



**JONATHAN F. MITCHELL**  
MAYOR

# City of New Bedford

## ZONING BOARD OF APPEALS

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Registry of Deeds Use Only:

2016 JUL - 7 A 9:21  
CITY CLERK  
CITY CLERKS OFFICE  
NEW BEDFORD, MA

### NOTICE OF DECISION

Case Number:	#4235			
Request Type:	Variance			
Address:	128 Union Street			
Zoning:	Mixed Use Business Zoned District			
Recorded Owner:	128 Union Street LLC d/b/a DeMello International Center			
Owner's Address:	128 Union Street New Bedford, MA02740			
Applicant:	Poyant Signs			
Applicant's Address:	125 Samuel Barnet Blvd. New Bedford, MA 02745			
Application Submittal Date	Public Hearing Date	Decision Date		
May 31 <sup>st</sup> , 2016	June 23 <sup>rd</sup> , 2016	June 23 <sup>rd</sup> , 2016		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
47	5	11623	206	

Variance under provisions of Chapter 9 Comprehensive Zoning sections 3200 (sign regulations), 3201 (purpose), 3250 (regulations governing particular types of signs), 3255 (area restrictions for ground signs), and 3256 (location restrictions); relative to property located at 128 Union Street, assessors' map 47 lot 5 in a mixed use business zoned district; to allow the petitioners to erect a 27 square-foot cabinet onto an existing monument sign which was approved under a previous permit as plans filed.

**Action: GRANTED, WITH CONDITIONS,** for the reasons set forth in the attached decision with the Conditions as described in the attached decision. (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on July 7<sup>th</sup>, 2016. Any person aggrieved by this decision has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 17 of Chapter 40A of the General Laws of Massachusetts.

July 7, 2016  
Date

William Decker  
Clerk, Zoning Board of Appeals

### **1.) APPLICATION SUMMARY**

The petitioner proposes to erect a 27 square-foot cabinet onto an existing monument sign which was approved under a previous permit as plans filed, which requires a variance under provisions of Chapter 9 Comprehensive Zoning sections 3200 (sign regulations), 3201 (purpose), 3250 (regulations governing particular types of signs), 3255 (area restrictions for ground signs), and 3256 (location restrictions); relative to property located at 128 Union Street, assessors' map 47 lot 5 in a mixed use business zoned district.

### **2.) MATERIALS REVIEWED BY THE BOARD**

#### **Plans Considered to be Part of the Application**

- Plan Set including:
  - Sheet 1 -Site Plan, prepared by Poyant Signs dated 5/16/16, sign location drawn on to site plan drawn by SITEC, Inc. for Compass Bank, dated 12/29/98.
  - Sheet 5A.1 – Addition to Monument Signs, prepared by Poyant Signs - Elevation and photo comparisons, last revision date 04/15/16.

#### **Other Documents & Supporting Material**

- Completed Petition for a Variance Form, stamped received by City Clerk's Office May 31<sup>st</sup>, 2016.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated June 3<sup>rd</sup>, 2016.
- Staff Comments to ZBA from Department of Planning, Housing and Community Development, dated June 15<sup>th</sup>, 2016.
- Notice of Decision of the New Bedford Planning Board, date filed June 16<sup>th</sup>, 2016.

### **3.) DISCUSSION**

On the evening of the June 23<sup>rd</sup>, 2016 meeting, board members: John Walsh, Allen Decker, Robert Schilling, Sherry McTigue, and Leo Schick were present for the public hearing. City of New Bedford staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Jennifer Gonet (Assistant Project Manager, Department of Planning, Housing, & Community Development) were present during proceedings for the subject case review.

Mr. Decker made a motion, seconded by Ms. McTigue, to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated June 3<sup>rd</sup>, 2016; communications from the Office of the City Planner, dated June 15<sup>th</sup>, 2016; the notice of Decision of the New Bedford Planning Board, dated filed June 16<sup>th</sup>, 2016; the appeal package; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be the lots affected; and that the action of the Clerk in giving notice of the hearing as stated be and it hereby is ratified.

Ms. McTigue alerted the board she did not receive the building permit rejection in her packet. She wished to confirm there was one. Commissioner Romanowicz provided a copy of the building permit rejection to Ms. McTigue.

Then the motion was seconded by Ms. McTigue, and with all in favor the motion passed.

Acting Chair Walsh then declared the hearing open.

Representative of the petitioner: Mr. Richard Poyant (125 Samuel Barnet Boulevard New Bedford, MA) presented the petition. Mr. Poyant explained they were here to ask for dimensional relief for the installation of a single sided monument sign to be added to the existing single sided monument sign, located at the corner of Union Street. The location has been known for some time as the Santander Bank building, he explained, and prior to that the Compass Bank building. He stated the building has recently been acquired and the name of the building is proposed to be changed to the DeMello International Center. So, the request is for a three foot (3') by nine foot (9') sign cabinet that's the exact same size as the Santander sign below it, therefore it is architecturally intended to blend in with the existing structure. Mr. Poyant detailed the specifications of the sign stating: the background of the sign is black, non-illuminated, the letters and shield logo will be illuminated, and the letters are about six and a half inches (6.5") tall. Mr. Poyant described it as a fairly conservative sign. The intent is to rebrand the building with the new name as it has been known as the Santander building, he explained. He also noted Santander will remain a tenant in the building and so their identification will remain in place as shown on the plan.

Mr. Schilling asked for clarification that Santander used to have a large operation in the building and now has taken a large portion out of this location and only leaving a small branch? Mr. Poyant confirmed yes, they will only have a branch. Mr. Schilling then asked, wouldn't it make more sense to have DeMello International Center sign be larger than the Santander sign? Not to make it larger per say but to have a smaller Santander logo as anyone driving by would think it's half and half? It would seem it should be the DeMello International Center and not the Santander building shared.

