

**CITY OF NEW BRUNSWICK
BOARD OF ADJUSTMENT
JANUARY 28, 2013
MINUTES
7:30 p.m.**

I. ROLL CALL

	Nancy Coppola,
x	John Cox,
	John Sutton
x	Kim Maloney
x	Margaret Chester
x	Scott Elias
x	Sue McElligott
	Doug Sheehan (alt)
x	Peter Ventrice (alt)
x	Jose Madera (alt)
	Tierream Houser (alt)

II. PUBLIC ANNOUNCEMENT (OPEN PUBLIC MEETING ACT)

III. SALUTE TO THE FLAG

IV. REORGANIZATION OF THE BOARD

Nomination and Appointment of Chairperson

Nancy Coppola

Nominated by Cox

Seconded by Chester

Other nominations: None

	Yes	No
Nancy Coppola,		
John Cox,	x	
John Sutton		
Kim Maloney	x	
Margaret Chester	x	
Scott Elias	X	
Sue McElligott (alt)	X	
Doug Sheehan (alt)		
Peter Ventrice (alt)	X	
Jose Madera (alt)	x	
Tierream Houser (alt)		

Nomination and Appointment of Vice-Chairperson

John Cox

Nominated by Chester

Seconded by Maloney

Other nominations: None

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney	x	
Margaret Chester	x	
Scott Elias	x	
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)	x	
Jose Madera (alt)	x	
Tierream Houser (alt)		

Nomination and Appointment of Secretary

Glenn Patterson

Nominated by Maloney

Seconded by McElligott

Other nominations: None

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney	x	
Margaret Chester	x	
Scott Elias	x	
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)	x	
Jose Madera (alt)	x	
Tierream Houser (alt)		

Nomination and Appointment of Board Attorney

Aravind Aithal

Nominated by Elias

Seconded by McElligott

Other nominations: None

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney	x	
Margaret Chester	x	
Scott Elias	x	
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)	x	
Jose Madera (alt)	x	
Tierream Houser (alt)		

Nomination of Board Planner

Bignell Planning

Nominated by Maloney

Seconded by McElligott

Other nominations: None

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair		
John Sutton		
Kim Maloney		
Margaret Chester		
Scott Elias		
Sue McElligott (alt)		
Doug Sheehan (alt)		
Peter Ventrice (alt)		
Jose Madera (alt)		
Tierream Houser (alt)		

Nomination and Appointment of Secondary/Conflict Planner : Not needed as staff will conduct reviews in the event of a conflict.

Nomination and Appointment of Board Engineer
 Tom Guldin, City Engineer
 Nominated by Maloney
 Seconded by McElligott
 Other nominations: None

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	X	
John Sutton		
Kim Maloney	X	
Margaret Chester	X	
Scott Elias	X	
Sue McElligott (alt)	X	
Doug Sheehan (alt)		
Peter Ventrice (alt)	X	
Jose Madera (alt)	X	
Tierream Houser (alt)		

Nomination and Appointment of Secondary/Conflict Engineer
 D&R Engineering
 Nominated by Maloney
 Seconded by Chester
 Other nominations: None

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	X	
John Sutton		
Kim Maloney	X	
Margaret Chester	X	
Scott Elias	X	
Sue McElligott (alt)	X	
Doug Sheehan (alt)		
Peter Ventrice (alt)	X	
Jose Madera (alt)	X	
Tierream Houser (alt)		

Nomination and Appointment of Hydraulic Modeling/Water System Capacity Engineer

Hatch Mott McDonald

Nominated by Maloney

Seconded by Chester

Other nominations: None

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	X	
John Sutton		
Kim Maloney	X	
Margaret Chester	X	
Scott Elias	X	
Sue McElligott (alt)	X	
Doug Sheehan (alt)		
Peter Ventrice (alt)	X	
Jose Madera (alt)	X	
Tierream Houser (alt)		

Adopt meeting schedule for 2013

Motion Chester

Second McEligtot

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	X	
John Sutton		
Kim Maloney	X	
Margaret Chester	X	
Scott Elias	X	
Sue McElligott (alt)	X	
Doug Sheehan (alt)		
Peter Ventrice (alt)	X	
Jose Madera (alt)	X	
Tierream Houser (alt)		

IV. MINUTES OF THE BOARDS DECEMBER 17, 2012 MEETING

Motion to approve Chester
Second Maloney
Approved unanimously

**V. COMMUNICATIONS AND REPORTS-
Resolutions of Memorialization of Approval**

A. SHERWOOD DEVELOPMENT, LLC, Z-2012-07, Site plan and variance application for the construction of a multifamily dwelling located at 12 Bartlett Street, Block 75, Lots 22, 23.01, 25, 29, Zoning District: IN-1

