



ZONING BOARD OF APPEALS

City Hall, Room 303
 133 William Street,
 New Bedford, MA 02740
 (508)979-1488
 www.newbedford-ma.gov

CITY OF NEW BEDFORD
 JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:	#4187			
Request Type:	Special Permit			
Address:	67-69 Brigham Street			
Zoning:	Residential B Zoned District			
Recorded Owner:	The Armenia M. Pereira Living Trust, U/A			
Owner Address:	29430 South Chrisman Road Tracy, CA 95304			
Applicant:	Pebbles Stevens d/b/a Elan Wellness Center LLC			
Applicant Address:	42 J Drive Westport, MA/67-69 Brigham Street New Bedford, MA			
Application Submittal Date	Public Hearing Date	Decision Date		
May 29 th , 2015	June 25 th , 2015	June 25 th , 2015		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
39	255	9859	232	

CITY CLERK'S OFFICE
 NEW BEDFORD, MA
 2015 JUL - 9 AM 9:45
 CITY CLERK

Application:

Special Permit under Chapter 9 Comprehensive Zoning Section 2400 (Non Conforming Uses and Structures), 2410 (Applicability), 2420-2422 (Nonconforming Uses), 2430-2432 (Non Conforming Structures, other than Single and Two family Structures), and 5300-5330 & 5360-5390 (Special Permits); relative to property at 67-69 Brigham Street, Assessor's Map 39 Lot 255 in a Residential-B Zoned District. To allow the petitioner to operate an addiction treatment business as plans filed.

Action: Denied, for the reasons set forth in the attached Decision.
 (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on July 9th, 2015. 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.

July 9, 2015
 Date

Allen Decker
 Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to operate an addiction treatment business as plans filed, which will require a Special Permit under Chapter 9 Comprehensive Zoning Section 2400 (Non Conforming Uses and Structures), 2410 (Applicability), 2420-2422 (Nonconforming Uses), 2430-2432 (Non Conforming Structures, other than Single and Two family Structures), and 5300-5330 & 5360-5390 (Special Permits); relative to property at 67-69 Brigham Street, Assessor's Map 39 Lot 255 in a Residential-B Zoned District.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, drawn by unknown, not dated
- First floor plan, drawn by unknown, not dated

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, Stamped Received by City Clerk's Office May 29th, 2015
- Submitted by applicant with application:
 - Interior and Exterior photos, not dated
 - Elan Wellness Center Business Plan
 - Business Certificate for Elan Wellness Center, dated April 14, 2015
 - Certificate of Organization, dated March 31, 2015
 - National Provider Identifier, enumeration date April 28th, 2015
 - Massachusetts Department of Public Health Informational Sheets:
 - *Fatal Opioid-related Overdoses among MA Residents*, printed April 2014
 - *Fatal Opioid-related Overdoses among MA Residents*, printed April 2015
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, dated June 4th, 2015.
- Letter to ZBA from City Planner Jill Maclean, dated June 19th, 2015.
- Letter to ZBA from James F. Costa, dated June 25th, 2015
- Cover Letter to ZBA from James F. Costa attached to a petition containing ten pages of signatures, dated June 25th, 2015
- Letter to ZBA from City Councilors Steven Martins and Joseph P. Lopes, dated June 22nd, 2015
- Letter to ZBA from Missy an Arthur Cimbron, dated June 23rd, 2015.

3.) DISCUSSION

Board Members I. Comerford, A. Decker, R. Schilling, J. Walsh, and H. Tavares were present on the evening of the public hearing.

City of New Bedford Staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services), Kreg Espinola (Assistant City Solicitor), Jill Maclean (City Planner), and Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

A .Decker motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated June 4th, 2015; the Communication from the Office of the City Planner dated June 19th, 2015; the appeal packet; 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. A .Decker also motioned to receive and place on file additional correspondence from Councilor Steven Martins and Councilor Joseph P. Lopes noting their opposition dated June 22nd, 2015; in addition a communication from Missy and Arthur Cimbron dated June 23rd, 2015 in opposition, a communication from James F. Costa dated June 22nd, 2015 in opposition, a cover letter from James F. Costa dated June 22nd, 2015 containing ten pages of signatures in opposition. Motion seconded by J. Walsh. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open.

