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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
CITY CLERK, SALEM, MASS.

September 9, 2015

Decision

City of Salem Board of Appeals

Petition of SHETLAND PARK seeking Variances from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for relief from front yard depth and lot coverage to construct a 12,835 square foot Athletic & Arts Center for lease to Salem Academy Charter School at the property located at 16 LYNCH STREET (Map 34 Lot 182) (R3).

A public hearing on the above Petition was opened on August 19, 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: Mike Duffy (Acting Chair), James Tsitsinos, Tom Watkins, Paul Viccica (alternate), and James Hacker (alternate).

The petitioner is seeking Variances from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for relief from front yard depth and lot coverage to construct a 12,835 square foot building.

1. In the petition date-stamped July 28, 2015, the Petitioner requested a Variances seeking relief from *Sec. 4.1.1 Table of Dimensional Requirements* from minimum front yard setback and maximum lot coverage to construct a new 12,835 square foot building.
2. Attorney Mihos of Tinti, Quinn, Grover and Frey presents the petition on behalf of the applicant.
3. The applicant recently applied and received variances for an Athletic and Arts Center to be located at 29 Congress Street. After analysis regarding flooding, the applicant has returned to the Zoning Board of Appeals to request variances for relief from minimum front yard setback and maximum lot coverage for an alternative location at 16 Lynch Street.
4. The proposed building is a single-story 12,835 square foot Athletic and Arts Center oriented with frontage on Lynch Street.
5. The proposed building setback is eight (8) feet on Lynch Street.
6. With the construction of a new building, the lot coverage will increase to 46.1%.
7. The building will be leased to the Salem Academy Charter School to be used for a new athletic and arts center.
8. The requested relief, if granted, would allow the Petitioner to reduce the setback from the required 30 feet to between three (3) and eight (8) feet and to allow a total of forty-one (46.1%) lot coverage that exceeds the maximum allowable lot coverage of thirty-five (35%).
9. At the public hearing four (4) members of the public spoke in favor of and none (0) 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, 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 Variance:

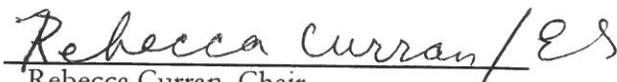
1. Special conditions and circumstances that especially affect the land, building or structure generally not affecting other lands, buildings or structures in the same district is that Shetland Park is the size, age and density of the existing industrial-age buildings and location in a floodplain are special conditions affect the land that generally do not affect other lands, buildings or structures in the same district.
2. The literal enforcement of the provisions of the Ordinance would involve substantial hardship because the existing buildings that were built in 1914 are uniquely solid construction with steel and thick concrete to withstand fire and are expensive to maintain and/or renovate and the previously proposed location of the building was within a floodplain that would pose a substantial hardship to the applicant as the site is not suitable.
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 (Mike Duffy (Acting Chair), James Tsitsinos, Tom Watkins, Paul Viccica (alternate), and James Hacker (alternate) and none (0) opposed, to grant Variances, to allow a reduction minimum front yard and increase in maximum lot coverage of the Salem Zoning Ordinance to construct a 12,835 square foot building, **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. A Certificate of Occupancy shall be obtained.
6. A Certificate of Inspection shall be obtained.
7. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Condition:

1. The use of the facility is only for an exempt educational use.


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.