

City of New Bedford ZBA VARIANCE APPLICATION

CASE # 4239

1. SUBMITTAL CHECKLIST

The following documentation must be submitted, in duplicate (1 Original and 11 Copies):

Have you included...			Planning staff review finds...	
Yes	No		Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Completed and Signed Application</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	An <u>Existing Conditions Site Plan</u> , drawn to a scale not less than 1 inch: 40 feet, identifying positioning of existing structures must be provided. Your site plan must show footprint and dimensions of rear, front and side distances between structure(s) and boundary lines.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Proposed Site Plan</u> showing all proposed alterations or additions with side, front and rear set property lines identified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Sub-Division Plans</u> if Applicable.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A <u>Certified Abutter's List</u> prepared by planning staff and certified by the Assessor's Office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Plot Plan</u> as provided through Department of Inspectional Services or through the Assessor's Office (in person or online through parcel lookup).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Filing Fee</u> in check form made payable to the City of New Bedford.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Copy of <u>Building Permit Rejection Packet</u> (Containing Rejected Building Permit and all information submitted with Building Permit Application).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Owner's Verification</u> including owner's signature and parcel deed for all involved parcels.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Official Use Only

Review of submittal compliance performed by _____ of the city's Division of Planning.

Staff review found the application packet to be complete incomplete on this date: _____.

This is page 1 of your ZBA Application BUT YOU DO NOT NEED 11 COPIES OF IT; just the original is enough.
Please remove the instruction pages when submitting your completed application packet but keep this as your first page.

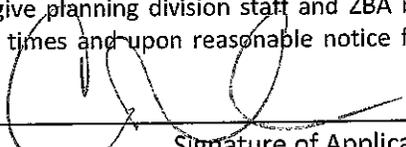
2. VARIANCE SPECIFICS

The undersigned petitions the New Bedford Zoning Board of Appeals [ZBA] to grant a VARIANCE in the manner and for the reasons set forth here under the provisions of the city's zoning ordinance to the following described premises:

APPLICATION SUMMARY (PLEASE PRINT)

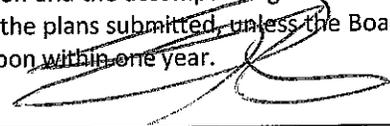
SUBJECT PROPERTY			
ASSESSOR'S MAP PLOT#	58 52	LOT(S)#	292
REGISTRY OF DEEDS BOOK:	11647	PAGE #	350
PROPERTY ADDRESS: 791-797 Purchase Street			
ZONING DISTRICT: MUB - Mixed Use Business			
OWNER INFORMATION			
NAME: Miller Holdings, LLC			
MAILING ADDRESS: 171 Mendell Road, Rochester, MA			
APPLICANT/CONTACT PERSON INFORMATION			
NAME (IF DIFFERENT): 791 Purchase Street, LLC			
APPLICANT'S RELATIONSHIP TO THE PROPERTY: <i>Check one:</i>	OWNER <input type="checkbox"/>	CONTRACT VENDEE <input type="checkbox"/>	OTHER <i>Describe</i> <input checked="" type="checkbox"/> PS Agreement
MAILING ADDRESS (IF DIFFERENT): 401 County Street, New Bedford, MA 02740			
TELEPHONE #	(508) 717-3479		
EMAIL ADDRESS:	cfarland@farlandcorp.com		

By signing below, I/we acknowledge that all information presented herein is true to the best of my/our knowledge. I/we further understand that any false information intentionally provided or omitted is grounds for the revocation of the approval(s). I/we also give planning division staff and ZBA members the right to access the premises (both interior and exterior) at reasonable times and upon reasonable notice for the purpose of taking photographs and conducting other visual inspections.


 _____ June 22, 2016
 Signature of Applicant/s Date

If the applicant differs from the owner, this section must be completed/signed by the property owner/s:

I hereby authorize the applicant represented above and throughout this application to apply and to represent my/our interests on my/our behalf for the relief requested herein for the premises I/we own noted as "property address" above and presented throughout this application. Furthermore, by signing this application I/we acknowledge having read and understood this application and the accompanying instructions and information. If petition is granted, I/we understand the approvals are specific to the plans submitted, unless the Board states otherwise and that if granted, that the variance must be recorded and acted upon within one year.


