be completed according to the plans, notes, reports and specifications submitted for consideration of final approval by the planning board;
- The applicant shall submit final plan revisions to the Planning Division in the following format: One 11x17 plan set and one CD or USB of plan set in PDF format, and shall ensure these plans are properly submitted to the Department of Inspectional Services;
- The applicant shall ensure that a copy of the Notice of Decision certifying no appeal has been brought forward signed by the Office of the City Clerk at the Registry of Deeds.
- The applicant shall ensure that a copy of the recorded decision be provided for the Planning Division case file folder;
- The applicant shall present any proposed modification from the approved plans for consideration to the city planner for determination as to whether the modified plan must return before this board for further review;
- The rights authorized by the granted approval must be exercised by issuance of a building permit by the Department of Inspectional Services and acted upon within one year from date granted or they will lapse.

ROLL CALLVOTE:

Chairperson Duff – Yes Vice Chairperson Glassman - Yes
Board Member Cruz – Yes Board Member Khazan – Yes
Board Member Kalife - Yes

Motion passes 5-0

ITEM 2 – Cases #19-06/#19-07:

Case#19-06: Request by applicant for Site Plan approval for new construction of a 41,000 SF mixed commercial residential building; located at 117 UnionStreet,7N Second St, 115UnionSt, and 121 Union St (Map: 53, Lots 40, 41, 215, & 216) on an 8,200SF site in a Mixed-Use Business and Downtown Business Overlay zoned district. Owners: Paul A. Piva & Gail Florek (10 Pequod Road Fairhaven, MA 02719). Applicant:117 Union Street LLC (128UnionStreet,4th Floor New Bedford, MA 02740)

Case#19-07:117UnionStreet–RequestbyapplicantforaSpecialPermitforareductionofthenumberof parking spaces required for a proposed 41,000SF mixed commercial residential building; located at 117 Union Street, 7N Second St,115 Union St, and121 Union St (Map: 53, Lots 40, 41, 215, & 216) on an 8,200 SF site in a Mixed-Use Business and Downtown Business Overlay zoned district. Owners: Paul A. Piva & Gail Florek (10 Pequod Road Fairhaven, MA 02719). Applicant: 117Union Street LLC (128 Union Street,4th Floor New Bedford, MA 02740)

Chairperson Duff advised that the board would hear each of the cases together as a comprehensive review.

Motion made (AG) and seconded (PC) to open the public hearing.

Motion passed unopposed.

Chairperson Duff noted the project is before three boards, the Historic Commission, the Planning Board and the Zoning Board of Appeals. Chairperson Duff listed the necessary considerations the planning must address for determination under Section 5470 of the New Bedford Code of Ordinances. Chairperson Duff noted that no signage or exterior lighting as part of the proposal to be considered this evening.

In addition to a media presentation, Michael Galasso, New Bedford Development Corporation, read the project mission statement. He introduced the other team members present, and listed previous New Bedford projects he has completed, such as the Howland House, Washington Square, et cetera.

Mr. Galasso addressed items in the staff report, noting the importance of the site and their plan to deliver the best building possible, with high quality, energy efficiency and is appropriately scaled. He stated this new construction is over 2,000 SF and residential construction greater than three units. He noted the considerations before the board. He addressed the staff issues on height, density and market for the proposed uses. He stated the height and density is determined by the scale of surrounding development. He stated the cost of the development also determines the height and density, as well as the amount of commercial and residential space needed to be developed.

He noted the considerations to go before the Zoning Board, as well as their meetings with the Historic Commission, which resulted in changes. He stated they have met with the downtown neighbors and shop owners, who he feels are satisfied. He noted their market analysis shows an increase in downtown businesses and employment resulting in the demand for residential housing. He explained the makeup of the residential units and their affordable housing availability, differentiating the associated pricing. He continued to address aspects of the need and availability of downtown residential units and noted five of the proposed units will be fully handicapped accessible.

He then addressed their request for a reduction in on-site parking due to the site configuration, noting their planned free use of bicycles and shared use of an electric car. Though most resident needs can be reached on foot, he noted the presence of the nearby 500 parking spaces.

Tamara Roy, an architect with Stantec, addressed the board regarding their analysis and the comments of the Historic Commission, explaining the resulting changes. Along with the continuing media presentation, she displayed surrounding downtown buildings studied, though Chairperson Duff stated that the buildings studied are not within the historic district but for one. Ms. Roy stated they studied surrounding building heights, widths, and brick colors on Union Street. She explained the building changes proposed, including setback to the amenity deck, cornice line/design, window patterning, et cetera. She then directed the board to changes on the building corners and heights, also showing a view from Second Street as well as the Custom House, noting mechanicals will be screened and barely visible. She noted the site could have a 100' tall building under regulations for height. Ms. Roy displayed additional views of the proposed building.