The petitioner: Ms. Pebble Stevens (42 J Drive Westport, MA) owner of Elan Wellness Centers described the proposal for the Special Permit. Ms. Stevens stated she is proposing a primary care office with a specialty in addiction medicine. She stated it is not a drug clinic; it is a physician's office that will be treating patients with a suboxone, subutex, and vivitrol, as well as providing primary care services.

There was difficulty hearing expressed by individuals in the room. A .Decker disclosed that he knows the medical director, Doctor Torres, and that he did not believe his relationship with Dr. Torres will in anyway influence his decision making on this case. Chairman I. Comerford called for order in the room and explained only one person is to be speaking at a time.

Ms. Stevens continued her presentation, explaining her proposal address a community need, stating there was a thirty-three percent (33%) increase in unintentional deaths from opioid overdose from 2012-2014. She continued by stating the following facts and statistics, the City of New Bedford is second (2nd) in the Commonwealth next to Boston, for the most opioid deaths in Massachusetts. Statistics show there are 4,525 addicts in the New Bedford area. November 1st there were fifty-four (54) persons in Bristol County who died of opioid overdoses. Among the counties, Bristol County has the highest number of overdoses, thirty-four (34) in November alone. And, in a twenty-four hour period last March there were fifteen (15) drug overdoses in New Bedford. Ms. Stevens expressed that these numbers are a sign that overdoses are on the rise in our region. In 2012, South Coast Hospitals treated two hundred and nineteen (219) drug over doses within four months. Ms. Stevens stated there is a shortage of treatment centers in New Bedford. She stated at

Clean Slate, her previous employer, there is a wait list of over one hundred and fifty (150) people, and people are dying while they are waiting to get into treatment. The problem, she explained, is that they can't be sober while they wait because they have to be using drugs to qualify to use the programs. Ms. Stevens explained her plan is to open up more spots right away so that more people can get treatment and not risk contracting HIV, Hepatitis C, Hepatitis B, or other fatal illnesses like endocarditis—which kills your heart and gives you sepsis. She stated they will be able to get treatment quicker, off drugs quicker, and get their lives together quicker. Ms. Stevens stated the Governor had a press conference on Monday announcing his war on opioid addiction. Ms. Stevens explained that part of the Governor's plan is what she is trying to do: Increase access to evidence based medication assisted treatment; to increase the number of office based opioid treatment programs and the number of practitioners prescribing buprenorphine and naltrexone; to enforce and strengthen the requirement that all licensed addiction treatment programs accept patients on an opioid agonist therapy. People can't get help if there are no treatment programs available, stated Ms. Stevens. People can't get help if there is a waitlist, she stated.

Ms. Stevens explained that her petition for this Special Permit is that the location of her proposed office has been a medical office since March 2nd, 1966. Women and Infants program was at this location for ten years and left this past October, she said. So as a matter of right of use, she stated, she should be able to use this office as a medical office. Ms. Stevens explained the drugs suboxone and subutex are office based medications according to DATA 2000 [Drug Addiction Treatment Act of 2000]. Ms. Stevens cited DATA 2000 stating that, a state may not preclude or prevent practitioners from dispensing or prescribing drugs in schedule III, IV, or V, or combinations of such drugs, to patients for maintenance or detoxification treatment in accordance with the paragraph unless, before the expiration of the period, the State enacts a law prohibiting a practitioner from dispensing such drugs in combinations in an office setting. She stated we do not have such a law preventing that. Ms. Stevens stated the location of Clean Slate Center is five blocks from her office. She further stated, Dr. Warren's Office carries one hundred suboxone patients and his office is seven blocks from her office, five blocks from the Winslow School, and two blocks from Thomas Brown elementary school, and there has been no negative effect on city, no negative effect on the neighborhood. She further stated there has been no negative effect on the neighborhood from Clean Slate and they are 200 feet from a preschool. Ms. Stevens stated her office is over fifteen hundred feet from Winslow School, and you can't see the office from there. She stated Clean Slate is about two thousand feet from Winslow School. Ms. Stevens stated because like businesses are in the area she should be able to receive the permit.