 _____ June 22, 2016
 Signature of Owner/s Date



APPLICATION SPECIFICS

DIMENSIONS OF LOT/S:	FRONTAGE 85.26'	DEPTH 111.45'	AREA in SQ FT 9,281+/-		
EXISTING BUILDING/S	# OF BLDGS 1	EXISTING SIZE	TOTAL SQ FT BY FLOOR 8,800/5,600	NUMBER OF FLOORS 2	TOTAL SQ. FT ENTIRE STRUCTURE 14,400
	# OF DWELLING UNITS 0		# OF BEDROOMS 0		
PROPOSED BUILDING/S	# OF BLDGS	PROPOSED SIZE	TOTAL SQ FT BY FLOOR	NUMBER OF FLOORS	TOTAL SQ. FT ENTIRE STRUCTURE
	# OF DWELLING UNITS		# OF BEDROOMS		EXTENT OF PROPOSED ALTERATIONS
EXISTING USE OF PREMISES:	Library - Multi-use				
PROPOSED USE OF PREMISES:	Restaurant & Bar Establishment				
EXPLAIN WHAT MODIFICATIONS YOU ARE PROPOSING THAT NECESSITATE THE REQUESTED VARIANCE:	<u>By changing the principal use of the building, it will not be able to meet the parking requirements for such a type of establishment. Given the surrounding areas of limited parking, it is apparent that there will not be sufficient room to accommodate the required number of spaces.</u>				

If there's a commercial use existing and/or proposed, please complete the following:

	EXISTING	PROPOSED
NUMBER OF CUSTOMERS PER DAY	Vacant	75
NUMBER OF EMPLOYEES		10
HOURS OF OPERATION		11am-2am
DAYS OF OPERATION		7
HOURS OF DELIVERIES		7-8am
FREQUENCY OF DELIVERIES (Check frequency)	<input type="checkbox"/> DAILY <input type="checkbox"/> WEEKLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER	<input type="checkbox"/> DAILY <input checked="" type="checkbox"/> WEEKLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> OTHER

If you are also requesting site plan review and special permit/s from the planning board, please specify here:

Site Plan Review Not Required



Complete each item that is relevant to your variance request:

	Existing	Allowed/ Required	Proposed
Lot Area (sq ft)			
Lot Width (ft)			
Number of Dwelling Units			
Total Gross Floor Area (sq ft)	14,400		14,400
Residential Gross Floor Area (sq ft)			
Non-Residential Gross Floor Area (sq ft)	14,400		14,400
Building Height (ft)			
Front Setback (ft)			
Side Setback (ft)			
Side Setback (ft)			
Rear Setback (ft)			
Lot Coverage by Buildings (% of Lot Area)	95		95
Permeable Open Space (% of Lot Area)			
Green Space (% of Lot Area)			
Off-Street Parking Spaces	0	68	0
Loading Bays	0		0
Number of Ground Signs			
Height of Ground Sign			
Proximity of Ground Sign to Property Line			
Area of Wall Sign (sq ft)			
Number of Wall Signs			

3. PARCEL LEGAL DOCUMENTATION

Title Reference to Property Deed Book 11647 Page 350
 (Attach copy of Deed, Certificate of Title & most recent Recorded Plans showing affected lot or lots)

Is the applicant also the owner? Yes No

If no, please attach the following three items to your application and indicate they are attached:

A notarized authorization letter on letterhead from the owner to tenant/buyer for application of this permit.

If the Applicant is Not the Owner, Provide:

A copy of the Purchase & Sale Agreement or lease, where applicable.

A copy of the deed or deeds of abutting parcels if said parcels have been held in common ownership with the subject property at any time since January 1, 1976.

