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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

October 6, 2021

Decision

City of Salem Board of Appeals

Petition of NORTH SHORE COMMUNITY DEVELOPMENT COALITION, INC. for a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to operate a Medical Clinic at 73 LAFAYETTE STREET (Map 34, Lot 411) (B5 Zoning District).

A public hearing on the above Petition was opened on March 16, 2021, pursuant to M.G.L Ch. 40A, § 11 (during which meeting no testimony was heard); continued to April 21, 2021 (during which meeting no testimony was heard); continued to June 16, 2021 (during which meeting no testimony was heard); continued to July 21, 2021 (during which meeting no testimony was heard); and closed on September 22, 2021.

On March 16, 2021, Mike Duffy (Chair), Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate) were present; Peter A. Copelas, Jimmy Tsitsinos, and Rosa Ordaz were absent. On April 21, 2021, Mike Duffy (Chair), Paul Viccica, Peter Copelas, Rosa Ordaz, Carly McClain (Alternate), and Steven Smalley (Alternate) were present; Jimmy Tsitsinos was absent. On June 16, 2021, Mike Duffy (Chair), Peter Copelas, Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate) were present; Rosa Ordaz, and Jimmy Tsitsinos were absent. On July 21, 2021, Mike Duffy (Chair), Peter Copelas, Paul Viccica, Rosa Ordaz, Carly McClain, and Steven Smalley (Alternate) were present; no members were absent. On September 22, 2021, Mike Duffy (Chair), Peter Copelas, Paul Viccica, Rosa Ordaz, and Carly McClain were present, Steven Smalley (Alternate) was absent.

Board member Jimmy Tsitsinos' term ended on July 1, 2021. Carly McClain went from being an alternate member to a full board member on June 24, 2021.

The petitioner seeks a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to operate a Medical Clinic at 73 Lafayette Street.

Statements of Fact:

1. In the petition date-stamped February 24, 2021, the petitioner requested a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance, "to allow a medical clinic use in the B5 zoning district".

2. At the time of the original petition 73 Lafayette Street was owned by Beverly Co-operative Bank c/o North Shore Bank.
3. 73 Lafayette Street is a commercial structure in the Central Development (B5) zoning district.
4. In the Statement of Grounds submitted with the application, the applicant notes that the permitting process, "in addition to the Zoning Board of Appeals, will involve approvals from the Salem Redevelopment Authority, the Design Review Board, the Planning Board, the Historical Commission, the Conservation Commission, as well as the Massachusetts Department of Environmental Protection".
5. The proposal is to use a portion of 73 Lafayette Street as a medical clinic.
6. The proposal is one part of a larger project to redevelop three buildings at 73-77 Lafayette Street, 83-87 Lafayette Street, and 9 Peabody Street. The proposal states that 73 Lafayette Street will be primarily occupied by North Shore Community Health Center. Medical Clinic use requires a Special Permit in the B5 zoning district, so the applicant is seeking a special permit to allow this use.
7. The requested relief, if granted, would allow the petitioner to operate a medical clinic at 73 Lafayette Street
8. Due to the ongoing COVID-19 pandemic and related precautions and Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the March 16, 2021, meeting of the Board of Appeals was held remotely, via the online platform Zoom.
9. Prior to the March 16, 2021, meeting, the petitioner's representative, attorney Scott Grover, submitted a written request to continue to the regularly scheduled meeting on April 21, 2021. The Board voted four (4) in favor (Mike Duffy (Chair), Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate)) and none (0) opposed to continue the hearing to the regularly scheduled meeting on April 21, 2021, at 6:30 pm.
10. For the same reasons as noted in statement #8 above, the April 21, 2021, meeting of the Board of Appeals was also held remotely, via the online platform Zoom.
11. Prior to the April 21, 2021, meeting, the petitioner's representative, attorney Scott Grover, submitted a written request to continue to the regularly scheduled meeting on June 16, 2021. The Board voted five (5) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate)) and none (0) opposed to continue the hearing to the regularly scheduled meeting on June 16, 2021, at 6:30 pm.
12. Due to the ongoing COVID-19 pandemic and related precautions and An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency signed into law by

Governor Baker on June 16, 2021, the June 16, 2021, meeting of the Board of Appeals was held remotely, via the online platform Zoom.