R. Schilling asked in addition to suboxone therapy, what treatment options would be available at Ms. Steven's office. Ms. Stevens stated vivitrol, which she explained is a pure opioid blocker, which is actually naltrexone in an extended release form that a patient receives 5 ml every four weeks as a shot. She stated it is a pure opioid blocker that will be available to patients as an alternative and will be encouraged as it is complete sobriety,

there is no withdrawal. She explained vivitrol sits in the opioid receptor in the brain and it prevents from any opioid or alcohol from attaching to the brain. Ms. Stevens stated she will also be treating alcohol addiction. R. Schilling asked if any of the drugs contain an opioid. Ms. Stevens said vivitrol does not contain an opioid and suboxone has a synthetic opioid with narcan in it. Suboxone, with the combination blocks the attachment to the receptors in the brain and prevents cravings. R. Schilling asked if there would be any opioid based therapies that Ms. Stevens' office would be providing at this location. Ms. Stevens said no and she does not want to provide and will not provide methadone. Ms. Stevens explained methadone is what a drug clinic provides and that is the difference and why her business is a medical practice. Ms. Stevens also stated she will not be accepting anyone who is forced into treatment because she does not believe that works. As a private company, she stated, she will only be accepting people who want help, not people who are forced into help. R. Schilling asked if Ms. Stevens had any concerns over Suboxone trafficking and if she was familiar with the trafficking/selling of suboxone. Ms. Stevens explained the procedures in place to prevent trafficking, including pill counts, and urine tests that check the levels of the metabolized drug in the patient; the levels have to be a certain amount in their system based on the dosage. If the patient's levels are off, the patient gets permanently discharged from the program. In regards to the suboxone films, Ms. Stevens explained that each film wrapper has a serial number which is recorded when provided to the patient. The patient then has to return the wrappers to the office once taken and they are cross-checked to match the ones they were prescribed. Ms. Stevens also stated she will have a security guard at the premises, doing thirty minute patrols of the building for safety.

R. Schilling asked how many patients were expected per day. Ms. Stevens stated twenty to twenty-five per day. Ms. Stevens shared that Clean Slate sees over one-hundred patients a day, and she is not projecting that, and there has been no negative effect on the neighborhood.

J. Walsh asked why the applicant felt the need for a security guard. Ms. Stevens explained because patients are bringing in pills to be counted and leaving with pills, and it is for their safety too. Also, if you have to discharge someone from the program they can get upset. Patients are not discharged from the program on-site; they are sent a certified letter so that they are discharged away from the building, she explained. The security is just a precaution, Ms. Stevens stated.

Chairperson I. Comerford asked how many employees will work at the office. Ms. Steven stated three; the secretary, the security guard, and the medical assistant.

Following the petitioner's testimony, Chairperson I. Comerford invited to the podium anyone wishing to speak in favor of the application. Mr. Sean Martin (60 Eight Street New Bedford, MA), admitted he is addict. Mr. Martin explained he has been clean and on suboxone for over two years. He stated he is being treated at Clean Slate, which is also next to a school zone. He expressed that he has been clean for two and a half years, and

got his life back, he has a job, and he's going to get his own place. He stated this is what the community needs and begged the board to help the community. Mr. Peter Willmart (no address stated) came to be recorded in favor, stated he was not present on behalf of his employer, but does work with this population on a daily basis. Mr. Willmart explained that when they are referring individuals for treatment with suboxone, which he stated was much more effective than methadone, there are no spots. He further stated if they are not getting into treatment and are going back to the streets they may be getting into trouble. He stated he has found that individuals on this medication aren't getting themselves into trouble, like the young gentleman who spoke before him. He stated there is no question the City of New Bedford has a major problem with opioids. Mr. Willmart stated this is a solution that has proved and worked to be successful. Mr. Willmart further stated he is an abutter to a suboxone clinic on Pleasant Street, to which he had no idea they were prescribing suboxone. He stated he has yet to see any increased in traffic or other problems in his neighborhood due to their prescribing suboxone. Mr. Willmart also explained that there is a shortage of treatment facilities due to the licensing process in the state. He then explained the Governor's new proposal to support treatment programs like this as they are successful and have the least impact on communities. No one else in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Chairperson I. Comerford invited to the podium anyone wishing to speak in opposition of the petition. Mayor Jon Mitchell (133 William Street New Bedford, MA), explained he very rarely ever comes before a City Board or Commission, as he feels strongly that the Boards and Commissions should be left to do their jobs; they are in a position where they have autonomy to decide things before them. Mayor Mitchell explained why he felt he needed to be at the meeting. He explained that as much as there is an opioid problem in the State and in New Bedford, this proposal makes no sense. He acknowledged there is a need for treatment. Mayor Mitchell explained his opposition wasn't in regards to the treatment for these individuals but the location in a residential neighborhood. Mayor Mitchell explained these facilities do affect neighborhoods and cited other areas of the City that have been affected. He stated this proposal did not meet the standard; that the proposal must be less detrimental than the previous use, which it is not. He explained it is not less detrimental as it will have more traffic, more people coming and going into the neighborhood, and more parking will be needed; therefore, it cannot be granted. The Mayor spoke about the City's initiatives and programs to address the opioid problem. The Mayor further reiterated that these facilities do impact neighborhoods and to do something like this is insensitive to the neighborhood's needs.