Rich Rheame addressed the board and explained his revised site plan as a result of staff and DPI comments, explaining Barker Lane issues, the slate sidewalk width to encompass an outdoor café, and the inclusion of red brick and a handicap space. He stated the roof infiltration request is not a city regulation/requirement. He

noted in this case there is no change in runoff rate, volume or direction. He explained the modification and location of the water/storm line tie-in. He commented on the retention of the gas light.

Mr. Rheume explained the need for an underground grease trap, required to service the indoor kitchen. He then explained the sewer and gas lines locations. Chairperson Duff noted the confusion with the proposal before the board regarding 115 Union Street and whether it is or is not included in the proposal. Mr. Galasso explained the purchase of the five parcels and the demolition of the Moby Dick Building with a rebuild for storage of trash, bicycles, et cetera, noting the renovation of 115 Union is not a part of the plans before the board. Chairperson Duff again noted the confusion of what exactly is being included in the board's review of the proposal and asked for a resolution of the same. Mr. Rheume stated they can modify the application. He noted that due to the four separate parcels in 117 Union they are required to file an ANR plan to merge the lots. He stated they can, with that ANR plan, add the north portion of the Moby Dick parcel, defining a definitive lot. He stated the renovation of the main Moby Dick Building is not before the board, but the demolition of the rear addition and the proposed improvements are before the board. He stated they will create a definitive plan that shows it as a separate parcel, noting it is an essential component to contain trash, utilities, et cetera. Chairperson Duff noted the danger of including a portion of an adjacent property. She asked for the confines to become more clearly delineated. Mr. Rheume stated they will record the definitive plan with the board's approval.

Ms. Roy explained changes made in conjunction with comments from the Historic Commission, including the activation of the sidewalk to accommodate the ground floor ingress/egress, including the trash door, along with balcony setbacks. She then displayed the elevations and color palette. She then covered the energy efficient aspects of the project.

Chairperson Duff noted the applicant's appearance at a preliminary review, commenting that the proposed building dwarfs buildings across the street and fits in with buildings up Union Street, though buildings in the Historic District were not compared for palettes and impact on shadow areas.

Mr. Galasso addressed Chairperson Duff's comments on the consideration of their presence in the Historic District, noting they had worked for months with the Historic Commission, the City Planner and Pat Sullivan, and all were satisfied. He noted their relation and scale to surrounding buildings to their site as well.

In response to Chairperson Duff's inquiry regarding soil testing, Mr. Rheume inquired as to whether Chairperson Duff was suggesting they drill through the slabs, as opposed to doing the testing post construction/demolition. With further comment from Chairperson Duff, Mr. Rheume stated they would drill through the slabs. He stated there is zero infiltration, and as such they meet New Bedford regulations with regard to runoff.

Chairperson Duff noted DPI Comment #7 regarding Union Street utility lines and time constraints. Mr. Rheume noted the storm drain on N. Second Street, stating water lines will be dug back to the water main. Chairperson Duff suggested the applicant seek clarification from DPI. Chairperson Duff requested plans on 115 Union Street, as well as any planned storage/retention of removed cobblestone.

Board Member Cruz addressed the accessible spot being 20'x16' and discussed protection bollards. Board Member Cruz noted the plan reflecting the fire doors swing into the handicap spot area. Mr. Rheume stated he will check.

Board Member Cruz agreed the soil should be tested. He inquired as to the new foundation being installed and whether any shoring with regard to adjacent buildings had been looked at. Mr. Rheume added that the Moby Dick foundation will remain. Mr. Rheume stated any contaminated soil will be removed and disposed as is practical.

Ms. Harkin requested a view of the site plan and discussed the same, such as brick and slate sidewalks, surrounding trees and lights, et cetera. Additional comments were made. Ms. Harkin also suggested more consultation with DPI, especially regarding the sidewalk.

Chairperson Duff then raised the parking issues. Mr. Rheume discussed available nearby parking, though no parking garage agreement exists. He also noted free overnight parking for metered spaces.

Board Member Khazan inquired as to the outdoor tables and sidewalks. Mr. Rheume noted that the issue will have to come before this board. Mr. Rheume explained where the seating area would be and there was further discussion on the same, including 4'-5' of dedicated walking area.