13. Prior to the June 16, 2021, meeting, the petitioner's representative, attorney Scott Grover, submitted a written request to continue to the regularly scheduled meeting on July 21, 2021. The Board voted five (5) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate)) and none (0) opposed to continue the hearing to the regularly scheduled meeting on July 21, 2021, at 6:30 pm.
14. For the same reasons as noted in statement #12 above, the July 21, 2021, meeting of the Board of Appeals was also held remotely, via the online platform Zoom.
15. Prior to the July 21, 2021, meeting, the petitioner's representative, attorney Scott Grover, submitted a written request to continue to the regularly scheduled meeting on September 22, 2021. The Board voted six (6) in favor (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Rosa Ordaz, Carly McClain, and Steven Smalley (Alternate)) and none (0) opposed to continue the hearing to the regularly scheduled meeting on September 22, 2021, at 6:30 pm.
16. Prior to the September 22, 2021, meeting, the petitioner's representative, attorney Scott Grover, submitted a revised set of plans, a written summary of the design changes, and a slide deck with a project overview.
17. For the same reasons as noted in statement #12 above, the September 22, 2021, meeting of the Board of Appeals was also held remotely, via the online platform Zoom.
18. At the September 22, 2021, public hearing, attorney Scott Grover discussed the proposal, noting how the project has changed since the original petition was submitted in February 2021. Mr. Grover described significant programmatic and design changes to reflect concerns expressed in discussions with members of the public. Mr. Grover explained that the project would include a state-of-the-art facility for North Shore Community Health, and age-restricted affordable senior housing. This project requires extensive permitting at the state and local level. Mr. Grover stated they need approval from Salem Redevelopment Authority, Design Review Board, Planning Board, Historical Commission, Conservation Commission and Massachusetts Department of Environmental Protection. The project requires a special permit for the medical clinic use from the Zoning Board of Appeals before it can be approved by the Planning Board. Mr. Grover noted medical clinic use requires a special permit in all districts across the city.
19. Attorney Grover described how the project fulfills the special permit criteria as outlined in Section 9.4 of the Salem Zoning Ordinance. Attorney Grover stated community needs are served by construction of a modern community health facility and affordable housing for the city's seniors. He continued that the project includes twenty-nine parking spaces across the three project sites. Mr. Grover stated that no on-site parking is required for business uses in B5, so the proposed parking is above what is required by the ordinance. Mr. Grover stated the project would include improvements to the nearby utilities. He stated the proposal is in scale with surrounding buildings, adheres to height requirements, and fits the neighborhood

character. He continued to say improvements to site will ensure it does not have a negative impact on the local environment. Mr. Grover described many positive fiscal and economic impacts from the project including new housing opportunities to attract new residents to nearby businesses.

20. The Board discussed the proposal. Peter Copelas noted that the ZBA has small but important role to play. He further stated that many other boards and commissions would review the proposal, so it is important that the Board keep in mind the particular request for a special permit for the medical clinic use. Rosa Ordaz asked what the volume of patients is at the current North Shore Community Health Center, and how many parking spaces are needed for staff. Jonathan Evens of MASS Design stated there would be sixty parking spaces for staff at nearby municipal parking lots. Ms. Ordaz asked about a study the applicant submitted regarding the availability of nearby municipal parking facilities. Omar Santiago of North Shore Community Health responded, saying there were sixty patients who visited the current NSCH facility on September 22, 2021. A representative from Nitch Engineering spoke to the results of a parking study. He stated that nearby lots have capacity for sixty employees and any visitors to the medical center. Mickey Northcutt noted that seventy percent of the patients are below the federal poverty level, many of the patients are in the neighborhood. Mr. Northcutt stated there would be two drop off zones, one behind and one in front of the building at 73 Lafayette Street.
21. During the public hearing, three (3) members of the public spoke in favor of the petition, two (2) members of the public spoke in opposition. Concerns expressed in the public comment period focused on traffic and parking.
22. During the public hearing Bryan Zimolka of Nitch Engineering responded to some of the parking concerns expressed in the public comments, noting that the parking studies showed there is more than adequate availability in nearby municipal parking facilities to accommodate this proposal's needs. Attorney Grover asked that the Board keep in mind that the proposed medical clinic use is not required to provide any parking spaces per the parking requirements of the Salem Zoning Ordinance.
23. Chair Duffy discussed how the proposal meets the special permit criteria as outlined in Section 9.4.2 *Criteria* of the Salem Zoning Ordinance.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearings, and after thorough review of the petition, including the application narrative and plans, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Special Permit Findings:

The Board finds that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood, in view of the particular characteristics of the site, and of the proposal

in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination includes consideration of each of the following:

1. Social, economic, or community needs are served by this proposal. The healthcare and affordable senior housing in this proposal are immensely valuable and clearly serve community needs.
2. Traffic flow and safety, including parking and loading: By providing on-site parking and securing spaces at municipal lots, the applicant is exceeding the parking requirements for the medical clinic use in the B5 zoning district.
3. Adequate utilities and other public services already service the structure. There is going to be a need for improvements, but the applicant has indicated those improvements will be substantial and sufficient.
4. Impacts on the natural environment, including drainage: There has been a lot of consideration to the environmental impact. A lot of provisions for resiliency around the South River frontage, including native plantings and pervious surfaces are planned for the Project, which demonstrated impacts on the natural environment will be mitigated by elements of the Project.
5. Neighborhood character: The project is in keeping with the neighborhood character. This use seems to fit this area of the city and the structure is in scale with the surroundings.
6. Potential fiscal impact, including impact on City tax base and employment: The board expects there will be a dramatically positive fiscal impact.

On the basis of the above statements of fact and findings, **the Salem Board of Appeals voted five (5) in favor (Rosa Ordaz, Paul Viccica, Carly McClain, Peter Copelas, and Mike Duffy (Chair)) and none (0) opposed** to grant to North Shore Community Development Coalition, Inc. the requested special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to operate a Medical Clinic at **73 Lafayette Street**, subject to the following terms, conditions, and safeguards:

Standard Conditions:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the building commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.

6. A Certificate of Inspection is to be obtained.
7. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. All construction shall be done per the plans and dimensions, submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.


Mike Duffy, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK.

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.