Mr. John Saunders (344 Cornell Street New Bedford, MA) also spoke in opposition to the facility in this neighborhood. He expressed support for treatment facilities but not in residential neighborhoods. Mr. Saunders stated the petitioner was from Westport. Mr. Saunders recalled the previous offices at this location were dentists and a physician's office for babies. He felt compared to those uses this use is more detrimental to the

neighborhood. Mr. Saunders called attention to the number of people in the room tonight as a demonstration of the points he made about the impact to the neighborhood.

Chairperson I. Comerford asked those present to refrain from applause during the hearing.

Ward 5 City Councilor Kerry Winterson (560 Allen Street New Bedford, MA) spoke in opposition. Councilor Winterson explained the street has traffic and parking issues already in the area any more will only add to the congestion in the area. He also spoke about the character of the neighborhood and that the proposal would not fit the neighborhood character.

At Large City Councilor Brain Gomes (133 Williams Street New Bedford, MA) spoke about the neighborhood as an All-American neighborhood, and stated he came tonight to protect this neighborhood. Councilor Gomes explained the service is needed however they have seen facilities like this impact other neighborhoods in the city. He asked the Board to leave the neighborhood as it is. Councilor Gomes wished to acknowledge Councilor Linda Morad and Councilor Naomi Carney who were also present and wished to support the neighborhood and were in opposition to the petition as well. Councilor Gomes offered to the petitioner, to come to the City Council and the Mayor, who are willing to work with her to find the right location in the city. Councilor Gomes expressed that he has found that these locations need to be far away from the problem so that the victims of drugs aren't receiving treatment close to where the problems is, so they aren't tempted. Councilor Gomes reiterated his opposition and stated that this would be detrimental to the neighborhood, and not the right place.

Mr. Dennis Lawrence Jr. (23 Elizabeth Street New Bedford, MA) spoke about his time on the City Council and when he previously only appeared before the board when there were major issues. Mr. Lawrence expressed he is a life-long resident of the neighborhood. Mr. Lawrence expressed that this petition is more of a detriment to the neighborhood than the previous use. He stated there is already an issue with parking, so much so, that resident only parking was instituted on four streets around this area. Mr. Lawrence pointed out that Tabor Street, directly abutting this project, is a resident only parking street. Mr. Lawrence called attention to the business plan submitted with application, which indicated up to four employees and four parking spaces. Mr. Lawrence stated that those four parking spaces would then logically be taken up by those four full-time employees and then any additional vehicles would be parking in the neighborhood which already has a parking problem. Mr. Lawrence also pointed out that the business plan stated there is a parking lot located within one hundred feet of the building. Mr. Lawrence stated the parking lot is a private parking lot, owned by the medical office on Priscilla Street. Mr. Lawrence questioned that a for-profit business would only treat twenty to twenty-five individuals a day. He stated that the business plan stated they would advertise via billboard on Route 18, which he believed would increase the number of patients and traffic into the neighborhood. Mr. Lawrence also stated the petitioner has

already received two verbal warnings that no operation, even paperwork, can be undertaken in the facility. Mr. Lawrence expressed, this shows to him that the business would not be a friendly partner to the neighborhood. Mr. Lawrence referenced and expressed his opinion about an email that was circulated. Mr. Lawrence asked the board to not grant the petition.

City Councilor Naomi Carney (133 William Street New Bedford, MA) wished to be recorded in opposition and stated this does not fit the neighborhood.

