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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
CITY CLERK, SALEM, MASS.

September 2, 2015

Decision

City of Salem Board of Appeals

Petition of SALEM NORTHEAST DIALYSIS CENTER (DAVITA DIALYSIS COMPANY) seeking a special permit from the provisions of Sec. 3.1.2 Special Permit: Zoning Board of Appeals and Sec. 9.4 Special Permits to allow a medical clinic (dialysis center) for a portion of the property and a special permit from the provisions of Sec. 5.1.7 Shared Parking of the Salem Zoning Ordinance, to allow for shared on-site parking with other tenants at the property of 207 HIGHLAND AVENUE (Map 13 Lot 2)(B2 Zoning District).

A public hearing on the above Petition was opened on August 19, 2015 pursuant to M.G.L Ch. 40A, § 11 and closed on this date with the following Salem Board of Appeals members present: Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, Mike Duffy, Paul Viccica (alternate).

The petitioner seeks a special permit per Sec. 3.1.2 Special Permit: Zoning Board of Appeals and a special permit per Sec. 5.1.7 Shared Parking.

Statements of fact:

1. In the petition date-stamped July 22, 2015 the Petitioner requested a special permit from the provisions of Sec. 3.1.2 Special Permit: Zoning Board of Appeals and Sec. 9.4 Special Permits to allow a medical clinic (dialysis center) for a portion of the property and a special permit from the provisions of Sec. 5.1.7 Shared Parking of the Salem Zoning Ordinance, to allow for shared on-site parking with other tenants.
2. Attorney Quinn presented the petition on behalf of the applicant Salem Northeast Dialysis Center (Davita Dialysis Company).
3. The petitioner proposes to occupy a vacant portion of a building that is shared with East Gate Christian Fellowship and Joseph's Storehouse food pantry.
4. The petitioner requests a special permit for a medical dialysis clinic to operate a dialysis center only.
5. There are substantial structural upgrades proposed to the building to serve the medical dialysis clinic.
6. The medical dialysis clinic will serve twenty-two (22) patients and staff four (4) professional staff and ten (10) additional employees.
7. The site was previously used as a car dealership and has 156 on-site parking spaces.
8. The petitioner requests a special permit to allow shared on-site parking spaces. The medical dialysis clinic facility will have seventeen (17) reserved exclusive spaces to meet the required number of spaces for professional staff and employees and twenty-three (23) shared parking spaces for patients.
9. The proposed hours of operation for the medical dialysis clinic are Monday-Saturday 5am to 8pm except when there are holidays or snow days to allow the clinic to operate on Sunday from 5am to 8pm.

10. The requested relief, if granted, would allow the Petitioner to operate a medical dialysis clinic and to allow shared on-site parking.
11. At the public hearings one (1) member spoke in favor and no (0) members spoke in opposition to the proposal.

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

Findings for Special Permit:

The Board finds that medical dialysis clinic is not more substantially detrimental than the existing vacant commercial space previously used as a car dealership.

1. There are significant social, economic and community needs served by this proposal.
2. Traffic flow and safety, including parking and loading are adequate to serve the site as there are seventeen (17) reserved spaces for professional staff and employees and twenty-three (23) shared parking spaces in a parking lot with 156 total parking spaces for the church, food pantry and medical dialysis clinic and the entrance and exit to the facility will be well marked as recommended by police safety to address flow and safety concerns with access points on Highland Avenue.
3. Utilities and other public services are existing and adequate.
4. There are no impacts on the natural environment, including drainage as the site is entirely paved and no new site changes are proposed.
5. No negative impacts on the neighborhood character.
6. The potential fiscal impact, including impact on the City tax base and employment are positive as a portion of this commercial property has been vacant for over ten (10) years.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Tom Watkins, Mike Duffy, Paul Viccica (alternate) and none (0) opposed, to grant variances per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for relief from rear and side-yard setbacks, minimum lot area per dwelling unit and minimum lot area to construct a rear addition subject to the following eight (8) standard **terms, conditions, and safeguards**:

Standard Conditions:

1. The 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. Exterior finishes of new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy shall be obtained.

7. A Certificate of Inspection shall be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Conditions:

1. The petitioner will work with the Salem Police Department traffic division for approval of any required signage at the entrance and exit of the property off of Highland Ave.
2. Hours of operation are Monday through Saturday 5am to 8pm except for holidays and snow days where the clinic will be open on Sunday from 5am to 8pm.
3. The medical clinic will be used as a dialysis center only.


Rebecca Curran, 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.