**Motion to Approve Chester
Second Maloney**

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	X	
John Sutton		
Kim Maloney	X	
Margaret Chester	X	
Scott Elias		
Sue McElligott (alt)		
Doug Sheehan (alt)		
Peter Ventrice (alt)		
Jose Madera (alt)	X	
Tierream Houser (alt)		

B. 96-100 BAYARD STREET ASSOCIATES, Z-2012-04, Site plan and variance application for the construction of a multi-family residential building located at 96-100 Bayard Street, Block 20 Lot 6.02, Zoning District C-4

**Motion to Approve Chester
Second Maloney**

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney	x	
Margaret Chester	x	
Scott Elias		
Sue McElligott (alt)		
Doug Sheehan (alt)		
Peter Ventrice (alt)		
Jose Madera (alt)	X	
Tierream Houser (alt)		

VII. OLD BUSINESS

A. RAFAEL GOMEZ, Z-2012-09, Site plan and variance application for the construction of an addition and the paving of a parking area located at 125 French Street, Block 30, Lots 36.01, 38, and 39, Zoning Districts: C-2A and R-5A

Pat Bradshaw, Esq – Property is currently El Racho Bar and Grill. .It is located in both the C-2A and R-5A zone. The current bar is in the C-2A and the parking area is in the residential zone, where it is not a permitted use. There is a new bulk variance for lot coverage created by the proposal. They will have testimony as to how the new parking lot will improve the existing condition.

Rafael Gomez – owner – He has owned the property for 5 years and is currently operating as just a bar. There are 3 residential units on the property. No new residential is proposed. A-1 – consolidated lot deed. The bar is on the corner of French St and Harvey. There is currently a gravel parking lot to the rear of the existing garage. The garage will be demolished to extend the bar. A private hauler will pick up the trash and recycling. UST's have been removed and he plans to sprinkler and alarm the property as part of the renovations.

He wants to expand the bar to expand the business and add food as a use within the business. The other bars in the area do not offer both alcohol and food.

There is currently no parking for the residential tenants but they do not have cars. They currently have 4 employees. Only he and his grandmother have cars. He plans to expand to about 8 or 9 employees but they will be there in shifts. He expects them to be local residents who will not need cars to get to work.

He will have a private hauler pick up the trash and he submitted a price quote for the service. (A-2)

Deliveries and the loading area will be coordinated with the delivery companies. The paved parking lot will be used to access the building. (A-3 beer distributor letter.) There is a loading zone in the next block but he will have a designated area in the driveway for loading.

The current occupancy is 49 persons. He estimates maybe 5 patrons typically drive. There is a public parking deck one and a half blocks away. The deck has lots of available spaces in the evening. A-4 NBPA letter regarding potential validation agreement.

Hours will be 12 noon – 2AM.

Gomez offered that the proposed church up the street could use his lot for parking. Mr. Bignell pointed out that parking here during slow hours would negate the ability to use the area for deliveries.

Susan Schefmaker, Archt. - The floor plan will be expanded towards the rear and adding a mezzanine area inside. A pool table will be added as will additional bathrooms. A kitchen will be added towards the rear. A vestibule will be added to the front to help control noise coming out of the bar. Additional exists have been added. The demolition and new construction will allow the building to appear less "added on".

Schefmaker reviewed the proposed building elevations. The roof will have screening to hide the mechanical equipment and reduce noise. The kitchen exhaust is near the rear through the roof.

Chester – what is the new occupancy? Shefmaker – 270 There is seating for 94 and the rest is standing occupancy. The tables are fixed in place.

Hussain Ibrahim, Engineer – (A-5 colored site plan.) The plan shows both the existing and proposed conditions. The rear parking lot has 8 spaces with 1 handicapped space. A dumpster location is off the parking lot. The lot also has a loading area accessible from Harvey Street. The applicant will comply with all of the comments in the Bd. Engineer's report. Gomez stated he would not need space in the parking lot area for chillers or other mechanical equipment.

Alison Coffin, Planner – (A-6 aerial photo of the area.) The proposed buildings are in the area where their uses are permitted. The parking lot extends into the residential district and a use variance is needed. A number of bulk variances currently exist and new ones are being created, including parking. Special reasons exist for granting the use variance as the existing space proposed for parking is being used for parking but will be improved by the new project. This will allow the use to function better. Most of the bulk variances are existing conditions and the building coverage variance allows the building to accommodate handicapped access.

