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MAYOR

# CITY OF SALEM, MASSACHUSETTS

## BOARD OF APPEAL

2015 DEC 30 P 1: 16

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FILE #

CITY CLERK, SALEM, MASS.

### December 30, 2015 Decision

### City of Salem Board of Appeals

A public hearing for the petition of 7 HOWARD STREET REALTY TRUST requesting a Special Permit per *Sec. 3.3.3 Nonconforming Structures* of the Salem Zoning Ordinance to extend a nonconforming structure and alter it for a substantially different purpose and Variances seeking relief from *Sec. 4.1.1 Table of Dimensional Requirements* from lot area per dwelling unit, side yard setbacks and a Variance for relief from *Sec 5.1 Table of Parking Requirements* to allow less than the required parking spaces located at 7 HOWARD STREET (AKA 26-30 ST PETER STREET) (Map 35 Lot 180) (R3).

A public hearing on the above Petition was opened on December 16, 2015 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, Mike Duffy, Tom Watkins and Paul Viccica (alternate).

The Petitioner seeks a Special Permit per *Sec. 3.3.3 Nonconforming Structures* of the Salem Zoning Ordinance to extend a nonconforming structure and alter it for a substantially different purpose and Variances seeking relief from *Sec. 4.1.1 Table of Dimensional Requirements* from lot area per dwelling unit, side yard setbacks and a Variance for relief from *Sec 5.1 Table of Parking Requirements* to allow less than the required parking spaces and deviations from parking design requirements.

#### Statements of facts:

1. In the petition date-stamped November 24, 2015, the Petitioner requested a Special Permit per *Sec. 3.3.3 Nonconforming Structures* of the Salem Zoning Ordinance to extend a nonconforming structure and alter it for a substantially different purpose and Variances seeking relief from *Sec. 4.1.1 Table of Dimensional Requirements* from lot area per dwelling unit, side yard setbacks and a Variance for relief from *Sec 5.1 Table of Parking Requirements* and to allow less than the required parking spaces and deviations from parking design requirements to allow vehicles to back into a public way and to allow the existing curbcut that exceeds the maximum of twenty (20') feet to remain.
2. Attorney Scott Grover, presented the petition on behalf of the petitioner.
3. The property subject to this petition is the former Convent of Saint John the Baptist Church and 7 Howard Street Realty Trust entered into a Purchase & Sale Agreement with the Archdiocese of Boston to purchase the property.
4. As part of the Purchase & Sale Agreement, the Archdiocese granted the petitioner a perpetual easement for six (6) parking spaces immediately abutting the subject property with frontage and use of an existing curbcut along Howard Street.
5. The property is located in an R-3 Zoning District (Multi-Family Residential). The petitioner proposes to convert the previously existing Convent into a six (6) residential dwelling units with six (6) on-site parking spaces. The proposed use of a multi-family residential use is allowed by-right.

6. The existing lot area is 6,150 square feet with a building that is over 7,000 square feet. The petitioner requests a Variance from the lot area per dwelling unit of the 3,500 square foot requirement and a Variance for side yard setbacks to accommodate balconies that will encroach further into the already nonconforming setbacks.
7. The petitioner testifies that four (4) residential dwelling units would not be financially viable as the site requires extensive utility work to disconnect the building from the church school building, install new utility connections and rehabilitate the solid concrete block structure. Therefore, the petitioner is proposing to construct six (6) residential dwelling units.
8. The petitioner testifies that the proximity of the site to the train station, municipal parking lot and demographic of potential residents for smaller units, it is likely that not all residents will need parking.
9. The requested relief, if granted, would allow the petitioner to extend a nonconforming structure and alter it for a substantially different purpose from a Convent to a multi-family residential dwelling with six (6) units within an existing dimensionally non-conforming structure and allow less than the required parking spaces and deviations from parking design requirements to allow vehicles to back into a public way and to allow the existing curbcut that exceeds the maximum of twenty (20') feet to remain.
10. At the public hearing, eight (8) members of the public spoke in support and one (1) member of the public spoke in opposition to the petition.

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, makes the following **findings**:

**Findings for Special Permit:**

1. The proposed extension of a nonconforming structure and alter it for a substantially different purpose from a Convent to a multi-family residential dwelling with six (6) units would not be more substantially detrimental than the existing non-conforming structure to the impact on the social, economic or community needs served by the proposal.
2. There are no impacts on traffic flow and safety, including parking and loading.
3. The capacity of the utilities is not affected by this project.
4. There are no impacts on the natural environment, including drainage.
5. The proposal conforms to the existing neighborhood character.
6. The potential fiscal impact, including impact on the City tax base is positive.

**Findings for the Variances:**

1. Special conditions and circumstances that especially affect the land, building, or structure involved, generally not affecting other lands, buildings, and structures in the same district is that the structure is a 7,000 square foot building that occupies the entire lot with no opportunity to create parking on the lot.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant it would prevent any use of the property and the literal enforcement of the lot area per

dwelling unit requirement would only permit one unit, which is not a possible alternative for the use of this property.

3. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance.

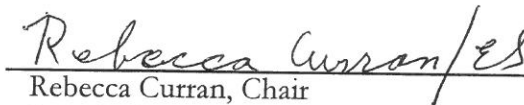
On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Rebecca Curran (Chair), Peter A. Copelas, Mike Duffy, Tom Watkins and Paul Viccica (alternate) and none (0) opposed, to approve the requested Special Permit per Sec. 3.3.3 Nonconforming Structures of the Salem Zoning Ordinance to extend a nonconforming structure and alter it for a substantially different purpose and Variances seeking relief from Sec. 4.1.1 Table of Dimensional Requirements from lot area per dwelling unit, side yard setbacks and a Variance for relief from Sec 5.1 Table of Parking Requirements to allow less than the required parking spaces subject to the following **terms, conditions and safeguards**:

**Standard Conditions:**

1. Petitioner shall comply with all city and state statues, 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 finished of the new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.

**Special Condition:**

1. Through the condominium association, the applicant will obtain three (3) parking passes at the Museum Place parking garage.

  
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.*