



**PATRICK J. SULLIVAN**  
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## *City of New Bedford*

### **Department of Planning, Housing & Community Development**

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October 12, 2018

Councilor Hugh Dunn, Chairman  
Committee on Ordinances  
133 William Street  
New Bedford, MA 02740

RE: PROPOSED ZONING ORDINANCE AMENDMENT RELATIVE TO ADULT DAY CARE FACILITIES

Dear Chairman Dunn,

This letter is to advise you that the Planning Board met on Wednesday, October 10, 2018 to discuss the proposal to amend the city's Zoning Ordinance Row 4 labeled "Adult Day Care", of Chart C labeled "Commercial" of Appendix A of Chapter 9 of the Code of Ordinances be amended by striking the word "N" as it corresponds to columns IA, IB, and IC and inserting in place thereof the word "BA". The Planning Board sends a favorable recommendation for this proposal with comments noted herein.

Attorney Christopher Saunders spoke at the public hearing on behalf of Welby Park Associates, LLC. He presented that his client seeks to expand an existing Adult Daycare Facility in Welby Park to another site in the Park. However, Welby Park is located in an Industrial zone, and Adult Day Care is not an allowed use in the zone. Instead of requesting a zoning change for the park, which would impact other uses present there, he did some research to find out why Adult Day Care Facilities were not an allowed use in the Industrial A, B, and C districts. His research led him to believe that the "Adult Daycare Facility" use was added to the Zoning Table of Uses after his client's site was developed in the early 1980's, and perhaps it was overlooked as a use in the Industrial zone. He noted that other similar uses such as Child Care and Nursing Homes are allowed in the Industrial districts. He further noted that industrial uses, as they have traditionally been known, are going away. As he stated, the City itself has adopted overlay districts that allow residential in certain Industrial zoned areas. Lastly, he pointed out that the use would still require a Special Permit and public hearing before the Zoning Board of Appeals if the amendment was accepted as proposed.

Councillor William Brad Markey, Ward 1, spoke in favor of the request. He explained that the property owner had reached out to him and Councilor Dunn about this issue. He supported the remarks of Attorney Saunders. He explained the amendment would allow for this needed use to go into a lot more areas of the city.

No one spoke or was recorded in opposition to the ordinance as presented.

The board discussed the request, noting that the proposal made sense given the other allowed uses in the district. They also noted the growing need for this use given the aging baby boomer population and changes to insurance structures to allow for this type of care.

After closing the public hearing and deliberating the requested ordinance, a motion was made in the affirmative to recommend an ordinance amendment as follows: Row 4 labeled "Adult Day Care", of Chart C labeled "Commercial" of Appendix A of Chapter 9 of the Code of Ordinances be amended by striking the word "N" as it corresponds to columns IA, IB, and IC and inserting in place thereof the word "BA". The motion passed unanimously on a vote of 5-0.

Sincerely,



Tabitha Harkin  
City Planner

encls. Staff Report

cc. John Mitchell, Mayor  
Danny Romanowicz, Building Commissioner

Mickaela McDermott, City Solicitor  
Dennis Farias, City Clerk



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## STAFF REPORT

**REPORT DATE**  
**October 9, 2018**

**PLANNING BOARD MEETING**  
**October 10, 2018**

**Case #18-42: Ordinance Amendment Relative to Zoning of Adult Day Care Facilities**

**Referred by:** Councillor Hugh Dunn, Ward 3 and  
Councillor William Brad Markey, Ward 1

### Proposal

Councillor Hugh Dunn and Councillor William Brad Markey have proposed to amend the zoning ordinance use table to allow Adult Day Care Facilities in the Industrial A, B, and C districts by a Special Permit granted through the Zoning Board of Appeals.

### Reason for Proposed Amendment

The following rationale has been provided to explain the reason for the request:

"With the rising cost associated with round-the-clock nursing home care, adult day care facilities are servicing a need with adults with physical problems and disabilities. Adult day care facilities allow adult individuals a properly supervised environment to be cared for during the day while allowing relatives and family members of these individuals to continue to be employed and to then care for these individuals at the end of the work day. This alleviates the cost of long term nursing home care. Adult day cares are currently successfully operating in industrial zones in the City of New Bedford as non-conforming uses. Child day care facilities are presently an allowed use in industrial zoned districts in the City of New Bedford. The allowance of adult day care facilities in an industrial zone will not have a detrimental impact on the citizenry or the zoning of the City of New Bedford."