Mr. Poyant replied there are plans to making other changes on the building that will enhance it as the DeMello International Center. This request is intended to be a compromise to allow Santander to maintain their identity that it has here and keep everything in an architectural component.

Mr. Decker asked what does the word cabinet refer to? Mr. Poyant replied it refers to the rectangular structure that houses the lettering of the sign. Mr. Decker asked it doesn't have to do with it being electrified? No, it doesn't [have to do with the electricity] replied Mr. Poyant.

Ms. McTigue stated the height and size of it would be the concern if it would impede drivers.

Mr. Schick said it it's not going to impede as it is setback but it is double the size of the original— that was grandfather in.

Following the petitioner's testimony, Acting Chair Walsh invited to the podium anyone wishing to speak in favor of the application. At Large City Councilor Naomi Carney (133 William Street New Bedford, MA) spoke in favor of the petition. Councilor Carney stated Mr. DeMello has made a substantial investment in the city and this building is going to bring recognition to the city with the international component. Therefore, she stated, we need to allow them to fully brand it and make sure his name is on that building. Ward 6 City Councilor Joseph Lopes (75 Dudley Street New Bedford, MA) wished to be recorded in favor of the petition. Mr. Michael McGlone (128 Union Street New Bedford,

MA), stated he is an attorney in the City has been for years and also a recent tenant of the building. He would like to see the sign improve because it not only helps Mr. DeMello it helps tenants in the building recognize this as an international center. It brings people into the building and helps them recognize the building which would benefit him personally, he said. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Acting Chair Walsh invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

Mr. Decker confirmed with Commissioner Romanowicz that the reason the sign was rejected is because it exceeds the size by two feet of the twenty-five square foot allowance? Mr. Romanowicz stated that is correct.

With no further questions or concerns, Acting Chair Walsh closed the hearing, and opened the floor for discussion amongst board members.

#### **4.) FINDINGS**

##### **Criteria for Approval of Dimensional Variation (Ch. 9, Sect. 2730)**

The Board of Appeals may vary otherwise applicable dimensional requirements pertaining to frontage, lot area, building height and sidelines upon finding the following:

- a.) *That owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant;*

The board found that the circumstances are that the proposal adds signage to an existing location without further impact to the site. The board found the hardship is the literal enforcement would affect the proposed uniformity of the addition to the existing signage.

- b.) *That desirable relief may be granted without substantial detriment to the public good;*

The Board found that relief may be granted without substantial detriment to the public good;

- c.) *And, that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.*

The board found that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

## 5.) RELIEF

With respect to the relief requested by the Applicant, the Board has been presented with sufficient information at the hearing to justify the relief described below, subject to the conditions set forth below in Section 6.

The Board grants the Applicant's request for relief from Chapter 9 Comprehensive Zoning sections 3200 (sign regulations), 3201 (purpose), 3250 (regulations governing particular types of signs), 3255 (area restrictions for ground signs), and 3256 (location restrictions); relative to property located at 128 Union Street, assessors' map 47 lot 5 in a mixed use business zoned district; to allow the petitioners to erect a 27 square-foot cabinet onto an existing monument sign which was approved under a previous permit as plans filed.

## 6.) DECISION

Based on a review of the application documents, testimony given at the public hearing and the findings described above, the Zoning Board of Appeals hereby **GRANTS, WITH CONDITIONS**, the requested variance.

Mr. Decker made a motion, seconded by Mr. Schilling, as follows, to approve the variance to allow the petitioner to erect a 27 square-foot cabinet onto an existing monument sign which was approved under a previous permit as per the plans filed, which requires a variance under provisions of Chapter 9 Comprehensive Zoning sections 3200 (concerning sign regulations), 3201 (concerning the purpose thereof), 3250 (concerning regulations governing particular types of signs), 3255 (concerning area restrictions for ground signs), and 3256 (concerning location restrictions); all relative to property located at 128 Union Street, which is assessors' map 47 lot 5 in a mixed use business zoned district. Having reviewed this petition in light of the City of New Bedford Code of Ordinances Chapter 9 comprehensive zoning sections 3200, 3201, 3250, 3255, and 3256; the board finds that in respect to these sections the relief requested is granted. And, then in addition to the foregoing sections, this petition has also been found to be in accordance with Massachusetts General Law Chapter 40A section 10 relative to the granting of variances because the board has found: That there are circumstances relating to the soil conditions, shape or topography which especially affect the land or structure in question, but which do not generally affect the zoning district in which the land or structure is located. The circumstances being here that the proposal adds signage to an existing location without further impact to the site. And, that due to those circumstances especially affecting the land or structure, literal enforcement of the provisions of the Zoning Ordinance or By Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant. In this case literal enforcement would affect the proposed uniformity of the addition to the existing signage. And that desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance or bylaw. And that desirable relief may be granted without substantial detriment to the public good. In light of its review of the specifics noted within this motion, the board's finding that the material presented is complete and with its careful consideration of the petitioner's request, the Zoning Board of Review finds that the petition satisfactorily meets the basis of the requested relief.

Therefore, this motion is made and includes the following conditions:

- a. That the project be set forth according to the plans submitted with the application.
- b. That the notice of decision be recorded at the Registry of Deeds and
- c. A building permit be issued by the Department of Inspectional Services and acted upon within one year from the date of the decision.

On a motion by A. Decker, seconded by R. Schilling to grant the requested Variance, the vote carried 5-0 with members R. Schilling, A. Decker, S. McTigue, L. Schick, and J. Walsh voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:



Allen Decker, Clerk of the Zoning Board of Appeals



Date