The parking requirement is about 60 with 8 spaces are proposed, but an off-site arrangement is proposed with NBPA so the parking variance will not have a negative impact. The intended uses are not in conflict with the master plan as the use is allowed where the buildings are and the parking area is being improved. No detriment to the public is created and the project will not impair the zone plan. It is her opinion that most patrons will travel to the business by foot.

Public:

Magdalene Varga – she represents St. Ladislaus Church. The overflow parking from the bar will negatively impact how the church operates. It will conflict with Saturday and Sunday events.

Jule Varga – owns 23 Harvey Street. He is concerned about patrons parking in the resident parking area on the weekends when permit parking is not enforced.

Tom Pappalardo – Owns 4 properties on Harvey Street and feels the project would be an improvement to the neighborhood. The decks provide sufficient parking.

Patterson – how will applicant address the non-permit parking on weekends issue? Gomez will have signs about the validation program. There was further discussion about the large increase in occupancy and whether the neighborhood will be negatively impacted by patrons parking in the neighborhood.

The applicant offered to restrict the occupancy to 200 persons, to enter into a parking validation agreement with NBPA and to post readable signs in the bar about the availability of the validation program.

**Motion to Approve/Deny with conditions as recited by the Board Secretary Chester
Second McElligott**

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney	x	
Margaret Chester	x	
Scott Elias	x	
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)	x	
Jose Madera (alt)	x	
Tierream Houser (alt)		

Ms. Maloney excused herself as she was not feeling well

B. MARILYNN WINSTON, Z-2012-10, Variance application for the use of the house as a three-family dwelling located at 24 Seaman Street, Block 175 Lot: 29.01, Zoning District: R-5A

Larry Sachs, Esq – seeking a use variance to legitimize an existing 3-family has as a legal 3-family house.

Marilynn Winston – She has owned and lived in the property since 1979. She had renovations done after she purchased it and believed the contractor had obtained all the needed approval. She was taxed as a 3-family since then. Code officials did not issue summonses when they came through the house over the years.

A-1 City assessment record showing 3-family use

Application for a new mortgage was denied as the 3rd unit was found to not be legal. She rents to 3 persons on the 1st floor, lives on the 2nd floor and has one tenant in the 3rd floor. The property has a two-car garage and driveway. The tenants are also eligible for on-street permit parking permits.

Series of Photos of the Property A-2

Winston stated that the photos show the property to be well maintained.

John Leonkavallo, Planner

The surrounding neighborhood has a mix of different housing types including multifamily properties. The adjacent property at 22 Seaman may be a boarding house.

A-3 Series of photos of nearby properties.

The master plan calls for unique and high-quality housing that attracts residents. This property achieves these goals. The property has existed in the 3-family condition for 30 years and has fit into the neighborhood. Special reasons are found as the property provides sufficient space for the use, promotes a desirable visual environment and enhances the character of the neighborhood. The negative criteria are addressed as the character of the neighborhood is enhanced and there is no detriment to the neighbors. The zone plan will not be impaired as it addresses the need for housing in the neighborhood. The parking variance is justified on a flexible C2 standard as the project enhances the neighborhood and the positives outweigh the detriments.

Public:

None

Elias and Chester commented that the house has functioned well as is and benefits the neighborhood.

**Motion to Approve with conditions cited by the Board Secretary McElligott
Second Elias**

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney	x	
Margaret Chester	x	
Scott Elias	x	
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)	x	
Jose Madera (alt)	x	
Tierream Houser (alt)		

VIII. NEW BUSINESS

A. THOMAS A. PAPPALARDO, Z-2012-13, Site plan and variance application for the use of the property as a place of worship located at 12-18 Harvey Street, Block 30, Lot 30.01, Zoning District: R-5A

Jim Clarkin, Esq – proposal to convert an existing office space to a church use. This is a conditional use and all the conditions are not met. The ordinance requires 26 parking spaces for the church and 6 office parking spaces. All the space will be leased to the church and will not be occupied simultaneously.

The building is 70 years old and has been vacant for 2 years. It is not able to compete effectively in the office rental market and the office space needs to be repurposed. The building is “L” shaped, one-story with no basement. The existing conditions limit the ability to provide parking. The Plum St parking lot has 36 parking spaces and the Plum Parking Deck has hundreds of spaces. Many parishioners will also take vans. They also hope to use the El Rancho parking spaces on Sunday morning only.

Rafael Gomez – owner of El Rancho Bar – he will allow his parking lot to be used on Sunday mornings only.

Tom Pappalardo, property owner – He formerly operated his business at the location with 40-50 persons. He has not had success marketing the property. Trash will be picked up privately.