In response to Board Member Cruz, Mr. Rheume displayed the location of the handicap ramp, noting it was slate across Barker's Lane. There was discussion on green roofs in addressing run-off. Mr. Rheume again stated that city regulations are met.

Chairperson Duff raised discussion on building form and size balance, Ms. Roy explaining again the necessary fiscal considerations with regard to size. Chairperson Duff again requested the market study, as well plans on the Moby Dick Building, and she suggested brick colors used in edging the property should align with the Historic District, noting the importance of the property and its appearances on Union Street.

In response to Chairperson Duff's invitation to speak in favor, Att. Ryan Pavao a lifelong New Bedford resident and an associate with Beauregard, Burke & Franco, with offices in the Historic District, appeared for the Pivas, longtime city business owners and current owners of the property. He noted their involvement in the conversion of the old Corson Building into part of the New Bedford Whaling Historic Park headquarters. He expressed their support of the project and felt parking was not an issue. Att. Pavao stated the Pivas have no others planned use for the property, which has been for sale for ten years. He stated the Pivas believe the project is in keeping with the city's redevelopment strategy.

In response to Chairperson Duff's further invitation to speak in favor, James DeMello, owner of the DeMello Building on Union Street, stated the height of the building, which is less than his, is not an issue. He feels the property is at this point an eyesore on this New Bedford gateway point. He believes housing in urban centers bring life back into these areas. He feels the project is a major opportunity for New Bedford.

In response to Chairperson Duff's further invitation to speak in favor, Steve Beauregard, of the New Bedford Development Corp and the New Bedford Housing Authority and a tenant in the DeMello Building. He stated the organizations are excited about the project and look forward to the board's approval.

In response to Chairperson Duff's further invitation to speak in favor, Jeff Pontiff, real estate broker, stated his office sits in the heart of the Historic District, and has done much of the commercial brokerage in Downtown New Bedford. He noted the 15-year real estate stall. He stated he is the broker for the property. He described the area's lack of developments and the eyesores within the city, such as this one. He spoke in terms of the viewpoint of what potential investors see in the city. He felt this project should be approved so that our downtown can move forward.

In response to Chairperson Duff's further invitation to speak in favor, Stella Xifaras Piva, a longtime New Bedford resident and business owner, spoke of her husband's family donation of the Corson Building to improve the visitor's center, as well as other donations to WHALE. She reiterated the failed attempts to sell this property. She commended Mr. Galasso's efforts and expressed concerns about what happens if this project approval is denied. She felt this project could make a substantial difference to the City of New Bedford.

In response to Chairperson Duff's further invitation to speak in favor, Michael Lajoie, a neighboring business owner, felt the approval of the project was vital to the downtown historic district.

There was no response to Chairperson Duff's invitation to speak in opposition.

Chairperson Duff acknowledged the material covered this evening and stated she would entertain a motion to continue.

Board Member Khazan, commented that as a lifelong New Bedford resident she has seen the city's highs and lows. She stated having returned she noticed the improvements and growth and agrees there needs to be a change. She stated that while feeling the plan was wonderful, there are concerns that must be further addressed.

The board discussed further items they would like to see and consider.

Mr. Galasso requested that a continuance be for as soon as possible, expecting to have the items ready to submit next week.

A motion to continue was made (AG) and seconded (PC).

ROLL CALL VOTE:

Chairperson Duff – Yes	Vice Chairperson Glassman - Yes
Board Member Cruz – Yes	Board Member Khazan – Yes
Board Member Kalife - Yes	

Motion passes 5-0

ITEM 3 Case #19-08

Case #19-08:-Request by City Councilor Hugh C. Dunn, on behalf of Michael Khalife for recommendation by the Planning Board for rezoning of 157-161 Coggeshall Street (Map: 93, Lot: 169) from Mixed Use Business [MUB] to Industrial B

Michael Khalife, with his brother Antoine Khalife, property owners since 2006, explained the history of the property and their previous agreement to switch their designation to mixed use business. He then explained the basis for their desire to establish a cannabis retail shop. He stated this shop would require industrial zoning. He expressed he did not feel it was spot zoning, noting the surrounding businesses zoned as industrial at a rate of 63%. He explained their million-dollar investment plans involving the purchase of immediate buildings, which will clean up the area.

Chairperson Duff referenced the Master Plan which she felt does not align itself to changing to industrial also noting the prohibition for retail cannabis in a residential area. Michael Khalife commented that there will be no change to the building layout and they are to appear before the zoning board. Antoine Khalife addressed the board describing their history in the neighborhood, the zoning, and the planned purchase of surrounding properties. He stated they had spoken to neighbors who would speak on their behalf. They discussed the ANR plan and any changes to the same, including changing lines to meet the 200' buffer and the 25' frontage, which they could use as parking.

