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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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June 1, 2016

Decision

City of Salem Board of Appeals

Petition of JACK and PATRICIA BURNS, seeking a Special Permit per Sec. 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance, to allow a change from a nonconforming two (2) family structure to a three (3) family structure at the property of 21 OCEAN AVE (Map 33 Lot 689)(R-1 Zoning District).

A public hearing on the above Petition was opened on May 18, 2016 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Tom Watkins, Mike Duffy, Jimmy Tsitsinos, Paul Viccica (alternate) and James Hacker (Alternate).

The petitioner is seeking a Special Permit from the provisions of *Sec. 3.3.2 Nonconforming Uses* of the Salem Zoning Ordinance to allow a change from a nonconforming two (2) family structure to a three (3) family structure.

Statements of fact:

1. In the petition date-stamped April 26, 2016, the Petitioner requested a Special Permit per *Sec. 3.3.2 Nonconforming Uses* of the Salem Zoning Ordinance to allow a change from a nonconforming two (2) family structure to a three (3) family structure.
2. Attorney Atkins presented the petition on behalf of the petitioner.
3. The subject property is located in a R-1 Zoning District
4. In 1999, when the property was purchased by the petitioners, it was a non-conforming three (3) family dwelling. The property owners, then reduced the number of dwelling units to have a non-conforming two (2) family dwelling. The petitioner proposed to convert the property back into a non-conforming three (3) family dwelling.
5. There are no exterior structural changes proposed to the building.
6. There are five (5) existing parking spaces that meet the parking requirements of the Zoning Ordinance. Parking spaces will be accessed by an existing curbcut along Cliff Street.
7. The requested relief, if granted, would allow the Petitioner to allow the change from one nonconforming use of a candy factory to another nonconforming use of residential dwelling units.
8. At the public hearing three (3) members of the public spoke in favor of and none (0) spoke in opposition to the petition.

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CITY CLERK SALEM, MASS.

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 Permit

The proposed change in use is not substantially more detrimental to the neighborhood than the existing nonconforming use.

1. The proposed change in use would not be more substantially detrimental than the existing non-conforming structure to the impact on the social, economic or community needs.
2. There are no negative impacts on traffic flow and safety, including parking and loading as there are five (5) existing parking spaces, which meets the parking requirements of the Zoning Ordinance.
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 improves neighborhood character as the property was a three (3) family dwelling and there are many multi-family dwelling units in the neighborhood.
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 five (Tom Watkins, Mike Duffy, Jimmy Tsitsinos, Paul Viccica (alternate) and James Hacker (Alternate) in favor and none (0) opposed, to grant a Special Permit from the provisions of *Sec. 3.3.2 Nonconforming Uses* of the Salem Zoning Ordinance to allow a change from a nonconforming two (2) family structure to a three (3) family structure 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. Exterior finishes of new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy shall be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.


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.