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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

November 1, 2017

Decision

City of Salem Board of Appeals

Petition of VAVEL LLC seeking a special permit per *Sec. 7.1 Multifamily Development* and variances per *Sec. 7.1.2 Multifamily Development Standards* of the Salem Zoning Ordinance, to allow a five-story multi-family development, consisting of twenty (20) units, within 53 feet of an adjacent structure at 602 LORING AVE (Map 20, Lot 11)(R-3 Zoning District).

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

The petitioner VAVEL LLC is seeking a special permit per *Sec. 7.1 Multifamily Development* and variances per *Sec. 7.1.2 Multifamily Development Standards* of the Salem Zoning Ordinance, to allow a five-story multi-family development, consisting of twenty (20) units, within 53 feet of an adjacent structure.

Statements of fact:

1. In the petition date-stamped August 28, 2017, the Petitioner requested a VAVEL LLC seeking a special permit per *Sec. 7.1 Multifamily Development* and variances per *Sec. 7.1.2 Multifamily Development Standards* of the Salem Zoning Ordinance, to allow a five-story multi-family development, consisting of twenty (20) units, within 53 feet of an adjacent structure.
2. The following present the petition: Attorney Scott Grover of Tinti, Quinn, Grover and Frey; Peter Pitman, Principal Architect of Pitman & Wardley Associates LLC; Scott Cameron, Civil Engineer, of Morin- Cameron Group, Inc.
3. The petitioner, Vavel, Inc., is the owner of the property, which had formerly been used as a child care center.
4. The property is located in an R-3 Zoning District. The Salem Zoning Ordinance allows a multi-family development in an R-3 Zoning District, by special permit, for twenty (20) or more dwelling units as allowed by section 7.1 Multifamily Development regulations of the ordinance.
5. The petitioner is proposing to demolish the existing building on the property and to construct a five (5) story building consisting of twenty (20) apartment units.
6. The petitioner is proposing thirty-one (31) parking spaces arranged under the building and within a surface parking area. The petitioner meets the parking requirements by providing slightly more than 1.5 parking spaces per dwelling unit.
7. As shown in the site plans submitted dated, September 20, 2017, some of the existing and proposed surface parking spaces are located off of the privately owned property in an area that is part of the layout of Loring Avenue. The land reserved for the layout of Loring Avenue exceeds the land that was actually used for the road. The petitioner is working with the City to secure a permanent easement to allow the private use of this portion of land for the benefit of providing parking for the proposed development.