Mr. Paul Sylvia (71-73 Brigham Street) stated owner of the property directly abutting, spoke about the family character of the neighborhood. He spoke about the dentist office and the ultrasound clinic at the location previously. Mr Sylvia called the parking issue horrendous for his tenants, even with a driveway on his property. He stated his driveway is often blocked by cars parked on the street. He felt the four parking spaces provided on site as not sufficient to address the parking issue. Mr. Sylvia stated he is against the petition.

Mr. Dean Lawrence (3 Priscilla Street New Bedford, MA) stated he is very much in opposition to this. Mr. Lawrence described the professions of the neighbors as police, fireman, lawyers and others and explained that when you go home you don't want to see the kind of people you've been dealing with all day walking by your home. He explained it's not hard to figure out what the neighbors do for a living and expressed it's a safety issue. Mr. Lawrence stated there has been a higher increase in calls to the neighborhood around Clean Slate. He stated calls of people passing out in yards and high rate of calls for domestics, and that the statistics aren't hard to get.

Mr. Mark Ferrier (Stone Street New Bedford, MA) stated he lives in the neighborhood and is one block away from Clean Slate. He stated he has lived in the neighborhood twenty-five years, and Clean Slate has been there five year. He explained, the previous twenty-one years he never had anyone pass out or throw up in front of his house, but he has now. He never found needles in front of his house or across the street tucked into the little alley ways, but he has now. He begged to differ with Ms. Stevens's comments that Clean Slate has not affected the neighborhood; it has done something to the neighborhood. Mr. Ferrier stated these are not the most desirable people coming though the neighborhood. He has seen them pass out walking down the street. He stated Clean Slate has impacted the neighborhood in a negative way. He expressed this is not the right place for these facilities. He stated all they want is a safe neighborhood for their kids, which they have and don't want that taken away.

Mr. Raymond Eugenio (22 Ryan Street New Bedford, MA) explained that he has been in the neighborhood for a long time and he takes pride in his neighborhood. He exclaimed the neighborhood has been out done, first it was Doctor Browns with a few doctors, and then more and more doctors. He expressed there wasn't enough parking then and there isn't enough parking now for the patients or the employees. He expressed the hassle for

residents to compete with the employees and patients for parking on Ryan Street. Mr. Eugenio stated he shouldn't have to park half a block away from his home. He described his street as a parking lot for all medical facilities. Mr. Eugenio also expressed concerns for the safety of children walking to school.

Chairperson I. Comerford stated the Board appreciated everyone's comments but at this time the Board would only be taking names and addresses of those in opposition for the record.

Mr. Barry Star (16 Elizabeth Street New Bedford, MA) spoke in opposition to the location. He also stated he believed Mr. Decker should have recused himself from the hearing.

The following were recorded in opposition: Mr. Garry Winterson (50 Carroll Street New Bedford, MA), Michelle Demers (314 Bedford Street New Bedford, MA), James L. Sullivan (92 Brigham Street New Bedford, MA), Peter Cain (60 Carroll Street New Bedford, MA), Dorenda Williams (28 Priscilla Street New Bedford, MA), Helena Conde (79 Ryan Street New Bedford, MA) William O'Brien (52 Carroll Street New Bedford, MA) Pamela Arruda on behalf of her parents Arthur and Margaret Arruda (118 Brigham Street New Bedford, MA), Jennifer and Peter Clark (19 Priscilla Street New Bedford, MA), Michelle Fin (18 Stackhouse New Bedford, MA). A point of order was called by City Planner, Jill Maclean. She requested that the individuals in the room please keep their conversation quiet for now so that names and addresses of those in opposition could be heard and recorded.