4. REQUIRED FINDINGS FOR GRANTING A VARIANCE

Massachusetts General Law Chapter 40A Section 10 requires the "permit granting authority" (which, in this instance is the Zoning Board of Appeals) to make ALL the following findings before a variance can be granted:

A

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 affect generally the zoning district in which the land or structure is located.

B

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.

C

That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Ordinance or Bylaw.

D

That desirable relief may be granted without substantial detriment to the public good.

The full text of M.G.L. Chapter 40A, Section 10 can be viewed at: <http://www.mass.gov/legis/laws/mgl/>

Because the ZBA must be able to articulate each of these four findings in order to grant a variance, you must make your case as to WHY your application meets each of these four points. **This is an extremely important question and it is recommended that you answer this VERY carefully.** You may use an additional sheet if needed.

A

Describe any circumstances relating to soil conditions, shape or topography which especially affect the land or structure in question but that doesn't generally affect the zoning district in which your premises is located:

The property is located on an extremely congested block of the city that slopes from west to east, or from the back of the property towards the front. Due to the close proximity of abutting buildings as well as there being no room for any yard (side, front or rear) there is no feasible room for the required parking.

B

Describe how circumstances unique to your land or structure would mean a substantial hardship to you if the city were to literally enforce the zoning ordinance:

The current layout of the downtown area within the MUB zone allows for no required front, side or rear yards and consequently diminishes the room for required parking.

C

Describe how granting you relief would not take away from the purpose of the city's zoning ordinance:

The downtown area thrives on consumer foot traffic, and with the options of municipal parking in close proximity, there would be no diminishing effects of the proposed project.

D

Describe why nobody else would be hurt if the city granted your requested zoning relief:

A majority of businesses in the immediate area flourish without having the required off-street parking, and it is apparent that they have not hurt anyone else in the area as well as the city continues to grow.



City of New Bedford
REQUEST for a CERTIFIED ABUTTERS LIST

This information is needed so that an official abutters list as required by MA General Law may be created and used in notifying abutters. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

SUBJECT PROPERTY	
MAP #	52
LOT(S)#	292
ADDRESS: 791-797 Purchase Street	
OWNER INFORMATION	
NAME: 791 Purchase Street, LLC	
MAILING ADDRESS: 401 County Street, New Bedford, MA 02740	
APPLICANT/CONTACT PERSON INFORMATION	
NAME (IF DIFFERENT): Christian Farland	
MAILING ADDRESS (IF DIFFERENT):	
TELEPHONE #	(508) 717-3479
EMAIL ADDRESS:	cfarland@farlandcorp.com
REASON FOR THIS REQUEST: <i>Check appropriate</i>	
<input checked="" type="checkbox"/>	ZONING BOARD OF APPEALS APPLICATION
<input type="checkbox"/>	PLANNING BOARD APPLICATION
<input type="checkbox"/>	CONSERVATION COMMISSION APPLICATION
<input type="checkbox"/>	LICENSING BOARD APPLICATION
<input type="checkbox"/>	OTHER (Please explain):

PLANNING
 JUN 22 2016
 DEPARTMENT

Once obtained, the Certified List of Abutters must be attached to this Certification Letter.

Submit this form to the Planning Division Room 303 in City Hall, 133 William Street. You, as applicant, are responsible for picking up and paying for the certified abutters list from the assessor's office (city hall, room #109).

Official Use Only

As Administrative Assistant to the City of New Bedford's Board of Assessors, I do hereby certify that the names and addresses as identified on the attached "abutters list" are duly recorded and appear on the most recent tax

Carlos Amado

Printed Name

Indira M. ...

Signature

6/23/2016

Date

June 22, 2016
Dear Applicant,

Please find below the List of Abutters within 300 feet of the property known as 791-797 Purchase Street (52-292). The current ownership listed herein must be checked and verified by the City of New Bedford Assessor's Office. Following said verification, the list shall be considered a Certified List of Abutters.

Please note that multiple listed properties with identical owner name and mailing address shall be considered duplicates, and shall require only 1 mailing. Additionally, City of New Bedford-Owned properties shall not require mailed notice.

