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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY OF SALEM, MASS

August 3, 2016

Decision

City of Salem Board of Appeals

Petition of 2 PARADISE ROAD LLC seeking Special Permits per Sec. 3.3.3 and 3.3.4 *Nonconforming Structures* of the Salem Zoning Ordinance to extend an exterior wall along the same non-conforming distance within a required yard and extend a non-conforming structure to allow an addition to Vesuvius restaurant located at 2 PARADISE ROAD & 539 LORING AVE (Map 21 Lot 231; Map 21 Lot 232) (B2 & Entrance Corridor Overlay).

A public hearing on the above Petition was opened on July 20, 2016 pursuant to M.G.L. Ch. 40A, § 11 and closed on this date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, Jimmy Tsitsinos, Paul Viccica (alternate).

The petitioner is seeking Special Permits per *Sec. 3.3.3 and 3.3.4 Nonconforming Structures* of the Salem Zoning Ordinance to extend an exterior wall along the same non-conforming distance within a required yard and extend a non-conforming structure to allow an addition to the existing restaurant.

Statements of fact:

1. In the petition date-stamped June 28, 2016, the Petitioner requested Special Permits per *Sec. 3.3.3 and 3.3.4 Nonconforming Structures* of the Salem Zoning Ordinance to extend an exterior wall along the same non-conforming distance within a required yard and extend a non-conforming structure to allow an addition to the existing restaurant.
2. Attorney Correnti presents the petition.
3. The petitioner is seeking zoning relief to allow for the construction of an addition onto the current building located at 2 Paradise Road.
4. The property is located in a B2 Business Highway Zoning District.
5. The proposed use of the property is a dessert/coffee shop on the first floor with office space on the second floor. Both proposed uses are allowed by-right in the B2 (Business Highway) Zoning District.
6. There is a condemned single family house located at 539 Loring Avenue, which will be demolished.
7. The restaurants will be owned and operated by the same family.
8. The petitioner is proposing to expand the existing Vesuvius restaurant along Loring Avenue. The minimum front and rear yard setbacks in the B2 District are 30' feet.
9. The existing building along Loring Avenue is 2.2' feet from the lot line and is a pre-existing nonconforming building. The proposed addition will extend a non-conforming structure along the existing wall, 2.2' feet from the lot line.
10. The petitioner is proposing thirty (30) parking spaces where twenty-four (24) parking spaces are required.

11. At the public hearing no members of the public spoke in favor of and no members 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 Special Permits:

1. The proposed change or extension of a non-conforming structure 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 the project.
4. There are no impacts on the natural environment, including drainage.
5. The proposal conforms to the existing neighborhood character in the business district.
6. The potential fiscal impact, including impact on the City tax base is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (Rebecca Curran (Chair), Peter A. Copelas, Jimmy Tsitsinos, Paul Viccica (alternate) in favor and none (0) opposed, to extend an exterior wall along the same non-conforming distance within a required yard and extend a non-conforming structure to allow an addition to Vesuvius restaurant allow the subject to the following **terms, conditions and safeguards**:

Standard:

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 the 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 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.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

10. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.


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.