Those in opposition continued with: Lisa Gomes for herself and on behalf of her parent Manuel DaSilva (80-82 Plymouth Street New Bedford, MA), Tiffany Larguino on behalf of herself and her parents (74 Ryan Street New Bedford, MA), Pat Winterson (56 Carroll Street New Bedford, MA), Jennifer Frates (77 Tabor Street New Bedford, MA), Kelly Cain (66 Carroll Street New Bedford, MA), Elizabeth O'Brien (52 Ryan Street New Bedford, MA), Kathleen and Paul Burgess (11 Elizabeth Street New Bedford, MA), Janinne and Luke Perry (68 Brownell Street New Bedford, MA), Nicole Brody (77 Carrol Street New Bedford, MA), Dorothy Costa (13 Ryan Street New Bedford, MA), Jessie Andrade (546 Allen Street New Bedford, MA), Sandra Benevides (44 Carroll Street New Bedford, MA), Deb Sikorski (47 Carroll Street New Bedford, MA), Tracy Perry (67-69 Tabor Street New Bedford, MA), Peter Kelly (32 Priscilla Street New Bedford, MA), Dennis Medeiros (26 Ryan Street New Bedford, MA), Erin Costa (31 Plymouth Street New Bedford, MA), Jason Cabral (67 Ryan Street New Bedford, MA), Brian Brum (26 Elizabeth Street New Bedford, MA), Lurdes Grace Walsh (411 Allen Street New Bedford, MA), Robert Carrancho (390 Bedford Street New Bedford, MA), Mike DaSilva (64 Carroll Street New Bedford, MA), Tom Newsham (39 Ryan Street New Bedford, MA), Katelyn Silva (64 Carroll Street New Bedford, MA), David Thatcher (30 Brownell Street New Bedford, MA), Olivia Woodruff (96 Ryan Street New Bedford, MA), Donna Kinney (68 Palmer Street New Bedford, MA), Lisa Pimental (66 Palmer Street New Bedford, MA), Larry Johnson and Cynthia Johnson (20 Priscilla Street New Bedford, MA), Dena and Donna Brasseur (18 Ryan Street New Bedford, MA), Jose Leonardo (95-97 Carroll Street New Bedford, MA), Christine Morrison (31 Brigham

Street New Bedford, MA), Joe DeOliveria (33 Brigham Street New Bedford, MA), Brenda Lord (34 Ryan Street New Bedford, MA) Cheryl Gouveia (115 Brigham Street New Bedford, MA), Kathy and Manuel R. Silva (24 Priscilla Street New Bedford, MA), Dominic Gallotti (37 Ryan Street New Bedford, MA), James Wassal (36 Ryan Street New Bedford, MA), Lucas Gadbois (36 Ryan Street New Bedford, MA), Norma Rodrigues (46 Ryan Street New Bedford, MA), Maria Medeiros (49 Ryan Street New Bedford, MA), Deolinda Harrington (13 Allen Street New Bedford, MA), Marianna Plante (88 Arnold Street New Bedford, MA), Sarah Gonet (604 Whittier Street New Bedford, MA), Jennifer Harrington (413 Allen Street New Bedford, MA), Aaron Mello (33 Brigham Street New Bedford, MA), Grace and William Sullivan (114 Brigham Street New Bedford, MA), Holly DeMello (61 Tabor Street New Bedford, MA), Nicholas Brown (61 Tabor Street New Bedford, MA), Donna Silvia (71-73 Brigham Street New Bedford, MA, owner), Eric Silva (26-27 Brownell Street New Bedford, MA), Leonard Rocha (368 Farm Street and 361 Farm Street New Bedford, MA, owner), Dorothy Ferriera and Acacio C Ferriera (31-33 Ryan Street New Bedford, MA), Carlos Felix (21 Stone Street New Bedford, MA), Antoine DeCruz (Brigham Street New Bedford, MA), Jessica DaSilva (101 Brigham Street New Bedford, MA), Charlene Briggs (Formerly of 69 Brigham Street #2 New Bedford, MA) stated she was evicted for this to happen, Lawrence Ferriera (21-23 Ryan Street New Bedford, MA, owner), James F. Costa (13 Ryan Street New Bedford, MA), Susan Pimentel (17 Ryan Street New Bedford, MA), Leslie Gadbois (36 Ryan Street New Bedford, MA), Elizabeth and Bill Shaughnessy (2 Priscilla Street New Bedford, MA), Katherine Kelley (48 Carroll Street New Bedford, MA, stated owner of one of the abutting properties), Christine Rodrigues (61 Rounds Street New Bedford, MA, formerly 111 Brigham Street New Bedford, MA), Glenn Rodrigues (111 Brigham Street New Bedford, MA), Paul Winterson (56 Carroll Street New Bedford, MA), At Large City Councilor Linda Morad (4162 Acushnet Avenue New Bedford, MA) spoke in opposition and pledged to assist the applicant, if denied, to find a more suitable neighborhood for this clinic. No one else in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

Chairperson I. Comerford offered a five minute rebuttal from the petitioner. Ms. Stevens stated she understands everyone concerns and if the City is willing to work with her to find a more suitable location then she is willing to deny this. She explained she is not trying to hurt anyone but is trying to help people and her intention is not to have the neighborhood upset. Ms. Stevens explained her family background and why she wants to help addicts. Chairperson I. Comerford asked the petitioner if she wished to withdraw her petition. Ms. Stevens expressed she did not wish to withdraw as she needed the denial for legal reasons to have grounds to break her lease.

