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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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2015 SEP 30 P 2: 20

FILE #
CITY CLERK, SALEM, MASS.

September 30, 2015

Decision

City of Salem Board of Appeals

Petition of BLUE WATERS VERO, LLC, seeking Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements for minimum lot area and minimum lot area per dwelling unit and Sec. 5.1 Off-Street Parking Requirements of the Salem Zoning Ordinance to allow the conversion of a single-family dwelling unit to a two-family dwelling unit and associated parking at the property of 11 HERBERT STREET (Map 35 Lot 320)(R2 Zoning District).

A public hearing on the above Petition was opened on September 16, 2015 pursuant to M.G.L. Ch. 40A, § 11. and closed on this date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Copelas, Mr. Watkins, Mr. Tsitsinos and Mr. Viccica.

The Petitioner seeks Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements for minimum lot area and minimum lot area per dwelling unit and Sec. 5.1 Off- Street Parking Requirements of the Salem Zoning Ordinance to allow the conversion of a single-family dwelling unit to a two-family dwelling unit.

Statements of fact:

1. In the petition date-stamped August 25, 2015, the Petitioner requested Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements for minimum lot area and minimum lot area per dwelling unit and Sec. 5.1 Off- Street Parking Requirements of the Salem Zoning Ordinance to allow the conversion of a single-family dwelling unit to a two-family dwelling unit.
2. Attorney Mcgloin presents the petition on behalf of the applicant.
3. The property was at one time used as a two (2) family dwelling unit and has since been converted, at the request of previous owners, to a single family home.
4. The property is currently used as a single-family home, but is divided as a two family and is separately metered for two (2) units.
5. The lot size is 2,657 square feet. The zoning ordinance requires a minimum lot size of 15,000 square feet in an R2 Zoning District and also requires a minimum lot area per dwelling unit of 7,500 square feet.
6. No changes to the existing building footprint are proposed.
7. The petitioner proposes parking plans with two (2) parking spaces. The parking requirements per the Salem Zoning Ordinance for a residential use are 1.5 parking spaces per dwelling unit.
8. The petitioner recently bought the home through an estate sale and bought it as a single-family home.
9. The petitioner states that without relief from the Zoning Ordinance there would be a substantial financial hardship incurred.

10. The requested relief, if granted, would allow the Petitioner to convert a single-family dwelling unit to a two-family dwelling unit with associated parking.
11. At the public hearing one (1) member of the public spoke in opposition to, the petition and no members of the public spoke in support of 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, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project does not meet the provisions of the City of Salem Zoning Ordinance:

Findings for Variances:

1. There are no presented 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.
2. Literal enforcement of the provisions of the Ordinance would not create a substantial and unique hardship to the petitioner as a financial hardship caused by the petitioner does not meet the standard requirements of a legitimate hardship and does not directly correlate with any unique circumstances that especially affect the land, building or structure involved.
3. The desired relief may not be granted without nullifying or substantially derogating from the intent of the district or purpose of the City of Salem Zoning Ordinance.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted one (1) in favor (Mr. Tsitsinos) and four (4) opposed (Ms. Curran, Mr. Copelas, Mr. Viccica, Mr. Watkins), to grant Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements for minimum lot area and minimum lot area per dwelling unit and Sec. 5.1 Off- Street Parking Requirements of the Salem Zoning Ordinance to allow the conversion of a single-family dwelling unit to a two-family dwelling unit and associated parking,

THE PETITION IS DENIED.


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.