



## ZONING BOARD of APPEALS

City Hall, Room 303  
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CITY CLERK

CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

## NOTICE OF DECISION

Case Number:	#4418			
Request Type:	Variance			
Address:	543 North Street			
Zoning:	Mixed Use Business (MUB) Zoned District			
Recorded Owner:	JCOM Holding LLC.			
Owner Address:	PO BOX 4023, New Bedford, MA 02741			
Applicant:	Poyant Signs C/O Christopher Ramm			
Applicant Address:	125 Samuel Barnet Boulevard, New Bedford, MA 02745			
Application Submittal Date	Public Hearing Date	Decision Date		
May 15, 2020	June 18, 2020	June 18, 2020		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
55	281	4497	241	

A Variance under Chapter 9 Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3210 (general regulation), 3250 (regulation governing particular types of signs), 3254 (ground signs), 3255 (area restrictions for ground signs) and 3256 (location restrictions); relative to property located at **543 North Street**, Assessors' map 55 lot 281 in a Mixed-Use Business [MUB] zoned district. The petitioner proposes to install a non-conforming 33 SF pylon sign per plans filed.

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

A copy of this Decision was filed with the City Clerk of the City of New Bedford on June 25, 2020. 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.

June 25, 2020

Date

Stephen Brown, Clerk of the Zoning Board of Appeals

## **APPLICATION SUMMARY**

The petitioner proposes to install a non-conforming 33 SF pylon sign per plans filed, which requires a Variance under Chapter 9 Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3210 (general regulation), 3250 (regulation governing particular types of signs), 3254 (ground signs), 3255 (area restrictions for ground signs) and 3256 (location restrictions); relative to property located at **543 North Street**, Assessors' map 55 lot 281 in a Mixed Use Business [MUB] zoned district.

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

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

- Plan set, drawn by Poyant Signs, dated December 13, 2019, date stamped received by City Clerk's Office May 15, 2020, including:
  - Sign Location Plan
  - 1A.1 Sign Type
  - 1A.2 Sign Type
  - 1A.3 Sign Type
- Plan set, drawn by SITEC, Inc, dated September 10, 2013, date stamped received by City Clerk's Office May 15, 2020, including:
  - Site Plan

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

- Completed Petition for a Variance Form, stamped received by City Clerk's Office May 15, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated May 29, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, June 8, 2020.

## **2.) DISCUSSION**

On the evening of the June 18, 2020 meeting, board members Leo Schick, Allen Decker, Stephen Brown, Robert Schilling, and Celeste Paleologos were present for the virtual public hearing. City of New Bedford staff: Tabitha Harkin (Director, Department of City Planning) and Angela Goncalves (Assistant Project Manager) were present during proceedings for the subject case review.

In regards to Case #4418, Clerk Brown made a motion, seconded by Mr. Schilling to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated May 29, 2020; staff comments from the Department of City Planning, dated June 8, 2020; the appeal packet as submitted; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the action of the Clerk in giving notice of the hearing as stated be and is hereby ratified. With all in favor, the motion carried.

Chairperson Schick then declared the hearing open.

The petitioner: Stephanie Poyant Moran, Poyant Signs (125 Samuel Barnet Road, New Bedford, MA 02741) presented the case at the hearing representing the applicant, South Coast Health Medical Center. Mrs. Moran began the presentation by stating the petitioner is seeking relief through a variance to allow for the installation of a new free-standing ground sign for the subject property

located at 543 North Street in a Mixed-Use Business zoned district. At this time there is no Pylon Sign on the site for the subject property.

The petitioner proposes to install a 33 SF Pylon Sign per plans filed. The proposed new pylon sign exceeds the maximum allowable 25 SF dimensional requirement for a ground sign in a Mixed-Use Business (MUB) zoned district and therefore requires a Variance.

***Note: The proposal also required Ground Sign Site Plan Review from the Planning Board. The proposal was granted on Wednesday, June 10, 2020 via a Zoom Meeting.***

Mrs. Moran briefly described the proposed sign and the rebranding of South Coast Health Medical Centers. Mrs. Moran stated the free-standing, double-sided sign falls within the height and lighting code requirements. Additionally, the rebranding sign design would become a uniform aesthetic for the Medical Centers, including St. Luke's, Charlton Memorial and Tobey Hospitals.

The proposed pylon sign has an overall sign area 33 SF, with an overall height of 15', width of 8'-5", and 2'-1.5" depth. The sign as proposed includes a double face internally illuminated cabinet on the top (7'-11" SF). The base of the sign will be painted in aluminum cool gray (1'.5"H x 1'.5"W x 3'.16"L). The internally illuminated sign face as proposed would be white with cool grey lettering and a turquoise colored logo. The sign wording is to include "South Coast Health" and the address "543 North Street."