Mr. Avartes – translator

Carlos Marques – Pastor – the church was founded in 1979. It is currently in South River and has 50 members including 7 children. The congregation is proposed to grow to about 100 members. The sanctuary occupancy is limited to 104 persons and he always agrees to maintain this limit. All of the parishioners are Hispanic or Portuguese in heritage. There will be two Sunday services, 10 AM and 6 PM. There are 3 meetings each day of the workweek attended by between 5-15 people. The 10 AM Sunday service is approximately 60-75 minutes. Most parishioners live in South River and New Brunswick. They will travel by bus and car mostly. The South River location has parking and generally has about 12 cars parked for services. Members will not park on Harvey Street. There will be no weddings, funerals or social events at the Harvey St church. The offices will be used by church volunteers who will either be in the office or the sanctuary but not both at the same time. There will be no kitchen.

About 20 New Brunswick people go to South River now. They get there by cars or buses now.

Larry Johnson, archt. - The site is 100x100' with 4500 sf of building with 100% impervious coverage. The exterior stucco will be repaired and a crown molding applied across the top of the building. The current floor plan is functional for a church. There is a small kitchenette but it does not have kitchen appliances for cooking. The building is sprinklered currently and an additional exit will be provided.

The sanctuary has an occupancy of 104 persons per the fire code. This number will be posted. The front parking area can accommodate 6 spaces. A space in the rear may be feasible. Trash will be stored in the rear and taken out the driveway. The applicant will comply with the engineering reports comments. They will also comply with the planning report comments.

Tom Bogdan, Planner

The neighborhood is a mix of 1-2 family houses with commercial uses at the corners. There are churches nearby on French Street and Somerset. These other churches have no or little off-street parking. There is public parking available in the neighborhood. Churches are a conditional use in the zone. It is not unusual for a church to have less than the required parking.

The Coventry Square standards for a conditional use are whether the site can handle the use even though they do not meet the standards. In this case, the parking condition can be handled as the pastor will direct people to public parking and many will use vans, buses and will walk. The use will not create a detriment as the parking issue has been addressed and there are no other detriments as the use is permitted. A continuation of the non-conforming office use would be more detrimental to the neighborhood. The zone plan will not be impaired as churches are permitted on sites such as this and the parking will be addressed through the use of public facilities.

Public:

Jule Varga – owns 23 Harvey Street. He is concerned about the parking with El Rancho, this church and the former Buda Bar opening as a restaurant. The parking situation is poor and it will be worse with this proposal.

Elias – isn't this a less intense use than office use? Varga – mostly concerned with weekend parking as permit parking is not enforced then.

Clarkin – is Varga familiar with the HAAC and how many off-street spaces does it have? He doesn't know.

Magdelene Varga – the HAAC has a validation system for the deck across the street. The Plum Street surface lot is full on Sunday mornings so space is not available then.

Clarkin – is there some reason St. Lad's should have preference to this parking?

Clarkin – thousands of people come to New Brunswick during the week and they don't have on-site parking and the church should have the same rights.

Chester – the church parking does not conflict much with residential parking and will be there before the church goes so the church users will go to the deck.

Elias – the building exists and this is a less intense use.

**Motion to Approve with conditions cited by the Board Secretary McElligott
Second Chester**

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney		
Margaret Chester	x	
Scott Elias	x	
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)	x	
Jose Madera (alt)	x	
Tierream Houser (alt)		

B. JOHN SUDIA, Z-2012-14, Site plan and variance application for the construction of a multi-family dwelling located at 100-102 Hamilton Street, Block 47 Lots 22 and 23.01 Zoning District: IN-1

A public announcement was made at the start of the public hearing schedule that this application would not be heard at this meeting. The applicant will provide both personal and public notice for the time the hearing will be rescheduled for.

C. ANNUAL REPORT OF THE ZONING BOARD OF ADJUSTMENT, Review of the variances granted by the City of New Brunswick's Zoning Board of Adjustment during 2012 calendar year in accordance with NJSA 40:55D-70.1 of the Municipal Land Use Law.

The report was discussed and distributed to the board.

Motion to approve and distribute the report: Elias

Second: Chester

	Yes	No
Nancy Coppola, Chair		
John Cox, Vice Chair	x	
John Sutton		
Kim Maloney	x	
Margaret Chester	x	
Scott Elias	x	
Sue McElligott (alt)	x	
Doug Sheehan (alt)		
Peter Ventrice (alt)	x	
Jose Madera (alt)	x	
Tierream Houser (alt)		

IX. ADJOURNMENT 10:30 PM