He reiterated that the parcel was industrial, and in response to the city they agreed to voluntarily allow a change to mixed use business. Chairperson Duff noted the property is in the Hicks Logan Sawyer District, and she read the associated Master Plan goals into the record. The Khalifes explained their financial situation, reminding the board of their substantial investment and the positive tax revenue impact to the city.

Board Member Khazan posed a question. Ms. Harkin explained the need for their planned project to be in an industrial district.

Mr. Khalife felt this lot, with their present property, was the best for their plans, and in response to Board Member Khazan explained there was a difference between medical and recreational facilities. Board Member Khazan reiterated the Master Plan was well considered and noted work on the Acushnet River.

Councilor Joseph Lopes stated he served on the city council when the Mater Plan was done, and noted the Hicks Logan Area was a consideration for a proposed casino. He reminded the board about the Master Plan being reviewed periodically, noting the changes that have occurred in the city since its inception. He stated the matter should be considered on a case by case basis. Councilor Lopes explained why Councilor Dunn was not present but noted his own support for the zoning change.

In response to Board Member Khazan, Mr. Khalife commented on the tenants that had been spoken to, noting that the proposed building is not even visible to the area residents. Chairperson Duff explained that while this was before the board only for a recommendation, she had concerns about the conflict with the master plan in regard to this being a precedent as the first project out of the gate, as well as spot zoning. Mr. Khalife noted

the city's admitted restrictiveness of the ordinance and intimated there may be some future changes allowed on a case by case basis. He reiterated their plan to invest two million dollars into the city, in addition to tax revenue to the city.

Board Member Cruz noted this proposal is the first before the board of this type and expressed concern about additional requests regarding adjacent properties to change zoning. Mr. Khalife explained that it will be used for parking. Mr. Khalife explained, in relation to spot zoning, that surrounding lot consists of 51 lots with 33 being industrial.

In response to comments from Ms. Harkin, Mr. Khalife expressed willingness to change the corner lot. He stated their regret in allowing the voluntary agreement to change to mixed use business. He stated he is seeking only to return it to the zoning it had upon his purchase. He also commented on the failing condition of surrounding businesses and expressed concern that the proposed purchase if this is not allowed, will result in a vacant lot.

Chairperson Duff expressed her belief that it was spot zoning. Board Member Khazan noted a plan came before the board with zoning issues conflicting with the Master Plan. She confirmed that this plan would return to the city council.

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

In response to Chairperson Duff's invitation to speak or be recorded in favor, Att. Nicholas Gomes, Tree Beard, Inc., a prospective cannabis company at 1 Nauset Street, the current Mitsubishi dealership. He informed the board that their company is in the pre-screening process established by the administration. He stated they meet the city's related zoning ordinance. He stated he explored the sites throughout the city fitting within the zoning, which he agreed resulted in only a handful of properties. While stating he is not appearing for or against the proposition before the board, but he requested the board exercise careful analysis and due consideration related to the city plan and the city's ordinance. He stated the board's action will have long effects setting forth the city's future with cannabis.

City Joseph Lopes stated the applicant is willing to consider their existing gas station as part of this in order to minimize potential spot zoning issue. He acknowledged the proposed River Walk, but noted the vast surrounding retail businesses, as opposed to the potential and currently non-existent River Walk. In response to Board Member Khazan, Councilor Lopes explained the scope approved by the city council was to move development forward. He again stated he is in favor of what the applicants propose to do.

In response to Chairperson Duff's invitation to speak in favor, Heidi Johnson, an abutting property owner, stated she agreed with Councilor Lopes. She believed the area is retail, in spite of talk of river walks and casinos. She stated she supports the zoning change.

There was no response to Chairperson Duff's further invitation to speak in favor or in opposition to the proposal.

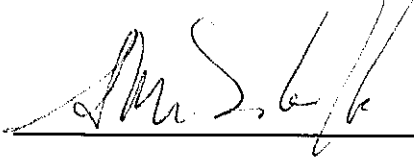
A motion was made (AG) and seconded (PC) to close the public hearing.

Motion passed unopposed.

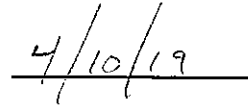
After board member discussion, to include spot zoning, a motion was made (AG) and seconded (PC) to recommend the zoning change.

After roll call vote, the motion failed 2-3.

The meeting adjourned at 9:11 p.m.



Alexander J. Kalife, Clerk



Date