8. As defined in section 7.1 Multifamily Development of the Salem Zoning Ordinance, there are dimensional requirements, parking requirements, and use requirements of this section. In addition to the special permit request to construct a twenty (20) unit building.
9. As defined in section 7.1 Multifamily Development, the allowable lot area per dwelling unit is 1,000 square feet for each dwelling unit. The petitioner is proposing a density of 1,250 square feet per unit, which complies with the density requirements of the zoning ordinance.
10. The petitioner is requesting a variance from the provisions of section 7.1 Multifamily Development, to allow a five (5) story structure where the requirements allow a three (3) story structure.
11. The petitioner is requesting a variance from the provisions of section 7.1 Multifamily Development, to allow the building height to be 49.6' feet where the 35' feet are required. This height requirement is less than what is allowed in the underlying R-3 Zoning District. The petitioner is proposing a building height of 49.6' feet to allow for the petitioner to locate the required parking under the building. If the Board literally enforced the height requirement for number of stories and number of feet required, there is no feasible alternative location of the parking due to the unique shape and topography of the site.
12. The existing multi-family building on Carol Way has a height of 59.5' feet. The petitioner is proposing to construct a multi-family building that is shorter in height than the existing adjacent building. Further, the petitioner is proposing to regrade the site, such that the proposed structure will also not appear to be taller than the existing adjacent structure.
13. The petitioner is requesting a variance from the provisions of section 7.1 Multifamily Development, to allow the buffer from the building on the adjacent lot and the proposed building to be less than 75' feet from the existing adjacent structure. The petitioner is proposing a buffer of 53.8' feet from the adjacent structure.
14. The petitioner states that the adjacent apartment building received many dimensional variances to be constructed and the building is located within the 75' foot buffer requirement from the proposed building footprint. The combination of the unique lot shape and topographical challenges of 602 Loring Avenue, and the location of the already existing adjacent apartment building hinder the ability for the petitioner to construct a density that the zoning ordinance would otherwise allow the petitioner to achieve. Further, if the petitioner constructed the allowable density and maintain the required 75' foot buffer, the building height would be increased.
15. In an R-3 Zoning District, the setback requirements are ten (10) feet from the lot line. There would be twenty (20) feet from structure to structure. In this proposal, the petitioner is proposing fifty-three (53') feet of space.
16. The petitioner states that the proposal fits with the existing character of the neighborhood. The petitioner is proposing to restore the use of the property to fit the intent of the underlying zoning district to provide housing rather than the previous commercial use. Further, the petitioner is proposing twenty (20) dwelling units, where the adjacent residential structure has over sixty (60) units. The proposed height of the building is also shorter than the existing adjacent residential structure.
17. Scott Cameron, Civil Engineer, of Morin- Cameron Group, Inc. presents the existing and proposed site conditions. The parcel is situated back up off of Loring Avenue with a twelve (12) foot grade change from Loring Ave to the site. The site also slopes another additional ten (10) feet. The parking existing parking area has a steep grade change as well.
18. The existing topography, grade changes and shape of the lot all affect the design and height of the proposed building and parking layout.

19. The petitioner is proposing to utilize the same location of the entrance and exit drive, but plans to propose substantial improvements by creating a more conventional curbcut and narrowing the driveway such that cars cannot utilize the adjacent emergency egress as a way to cut across the driveway. The petitioner would like to separate their proposed driveway and the adjacent emergency egress to improve traffic circulation and safety.
20. The petitioner is proposing to significantly change the slope of the driveway by reducing the grade from a 10-15% slope to a 2-4% slope. The proposed 2% slope on the parking area will go all the way back.
21. The proposed building will be placed five (5) feet lower than the existing structure on the property by re-grading the site and the orientation of the building is not square to the frontage of the property due to the unusual shape of the lot.
22. Peter Pitman, architect, Pitman & Wardley Associates LLC- presents elevation plans of the proposal. The petitioner is proposing twenty (20) parking spaces under the proposed building and an outdoor parking area with eleven (11) spaces. The petitioner is proposing 1,200 to 1,500 square feet per unit. All of the apartments are two (2) bedroom and two (2) bathroom units.
23. The trash disposal is proposed to be located in the back corner such that a truck can circulate in an out. Currently, the dumpster for the existing structure is located along the front of the property.
24. The project proposal is subject to review of the Planning Board and will undergo more rigorous examination as to traffic flow and safety, grading, stormwater management, and civil review. The petitioner is confident in meeting the technical standards of the Planning Board.
25. The mechanical systems will be centrally located on the roof and not be visible from the street.
26. The Board expressed major concern about the safety and circulation of the existing wide expanse of asphalt that serves as an egress for 602 Loring and also serves as a fire egress for the adjacent property.
27. The project team plans to continue to design and engineer the driveway to control and facilitate and direct slower traffic. The petitioner is initially proposing a landscaped island to divide this paved expanse to narrow the driveway to twenty-four (24) feet wide. Other mitigations measures are proposed. The petitioner proposed to work with the Salem Fire Department to ensure that the redesigned driveway and fire lane continue to provide adequate fire truck access. Further, the visibility from Loring Avenue will be improved because the petitioner is proposing to reduce some of the ledge along the front of the property. The Board continues to be concerned about the width of the existing driveway and emergency lane and sightlines for a safe intersection between Loring Avenue and the property.
28. Scott Cameron states that proposed apartment trip generation is one of the lowest traffic generators. The anticipated trip generation from these apartment units is five (5) trips per dwelling unit per hour and peak hours are between 6am-10am and 5pm-8pm during the week. It is anticipated that there may be more trips per hour on the weekends, but spread out over the day and peak demand is anticipated around 12pm. The location of this building is in close proximity to shopping and connected walkways that allow people to walk to amenities. Compared to the previous commercial day care use, this residential use generates fewer trips.
29. The Board discusses that there are crosswalks on Loring Avenue located to the right and the left of the proposed residential property.