### Overview

Under the current zoning ordinance "Adult Day Care Facilities" are defined as "a social day care or adult day health facility, as those terms are defined by the Commonwealth's Department of Elder Affairs."

### **Definition of Adult Day Care Facility in New Bedford Zoning Ordinance:**

**Adult Day Care Facilities:** A social day care or adult day health facility, as those terms are defined by the Commonwealth's Department of Elder Affairs.

### **Definition of Adult Day Health Program by the Commonwealth's Department of Elder Affairs:**

An Adult Day Health Program is any entity, however organized, whether conducted for profit or not for profit that:

- Supports families and other caregivers thereby enabling the participant to live in the community
- Provides nursing care, supervision, and health related support services in a structured group setting to persons 18 years of age or older who have physical, cognitive, or behavioral health impairments; and
- Is community-based and non-residential

### **For Board Consideration**

Currently, Adult Day Care Facilities are allowed in Residential A, B, C, AA, and Mixed Use Business zoned districts. They are prohibited from all other zoning districts. In the districts they are allowed, Adult Day Care Facilities are required to obtain a Special Permit from the Zoning Board of Appeals prior to beginning operation.

### **Existing Use Table**

Use Type	Zoning Districts										
C. Commercial	RA	RB	RC	RAA	MUB	PB	IA	IB	IC	WI	KHTOD
4. Adult day care	BA	BA	BA	BA	BA	N	N	N	N	N	Y

### **Proposed Use Table**

Use Type	Zoning Districts										
C. Commercial	RA	RB	RC	RAA	MUB	PB	IA	IB	IC	WI	KHTOD
4. Adult day care	BA	BA	BA	BA	BA	N	BA	BA	BA	N	Y

Other similar uses such as Assisted or Independent living facilities, Nursing or Convalescent homes, and Child Care facilities are allowed in all zoning districts. While, the proposal does not allow for the use in all districts, it would expand the available areas in the city for Adult Day Care Facilities to include the Industrial A, B, and C zones in addition to the Residential A, B, C, AA, and Mixed Use Business zones they are already allowed in.

The use would be allowed only through a Special Permit process which would provide for a public hearing upon each newly proposed facility to determine if the facility benefits the city and meets the special permit requirements.

Special permits shall be granted by the zoning board, only upon its written determination that the benefit to the City and the neighborhood outweigh the adverse effects of the proposed use, taking into account the 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 shall include consideration of each of the following:

- Social, economic, or community needs which are served by the proposal;
- Traffic flow and safety, including parking and loading;
- Adequacy of utilities and other public services;
- Neighborhood character and social structures;
- Impacts on the natural environment; and
- Potential fiscal impact, including impact on City services, tax base, and employment.

Additionally, the zoning ordinance stipulates parking and loading requirements for Adult Day Care Centers. Adult Day Care Centers are required to have one (1) parking space per employee, a three (3) space drop-off zone, and if the building is between 10,000 SF -99,999 SF it is to have one (1) loading space for a building or if a building is 100,000 SF or larger it is required to have two (2) loading spaces.



# CITY OF NEW BEDFORD

In the Year Two Thousand and Eighteen

## AN ORDINANCE

### RELATIVE TO THE ZONING OF ADULT DAY CARE FACILITIES

31- 509

Be it ordained by the City Council of the City of New Bedford as follows:—

#### SECTION 1.

Row 4 labeled "Adult Day Care", of Chart C labeled "Commercial" of Appendix A of Chapter 9 of the Code of Ordinances is hereby amended by striking the word "N" as it corresponds to columns IA, IB and IC and inserting in place thereof the word "BA".

IN CITY COUNCIL, September 27, 2018

Referred to the Committee on Ordinances and the Planning Board.

Dennis W. Farias, City Clerk

a true copy attests

A handwritten signature in cursive script, appearing to read "Dennis W. Farias".

City Clerk