Mrs. Moran proceeded to explain the unique location of the subject property and the need for the oversized SF dimension of the sign. The lot has a unique shape due to its proposed location on the corner of North and Watson. North Street is a one-way that runs into Route 6 and serves as a highly traveled main road in the city of New Bedford. The purpose of the new sign is to ensure that traffic on Route 6 (a four-lane road) can safely read the message. Additionally, Mrs. Moran mentions most patients would be traveling from Route 6 and need to be able to clearly locate the medical facility from this main road.

Mrs. Moran briefly noted the recommendations of the Planning Board regarding restriping, bollards, and the time frame for the illumination of the sign.

Mrs. Moran concluded her presentation by noting the presence of existing nonconforming signage in the surrounding neighborhood, referencing the following abutting commercial properties; The Law Offices of Dassault and Zatir, Sunoco Gas Station, Walgreens, CVS, and Continental Garage.

In response to an inquiry from board member Decker relative to the portion of the sign that would be illuminated, Mrs. Moran replied the letters and numerals would be illuminated, but not the pole cover itself.

Following the petitioner's testimony, Chairperson Schick invited anyone wishing to speak in favor or be recorded in favor of the petition of the application to do so. There was no response to Chair Schick's invitation to speak or be recorded in favor.

Chairperson Schick invited anyone wishing to speak or be recorded in opposition of the petition to do so. There was no response to Chair Schick's invitation to speak or be recorded in opposition.

With no further discussion, Chairperson Schick closed the hearing.

The board had a brief discussion. Board member Paleologos stated she is in favor of the proposal. Board member Schilling stated the subject property is located in a predominantly commercial area and the proposal would fit within the character of the neighborhood. Chairperson Schick agreed with board member Schilling's statement. Additionally, Board member Decker acknowledged the rebranding and uniformity that South Coast Medical Centers are proposing would be suitable in the highly commercial area.

With no further discussion, the board indicated their readiness to vote.

### **3.) 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 due to the location and unique shape of the parcel, most patients would be traveling on Route 6, and would need proper signage to clearly locate the medical facility from the main road.

The Board found that if the city were to literally enforce the Zoning Ordinance due to circumstances unique to this land or structure, it would mean a substantial hardship to the petitioner. In this case, without the relief it would cause a substantial hardship for patients to easily locate the facility. In order to be economically viable and visible, proper signage for the establishment is critical.

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

The Board found that relief may be granted without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw.

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

The board found relief may be granted without substantial detriment to the public good.

#### **4.) 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 in Section 6.

The Board grants the applicant's request for relief from Chapter 9 Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3210 (general regulation), 3250 (regulation governing particular types of signs), 3254 (ground signs), 3255 (area restrictions for ground signs) and 3256 (location restrictions); relative to property located at **543 North Street**, Assessors' map 55 lot 281 in a Mixed Use Business [MUB] zoned district.

#### **5.) 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.

A motion to approve was made by Clerk Brown and seconded by Mr. Schilling as follows:

In regard to Case #4418: **JCOM Holdings LLC**, (Po Box 4023, New Bedford, MA 02741) and **Poyant Signs, C/O Christopher Ramm** (125 Samuel Barnet Road, New Bedford, MA 02745); relative to property located at **543 North Street**, Assessors' map 55 lot 281 in a Mixed Use Business [MUB] zoned district. The petitioner proposes to install a non-conforming 33 SF pylon sign per plans filed, which requires a **Variance** under Chapter 9 Comprehensive Zoning Sections 3200 (sign regulations), 3201 (purpose), 3210 (general regulation), 3250 (regulation governing particular types of signs), 3254 (ground signs), 3255 (area restrictions for ground signs) and 3256 (location restrictions). 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.

In addition to the foregoing section this petition has been found to be in accordance with Massachusetts General Law Chapter 40A section 10 relative to the granting of variances because the board found:

- That there are circumstances relating to the soil conditions, shape or topography especially affecting the land or structure in question, but which do not affect generally the zoning district in which the land or structure is located;
- And 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 or appellant;
- 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 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.

Specific Conditions on this decision shall include:

- This proposal required Ground Sign Site Plan Review by the Planning Board. Any conditions imposed by the Planning Board decisions shall also be conditions of this Variance.

Conditions on this decision shall include:

- 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 the certification of the city of New Bedford City Clerk's Office be recorded at the Registry of Deeds.
- 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 the approval will lapse.

On a motion by S. Brown seconded by R. Schilling to grant the requested Variance, the vote carried 5-0-0 with members A. Decker, S. Brown, C. Paleologos, Robert Schilling and L. Schick voting in the affirmative; no members voting in the negative or abstaining. (Tally 5-0-0).

Filed with the City Clerk:

June 25, 2020

  
Stephen Brown

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Date

Clerk of the Zoning Board of Appeals