30. The petitioner proposes that the stormwater will be managed by connecting to the City's sewer. If there are additional requirements the petitioner will meet them. The petitioner also plans to conduct soil boring to better understand the stormwater management for mitigation.
31. The petitioner is proposing an easement with the City that is approximately forty (40) feet deep and along the entire length of the property frontage. The petitioner plans to utilize this space for seven (7) parking spaces and also improve this land by cleaning up the overgrowth of the site and some grading adjustments.
32. Tom St. Pierre- Building Inspector, states that the adjacent property needed a second means of providing emergency access to the site. The fire department will have an opportunity to comment on this project through a site plan review.
33. The Board requested that the petitioner also provide ADA compliant sidewalks and crosswalks through the proposed driveway to continue pedestrian amenities across the redesigned driveway and fire lane.
34. The petitioner states that there will be anticipated blasting on this site. Any blasting activities are regulated by the state and local fire department. The neighbors will be notified by the blasting company and inspect properties with a pre-blast survey. Abutters within 300' feet will be notified of this activity.
35. At the public hearing, two members of the public spoke. One member of the public asked questions with no expression of support or objection. A second member 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, makes the following **findings**:

Special Permit Findings:

The Board finds that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood.

1. There are social, economic and community needs served by the proposal as the building is providing new housing units in the City.
2. The existing negative conditions of traffic flow and safety in and out of the site will be improved and the proposed parking and loading are adequate.
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 as the petitioner is proposing to locate parking under the building and reduce the amount of impervious surface on the property.
5. The proposal fits with the character of the neighborhood compared to the adjacent larger buildings and adjacent apartment building.
6. The potential fiscal impact, including impact on City and tax base and employment is positive.

Variance Findings:

1. Special conditions and circumstances that especially affect the land, building, or structure involved, generally not affecting other lands, buildings or structures in the same district is the unusual shape of the property. The property is shaped like a baseball field with the wider part along the frontage of Loring Ave. with a severe taper to the rear of the parcel. The land also has significant grade changes that make the redevelopment of the parcel limited. These physical and unique conditions of this parcel restrict the location of the building envelope.
2. The combination of the unique lot shape and topographical challenges of 602 Loring Avenue, and the location of the already existing adjacent apartment building hinder the ability for the petitioner to construct a density that the zoning ordinance would otherwise allow the petitioner to achieve.
3. Desirable relief may be granted without substantial detriment to the public good, and without nullify 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 four (4) in favor (Peter A. Copelas (Vice-Chair), Tom Watkins, Jimmy Tsitsinos, and Paul Viccica (alternate) and none (o) opposed, to grant a special permit per *Sec. 7.1 Multifamily Development* and variances per *Sec. 7.1.2 Multifamily Development Standards* of the Salem Zoning Ordinance, to allow a five-story multi-family development, consisting of twenty (20) units, within 53 feet of an adjacent structure subject to the following **terms, conditions and safeguards:**

Standard Conditions:

1. Petitioner shall comply with all city and state statues, 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.

Special Conditions:

1. The petitioner shall secure an easement with the City of Salem to allow the private use of this portion of land for the benefit of providing parking for the proposed development.
2. All HVAC units shall be located on the roof of the property and shall be screened.
3. The petitioner shall provide recycling at the property and shall provide adequate space for a recycling dumpster.


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.