Parcel	Location	Owner and Mailing Address
53-128	794 PURCHASE ST	NEW BEDFORD AREA CHAMBER OF, COMMERCE INC 794 PURCHASE STREET NEW BEDFORD, MA 02740
52-156	600 PLEASANT ST-612	HOUSING 70 CORP, 133 WILLIAM STREET NEW BEDFORD, MA 02740
52-297	771 PURCHASE ST - 777	SALTMARSH ROBERT J, 771 PURCHASE ST NEW BEDFORD, MA 02740
53-131	772 PURCHASE ST - 784	KAUPPILA KEITH W "TRUSTEE", KAUPPILA REALTY TRUST 29 COMMONWEALTH AVENUE BOSTON, MA 02116
52-359 <i>ns</i>	UNION ST	MELVILLE REAL ESTATE LLC, C/O HACKETT FEINBERG P C 155 FEDERAL STREET BOSTON, MA 02110
52-299	185 UNION ST	WHK LAWTON LIMITED PARTNERSHIP, C/O HALL KEEN LLC 320 NORWOOD PARK SOUTH 184 State Street NORWOOD, MA 02062 New Bedford MA 02740
52-298	211 UNION ST	GIOIOSO JOSEPH 'TRUSTEE', GIOIOSO GINO L 'TRUSTEE' 50 SPRAGUE STREET HYDE PARK, MA 02136
52-300	761 PURCHASE ST - 769	WHK LAWTON LIMITED PARTNERSHIP, C/O HALL KEEN LLC 320 NORWOOD PARK SOUTH 184 State Street NORWOOD, MA 02062 New Bedford, MA 02740
52-290	596 PLEASANT ST	ACADEMY OF THE IMMACULATE INC, THE 600 PLEASANT STREET NEW BEDFORD, MA 02740
53-129 <i>ES</i>	PURCHASE ST	CITY OF NEW BEDFORD, 131 WILLIAM ST NEW BEDFORD, MA 02740
52-292	791 PURCHASE ST - 797	OLD DARTMOUTH HISTORICAL SOCIETY Miller Holdings LLC 18 JOHNNYCAKE HILL 171 Mendell Road NEW BEDFORD, MA 02740 Rochester, MA 02770
53-121	800 PURCHASE ST - 806	STORE MASTER FUNDING VII, 8501 E PRINCESS DRIVE - SUITE 190 SCOTTSDALE, AZ 85255
52-289	801 PURCHASE ST - 813	QUEEQUEG PROPERTIES LLC, 813 Real Estate LLC P O BOX 2120 813 Purchase Street VINEYARD HAVEN, MA 02568 New Bedford, MA 02740
52-295	572 PLEASANT ST - 576	CITY OF NEW BEDFORD, 133 WILLIAM STREET NEW BEDFORD, MA 02740

N

53-27

53-19

52-81 MIDDLE ST

52-101

53-35

PURCHASE ST

ACUSHNET AVE

53-278

ELM ST

52-148

53-96

53-258

53-99

ELM ST

53-73

53-87

53-89

52-224

52-226

52-153

52-154

52-225

52-228

53-75

53-77

53-30

DOVER ST

53-91

53-92

53-100

MECHANICS LN

53-80

53-83

53-84

53-93

53-95

52-186

52-212

52-210

52-220

52-229

52-345

52-231

53-81

WILLIAM ST

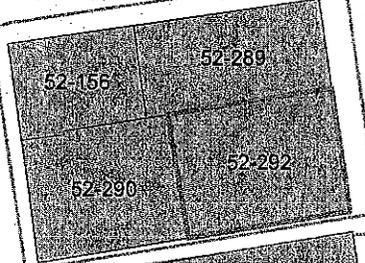
WILLIAM ST

53-139

53-140

52-265

52-279

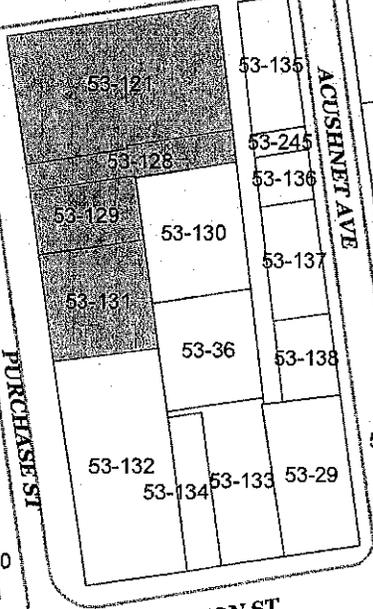


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52-289

52-290

52-292



53-127

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53-135

53-245

53-136

53-137

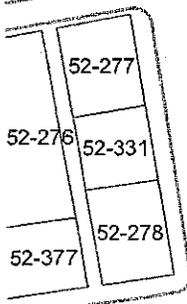
53-138

ACUSHNET AVE

53-141

BARKERS LN

MARKET ST

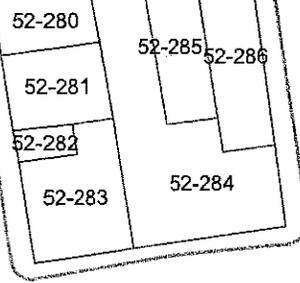


52-277

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52-280

52-281

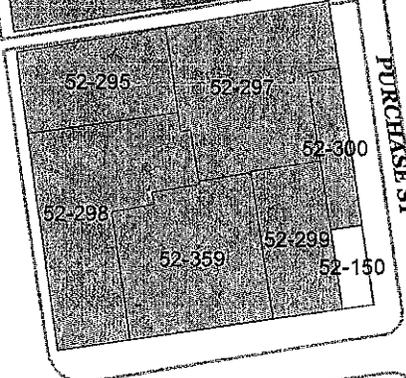
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52-300

52-150

PURCHASE ST

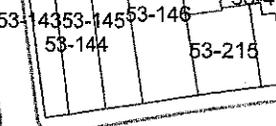
53-132

53-134

53-133

53-29

UNION ST



53-143

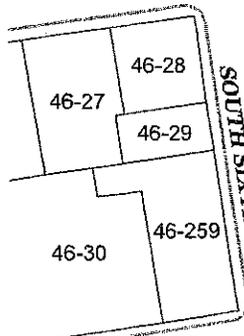
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53-145

53-146

53-4

53-218



46-27

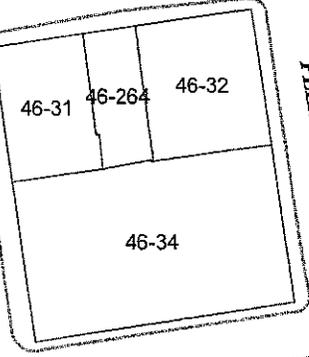
46-28

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46-30

46-259

SOUTH SIXTH ST



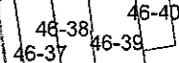
46-31

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PLEASANT ST



46-37

46-38

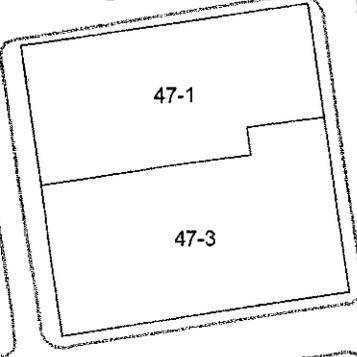
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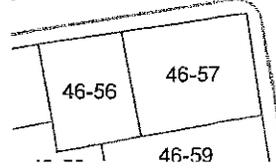
SPRING ST



47-1

47-3

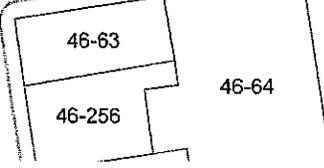
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46-56

46-57

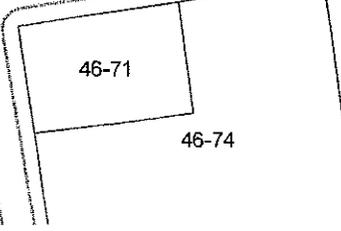
46-59



46-63

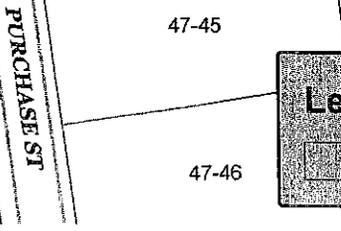
46-256

46-64



46-71

46-74



47-45

47-46

PURCHASE ST

Legend



52-292



ENGINEERING A BETTER TOMORROW
ENGINEERING | SITE WORK | LAND SURVEYING

June 22, 2016

New Bedford Zoning Board
Patrick Sullivan, Director
133 William Street
New Bedford, MA 02740

**RE: Variance Request
791-797 Purchase Street – New Bedford, MA**

Dear Patrick,

This letter is to certify that I authorize 791 Purchase Street, LLC to sign as applicant in regards to the submitted Variance application for my property located at 791-797 Purchase Street Map 52 Lot 292.

A handwritten signature in black ink, appearing to read "C. Farland", written over a horizontal line.

Christian A. Farland, 791 Purchase Street, LLC

A handwritten signature in black ink, appearing to read "Rick Miller", written over a horizontal line.

Rick Miller, Miller Holdings, LLC

REG DEEDS
REG #07
BRISTOL S

BK 11647 PG 350
04/01/16 02:06 DOC. 7042
Bristol Co. S.D.

04/01/16 2:08PM 01
000000 #5323
FEE 1443.24
CASH 1443.24

QUITCLAIM DEED

OLD DARTMOUTH HISTORICAL SOCIETY, a Massachusetts not for profit corporation of 18 Johnny Cake Hill, New Bedford, Massachusetts 02740, for consideration paid and in full consideration of Three hundred sixteen thousand five hundred (\$316,500.00) Dollars, grants to MILLER HOLDINGS, LLC, a Massachusetts Limited Liability Company with a principal office at 171 Mendell Road, Rochester, Plymouth County, Massachusetts 02740

WITH QUITCLAIM COVENANTS,

The land, with the buildings thereon, located in New Bedford, Bristol County, Massachusetts, described as follows:

BEGINNING at a point in the westerly sideline of Purchase Street at the northeast corner of the premises to be described, said point being S 06° 25' 50" W sixty-eight and 73/100 (68.73) feet from the intersection of said westerly sideline of Purchase Street with the southerly sideline of William Street shown on a plan hereinafter referred to;

Thence, S 06° 25' 50" W, eighty-seven and 93/100 (87.93) feet to the northerly sideline of Sears Court shown on said plan;

Thence, N 82° 45' 45" W, one hundred ten and 21/100 (110.21) feet;

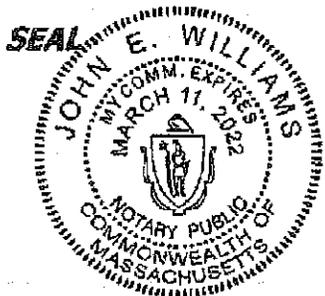
Thence, N 04° 37' 45" E, twenty-four and 05/100 (24.05) feet;

Property address: 791-797 Purchase Street, New Bedford, MA

COMMONWEALTH OF MASSACHUSETTS

County of Bristol

On this 31ST day of MARCH 2016, before me, the undersigned notary public, personally appeared Joseph McDonough proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness who is personally known to me and who has stated to me that he/she is unaffected by the document or transaction and that he/she knows the person whose name is signed on the preceding document, personal knowledge of the undersigned, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, on behalf of said corporation, and that it was the free act and deed of Joseph McDonough, as Treasurer of OLD DARTMOUTH HISTORICAL SOCIETY.



John E. Williams
 Notary Public JOHN E. WILLIAMS
 My commission expires: 3/11/22