With no further stated questions or concerns, Chairperson I. Comerford declared the hearing closed.

Chairperson I. Comerford expressed the testimony of the evening had been emotional. He offered the floor for discussion between the Board members. R. Schilling acknowledged the courage of those who spoke in favor of the petition as well as the group of neighbors

who rose together as one to oppose the petition. R. Schilling stated it has to be somewhere. He expressed we might be number two in drug addiction but we're pretty close to number one in public housing and bringing people to New Bedford, and we as a community need to look at the bigger picture. He spoke about his experience working in the court system. R. Schilling stated he believed there is a need for treatment and he believes in the need for residential beds and treatment in the house of correction. He explained he does not believe in suboxone as it has been demonstrated that individuals can get an opioid out of it and it is trafficked, such as the case of Dylann Roof. R. Schilling expressed support for vivitrol, as an opioid blocker. R. Schilling stated he lived downtown and downtown is bearing the burden of the treatment facilities for these individuals. He agreed that in the criteria here, of less detrimental, it does not work in the neighborhood in this case. He expressed his support of programs that take individuals out of their neighborhoods. Chairperson I. Comerford interjected about the forum of Zoning Board meeting being the correct forum for any further discussion. All discussion ceased.

4.) FINDINGS

The Board did not find that the applicant met all the requirements listed under Special Permit under Chapter 9 Comprehensive Zoning Section 2400 (Non Conforming Uses and Structures), 2410 (Applicability), 2420-2422 (Nonconforming Uses), 2430-2432 (Non Conforming Structures, other than Single and Two family Structures), and 5300-5330 & 5360-5390 (Special Permits);

The Board did not find that in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 5320, 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. This determination included consideration of each of the following:

- *Social, economic, or community needs which are served by the proposal;*
 - The Board found the service of the population struggling with addiction an underserved need for that population.
- *Traffic flow and safety, including parking and loading;*
 - The Board found there will be increased flow and need for parking in the area, and parking is already at a premium. Also, they found a concern for safety in general.
- *Adequacy of utilities and other public services;*
 - The Board found that the adequacy of utilities and other public service were neutral as proposed, as existing.
- *Neighborhood character and social structures;*
 - The Board found that this neighborhood is heavily residential and self-described as a close-knit neighborhood that does contain some existing professional offices.

- *Impacts on the natural environment;*
 - The Board found the impacts on the natural environment are neutral, as existing.
- *Potential fiscal impact, including impact on City services, tax base, and employment*
 - The Board found continuing business activity in the City, the continued payment of taxes and utilities. And, a potential for increase in City services needs, for example Police and EMTs.

Additionally, the Board did not find the applicant met the criteria, that such a change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood, as stated in City of New Bedford Code of Ordinances Chapter 9 section 2420-2422.

5.) RELIEF

With respect to the relief requested by the Applicant, the Board was not presented with sufficient information at the hearing to justify the relief described below, subject to the conditions set forth below in Section 6.

The Board denies the Applicant's request for a Special Permit under Chapter 9 Comprehensive Zoning Section 2400 (Non Conforming Uses and Structures), 2410 (Applicability), 2420-2422 (Nonconforming Uses), 2430-2432 (Non Conforming Structures, other than Single and Two family Structures), and 5300-5330 & 5360-5390 (Special Permits); relative to property at 67-69 Brigham Street, Assessor's Map 39 Lot 255 in a Residential-B Zoned District. To allow the petitioner to operate an addiction treatment business as plans filed.

7.) 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 **Denies**, the requested petition for a Special Permit.

On a motion by A. Decker seconded by J. Walsh to grant the requested Special Permit, the vote failed 0-5; with no members voting in the affirmative, I. Comerford, A. Decker, J. Walsh, R. Schilling, H. Tavares, and I. Comerford voting in the negative. (Tally 0-5)

Filed with the City Clerk on:

July 9, 2015

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals