



ZONING BOARD of APPEALS

City Hall, Room 303
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CITY OF NEW BEDFORD
JONATHAN F. MITCHELL, MAYOR

Registry of Deeds/City Clerk Use Only:

NOTICE OF DECISION

Case Number:	#4427			
Request Type:	Special Permit			
Address:	947 & 965 Church Street			
Zoning:	Industrial A (IA) Zoned District			
Recorded Owner:	Chaffee Properties, LLC, CO Debra Holden			
Owner Address:	965 Church Street, New Bedford, MA 02745			
Applicant:	Child and Family Services			
Applicant Address:	1061 Pleasant Street, New Bedford, MA 02740			
Application Submittal Date		Public Hearing Date		Decision Date
September 23, 2020		November 12, 2020		November 12, 2020
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
130G	50/65/72	7784	342	

A Special Permit under Chapter 9 Comprehensive Zoning sections 2200 (use regulations), 2210 (general), 2230 (table of use regulations – Appendix A, commercial: #25 -medical offices, center, or clinic) and 5300-5390 (special permit); relative to property located at **947 & 965 Church Street**, Assessors' map 130G lot 50,65,72 in an Industrial A [IA] zoned district. The petitioner proposes to operate a medical office facility known as Child and Family Services per plans filed.

Action: GRANTED, WITH CONDITIONS, for the reasons set forth in the attached decision with the Conditions as described in the attached decision. (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on, November 19, 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.

November 19, 2020

Date

Stephen Brown, Clerk of the Zoning Board of Appeals

APPLICATION SUMMARY

The petitioner proposes to operate a medical office facility known as Child and Family Services per plans filed, which requires a Special Permit under Chapter 9 Comprehensive Zoning Sections 2200 (use regulations), 2210 (general), 2230 (table of use regulations – Appendix A, commercial: #25 -medical offices, center, or clinic) and 5300-5390 (special permit); relative to property located at **947 & 965 Church Street**, Assessors' map 130G lot 50/65/72 in an Industrial A [IA] zoned district.

MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Plan Set, drawn by MEDCOM Architectural Group, plans dated September 18, 2020, date stamped September 23, 2020 by City Clerk's Office.
 - Existing Site Plan
 - Proposed Site Plan
- REVISED Plan Set, drawn by Zenith Consulting Engineer, LLC, plans dated October 2, 2020, date stamped November 9, 2020 by City Clerk's Office.
 - Layout Plan
 - Existing Conditions Site Plan
 - A1.1 Floor Plans

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, stamped received by City Clerk's Office September 23, 2020.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 30, 2020.
- Staff Comments to the ZBA from the Office of the City Planner, dated October 5, 2020.

2.) DISCUSSION

On the evening of the October 15, 2020 meeting, board members: Laura Parrish, Celeste Paleologos Stephen Brown, Allen Decker and Leo Choquette, Jr. were present for the virtual public hearing. City of New Bedford staff: Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services) and Angela Goncalves (Assistant Project Manager) were present during proceedings for the subject case review.

In regards to Case #4427 Clerk Brown made a motion, seconded by Mrs. Paleologos to receive and place on file the communications from the Commissioner of Buildings & Inspectional Services, Danny D. Romanowicz, dated September 30, 2020; staff comments from the Department of City Planning, dated October 5, 2020; Letter in support of the proposal from Rev. David Lima, dated October 8, 2020; Letter in Support of the proposal from Renee Clark, South Coast Health, dated October 8, 2020; Letter of support of the proposal from Chief Joseph Cordeiro, dated October 13, 2020; Letter in opposition of the proposal from Maria Silva, Interstate Equipment Rental, dated October 10, 2020; Letter in opposition from Rebekah Bedard, dated November 10, 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 Parrish then declared the hearing open.

The petitioner: Sean Hurley, Attorney, Halloran, Lukoff, Smith & Tierney (32 County Street, New Bedford) presented the case at the hearing representing the proprietor, Child & Family Services, (1061 Pleasant Street, New Bedford). Attorney Hurley began the presentation by briefly describing the applicant, Child & Family Services and the subject property.

Attorney Hurley stated CFS is a private nonprofit organization that has been providing social services and mental health counseling for families in the Southeastern Massachusetts since 1843. Mr. Hurley noted CFS is under agreement to purchase the subject property located at 947 & 965 Church Street with the intention to consolidate their existing facilities (1061 Pleasant Street & 543 North Street) into one location (965 Church Street).

The subject property is located in the far north end of the city in an Industrial A (IA) zoned district, bounded by Church Street, Chaffee Street and Tarklin Place. The site's parcel is 123,140 SF parcel with 320'± of frontage on Church Street, and a depth of 425'± SF along Chaffee Street. Situated on the parcel is a 34,260± SF one-story retail/commercial building, known as Regal House Furniture.

Attorney Hurley stated due to the change in use to a medical use a Special Permit is required by the Zoning Board of Appeals.

Under the zoning ordinance, the change of use of the building from retail/commercial to medical/commercial requires a special permit from the Zoning Board of Appeals.

The petitioner proposes to change the use of the building from retail/commercial to medical/commercial to operate a medical office facility known as Child and Family Services per plans filed.

Attorney Hurley proceeded with the presentation by giving a brief description of the programs that would be offered at the facility. There are three 24 hour programs: Community Based Acute Treatment (CBAT), Community Crisis Stabilization (CCS) & Emergency Services (Crisis Center or ES). The fourth program, Mental Health Counseling Center would not be a 24 hour service.

Mr. Hurley continued the presentation by briefly summarizing the required findings for the special permit; noting the economic and social benefits to the community, the letters of support from various city organizations, improved parking, adequate utilities and that the character of the neighborhood being a mix of industrial/retail and commercial/retail would not be a substantial change to the nature of surrounding environment. Additionally, Mr. Hurley mentioned the applicant will be submitting site plan review to the Planning Board addressing the traffic flow, safety and improved parking area.

The subject proposal requires the following additional permits: Site Plan Review from the Planning Board, a Variance for parking and loading from the Zoning Board of Appeals and City approval to discontinue a paper street. (There is an unpaved portion of Dutton Street between 965 Church Street and 947 Church Street that will be used for parking). The application indicates if the Special Permit for the medical/commercial use is granted, the applicant will submit all appropriate applications required.

Attorney Hurley concluded the presentation by stating Child & Family Services would like to remain in the City of New Bedford, providing needed services to community members by consolidating their operations into one location. Attorney Hurley respectfully requested that the Board grant the change of use Special permit.

Following the petitioner's testimony, Chairperson Parrish invited anyone wishing to speak in favor or be recorded in favor of the petition of the application. Reverend David Lima (26 Joseph Street) spoke in favor of the petition. Mr. Lima stated he is an Executive Minister of the Church Council, a participant of the New Bedford Opiate Task Force, and the Chair for the Suicide Prevention Coalition. Mr. Lima stated that he has worked with CFS and how invaluable they are to the community. Mr. Lima also noted that he has never seen their current locations in the city negatively effect the neighborhood. Mr. Lima stated he is familiar with the proposed location and believes CFS would be an asset to the neighborhood.

Chairperson Parrish invited anyone else wishing to speak in favor or be recorded in favor of the petition of the application. There was no response to Chairperson Parrish's invitation to speak or be recorded in favor.

Chairperson Parrish invited anyone wishing to speak in opposition of the petition. Several people spoke in opposition of the proposal of the petition. Kirsten Benderson, Reidar's Trawl-Scallop Gear & Marine Supply (9 Tarklin Hill Place), John Markey, Attorney, Moses Smith, Markey & Walsh (50 Homers Wharf), representing Interstate Equipment Rental, Maria Silva, Proprietor, Equipment Interstate Rental & Sales, (1259 Chaffee Street), Councilor Linda Morad (4162 Acushnet Avenue), Rod McCollester, Proprietor, R & W Rope (39 Kirkland Place), Nancy Mendez, 160 Tarklin Place, David Rodrigues, JAZ USA (59 Tarklin Place, Ward 1, Councilor Brad Markey, (133 William Street), John Lima, Carla Silva, Proprietor, Excel Brazilian Jujitsu (1239 Chaffee Street).

The majority of the opposition concurs that CFS is a valuable organization. Nonetheless, the main concerns were as follows:

1. Location is not suitable for the facility due to it being located in an Industrial A (IA) zoned district and how the activities of the existing businesses could potentially impact the work of the organization.
2. Loud Noise from the current operating businesses'
3. Increase and interrupt the Traffic Flow of the existing businesses'
4. Large commercial vehicles (Tractor Trailers) operating near the proposed site
5. Sound and safety concerns
6. In the future that the existing businesses' should not be in any way restricted from making noise or having trucks come in and out of the surrounding area.

7. Fiscal impact due to the proximity to the rail
8. Planning Board Approval & City Approvals still required

Chairperson Parrish invited anyone else wishing to speak in opposition of the petition. There was no response to Chairperson Parrish's invitation to speak or be recorded in opposition.

Attorney Hurley gave a brief rebuttal to the opposition stating that CFS is a nonprofit origination and felt it best to request the change of use of the building prior to exhausting time and money spent for all the other necessary approvals. Mr. Hurley also addressed the noise concerns, fiscal impact and issues with the paper street. Additionally, Mr. Mazur & Mr. Siroonian addressed the structure and confines of the proposed facility in regard to patient safety.

Attorney John Markey and Rod McColleston gave a brief rebuttal regarding the need for Site Plan Review from the Planning Board and the need for a traffic report.

In response to an inquiry from Chairperson Parrish relative to a traffic report, Mr. Romanowicz replied with the proposed number of employees at 100, there would be an increase in traffic, but without a traffic study he is unable to discuss further.

Board member Choquette Jr., addressed future traffic concerns in regard to the future of the commuter rail.

Chairperson Parrish asked the Board if there were any further questions. Clerk Brown addressed the Board regarding the conditions for the petition and that he will be voting in favor of the petition. Mrs. Parrish concurred with Mr. Brown stating traffic concerns, however, she is in favor of the petition.

With no further questions, Chairperson Parrish closed the hearing.

With no further questions. The board indicated their readiness to vote.

3.) FINDINGS

The Board found that in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 5320, the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site including consideration 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; and impacts on the natural environment.

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 2200 (use regulations), 2210 (general), 2230 (table of use regulations – Appendix A, commercial: #25 -medical offices, center, or clinic) and 5300-5390 (special permit); relative to property located at **947 & 965 Church Street**, Assessors' map 130G lot 50/65/72 in an Industrial A [IA] zoned district. The petitioner proposes to operate a medical office facility known as Child and Family Services per plans filed.

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 special permit.

A motion to approve was made by Mr. Brown and seconded by Mrs. Paleologos as follows:

In regard to Case #4427 for **Chaffee Properties, LLC, CO Debra Holden** (965 Church Street, New Bedford, MA 02745) and **Child and Family Services** (1061 Pleasant Street, New Bedford, MA 02740); relative to property located at **947 & 965 Church Street**, Assessors' map 130G lot 50/65/72 in an Industrial A [IA] zoned district, to allow the petitioner to operate a medical office facility known as Child and Family Services per plans filed, which requires a **Special Permit** under Chapter 9 Comprehensive Zoning Sections 2200 (use regulations), 2210 (general), 2230 (table of use regulations – Appendix A, commercial: #25 -medical offices, center, or clinic) and 5300-5390 (special permit). 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 board finds in regard to the criteria as follows:

The board finds that in respect to these sections 5300-5330 and 5360-5390 relative to the granting of Special Permits, that the benefit to the city and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination included 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;*
- *Potential fiscal impact, including impact on City services, tax base, and employment*

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 requires Site Plan Review by the Planning Board pursuant to Section 5400 of the Zoning Ordinance. Any conditions imposed by the Planning Board decisions shall also be conditions of this Special Permit.
- Traffic Study be required
- Let the record reflect that at least four neighboring businesses conduct business that involves loud machinery and operate heavy large trucks in an Industrial A Zoned District and that the applicants are voluntarily coming into this environment.

General 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 special permit 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 C. Paleologos to grant the requested Special Permit, the vote carried 5-0-0 with members S. Brown, C. Paleologos, I. Choquette, Jr., A. Decker and L. Parrish voting in the affirmative; with no members voting in the negative; and no one abstaining. (Tally 5-0-0).

Filed with the City Clerk:



Stephen Brown

Clerk of the Zoning Board of Appeals

November 19, 2020

Date