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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS

2014 JUN 10 P 1:30

June 10, 2014

## Decision

### City of Salem Board of Appeals

Petition of ALPHA ANALYTICAL, requesting a Special Permit per Sec. 3.1 *Principal Uses* of the Salem Zoning Ordinance, to allow the operation of a medical clinic providing analytical testing, and requesting a variance from the provisions of Section 5.1.8 *Table of Required Parking Spaces* of the Salem Zoning Ordinance, to allow fewer than the required number of off-street parking spaces, at the property located at 121 NORTH STREET (B1 Zoning District).

A public hearing on the above Petition was opened on May 21, 2014 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Ms. Harris (acting Chair), Mr. Dionne, Mr. Duffy, Mr. Watkins, and Mr. Copelas (Alternate).

The Petitioner seeks a Special Permit per Section 3.1 *Principal Uses* of the Salem Zoning Ordinance, and a Variance from the provisions of Section 5.1.8 *Table of Required Parking Spaces* of the Salem Zoning Ordinance.

#### Statements of fact:

1. In the petition date-stamped April 17, 2014, the Petitioner requested a Special Permit to allow the operation of a medical clinic providing analytical testing, and a Variance to allow fewer than the required number of off-street parking spaces.
2. Mr. Eugene Shehu, petitioner, presents the application for 121 North Street.
3. The facility would be conducting analytical drug testing of samples.
4. There would be no walk-in customers, as samples would be delivered by car.
5. There would be two to three employees, in addition to Mr. Shehu.
6. The business would operate during normal business hours – Monday through Friday, 9:00am to 5:00pm.
7. There is currently one legal off-street parking space on the site.
8. There may be adequate room on the site for an additional tandem parking space. Tandem parking spaces are not considered a legal space under the Salem Zoning Ordinance, but if the additional space is feasible, it could potentially alleviate the practical need for on-street parking.
9. The requested relief, if granted, would allow the Petitioner to utilize the existing commercial space as a medical clinic providing analytical testing, and to provide one off-street parking space rather than the two off-street parking spaces required by the Salem Zoning Ordinance.
10. At the public hearing one member of the public expressed their concern about granting relief from the off-street parking requirements, stating that North Street is a busy street.

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 – Variance from the provisions of Section 5.1.8 *Table of Required Parking Spaces***

1. The size and configuration of the existing lot does not allow for the creation of two off-street parking spaces that are in conformance with the provisions of the Off-Street Parking section of the Salem Zoning Ordinance. Literal enforcement of the provisions of the Salem Zoning Ordinance would create a substantial hardship.
2. The desired relief may be granted without substantial detriment to the public good, particularly as the conditions placed upon the approval seek to limit the impact of the variance.
3. The desired relief may be granted without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinance, as converting the property from a commercial use to a residential use is more in keeping with the character of the neighborhood.

**Findings – Special Permit allow the operation of a medical clinic providing analytical testing**

1. The proposed use will not be more detrimental than the current use.
2. The proposal serves a community need, as it will provide testing required by the courts and other businesses local to Salem and the area.
3. The Board is addressing the parking issues with the conditions set upon the approval.
4. The utilities and public services to the building will be adequate.
5. There are no significant negative impacts on the natural environment, including view.
6. The proposal will have a positive economic and fiscal impact.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Mr. Watkins, Ms. Harris, Mr. Dionne, Mr. Copelas, and Mr. Duffy in favor) and none (0), to grant the requested Variance to grant relief from the off-street parking requirements and the requested Special Permit to allow the operation of a medical clinic providing analytical testing, subject to the following **terms, conditions, and safeguards**:

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 is to be obtained.
7. A Certificate of Inspection is to be obtained.

8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. The petitioner shall provide two (2) parking spaces on the property if feasible
10. The maximum number of employees working at one time shall be limited to three (3).
11. The applicant shall have to petition the Board for a modification to the Special Permit in order to have more employees working at one time
12. There shall be no walk-in clients.



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Annie Harris, Acting 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.*