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CITY CLERK
SALEM, MASS

November 1, 2017

Decision

City of Salem Board of Appeals

Petition of 3 UNIT CONDO CONVERSION LLC, seeking a Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change non-conforming use of a building with two (2) residential units and one (1) commercial unit to three (3) residential units at the property of 19 NORTH STREET (Map 26 Lot 493)(R2 Zoning District).

A public hearing on the above Petition was opened on September 20, 2017 pursuant to M.G.L. Ch. 40A, § 11 and continued on that date to the next regularly scheduled meeting on October 18, 2017. The hearing was closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas (Vice-Chair), Tom Watkins, Jimmy Tsitsinos, and Paul Viccica (alternate).

The petitioner is seeking a Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change non-conforming use from a building with two (2) residential units and one (1) commercial unit to three (3) residential units.

Statements of fact:

1. In the petition date-stamped August 23, 2017, the Petitioner requested a special permit Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change non-conforming use from a building with two (2) residential units and one (1) commercial unit to three (3) residential units.
2. At the public hearing on September 20, 2017, the petitioner requested to continue to the next regularly scheduled meeting on October 18, 2017. No testimony was heard at the September 20, 2017 meeting.
3. Attorney Jeff Shribman presented the petition.
4. The property is divided into three- condominiums including two (2) residential units and one (1) first floor commercial unit and is a non-conforming use in an R-2 Zoning District.
5. The building has been a condominium with three (3) units for over twenty (20) years.
6. The first floor commercial unit is occupied by a one (1) person law firm.
7. The petitioner is proposing to convert the building to three (3) residential units, by converting the first floor commercial space to a first floor residential use. The two (2) existing residential units are currently owned by residents.
8. There is no new exterior construction, expansion or alteration proposed as part of this proposal.
9. There are nine (9) existing parking spaces including two (2) deeded parking spaces for each of the existing units and three (3) additional guest parking spaces.
10. The Board raised concerns about the existing impervious surface and nine (9) parking spaces.

11. The applicant does not have the legal ability to change the number of parking spaces or landscape the rear of the property as the property is owned and managed by a condominium association. The condominium association may opt to provide open space amenities at a later date.
12. The petitioner marketed the first floor commercial space for commercial space for quite some time. According to the petitioner, the market for commercial space at this property was not in demand.
13. The requested relief, if granted, would allow the petitioner to change non-conforming use from a building with two (2) residential units and one (1) commercial unit to three (3) residential units.
14. At the public hearing, one (1) member of the public spoke in opposition to the petition and none (0) spoke favor 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**:


Special Permit Findings:

1. There are social, economic and community needs served by the proposal
2. There will be no impacts to traffic flow and safety, including parking and loading
3. There will be no impact to the adequacy of utilities and other public services
4. There will be no impacts on the natural environment, including drainage
5. The proposal fits with the existing character of the neighborhood.
6. The potential fiscal impact, including impact on City and tax base and employment is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (4) in favor (Peter A. Copelas (Vice-Chair), Tom Watkins, Jimmy Tsitsinos, and Paul Viccica (alternate) and none (0) opposed, to grant a Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change non-conforming use from a building with two (2) residential units and one (1) commercial unit to three (3) residential units in accordance with the submitted plans subject to the following **terms, conditions and safeguards**:

Standard Conditions:

1. 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 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.



Peter A. Copelas (Vice-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.