



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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120 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970

TELE: 978-745-9595 ♦ FAX: 978-745-9846
FILE #
CITY CLERK, SALEM, MASS.

November 2, 2016

Decision

City of Salem Board of Appeals

Petition of 139 GROVE STREET REALTY TRUST requesting Variances from the provisions of the Salem Zoning Ordinance *Sec. 8.4.5* to allow the distance between adjacent residential lots to be less than the required 100' ft.; *Sec. 8.4.9 Parking Requirements* to allow less than the required on-site parking; *Sec. 8.4.13 Transitional Overlay District* to allow less than the required 50' buffer area, and *Sec. 4.1.1 Table of Dimensional Requirements* for minimum lot area per dwelling unit to construct a new residential development at 70-92 ½ BOSTON STREET (Map 15, Lot 299 & Map 16, Lot 139) (NRCC, R-2, B-2)

A public hearing on the above Petition was opened on October 19, 2016 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Duffy, Mr. Copelas, Mr. Watkins, Mr. Tsitsinos.

The Petitioner seeks Variances requesting relief from the provisions of the Salem Zoning Ordinance *Sec. 8.4.5* to allow the distance between adjacent residential lots to be less than the required 100' ft.; *Sec. 8.4.9 Parking Requirements* to allow less than the required on-site parking; *Sec. 8.4.13 Transitional Overlay District* to allow less than the required 50' buffer area, and *Sec. 4.1.1 Table of Dimensional Requirements* for minimum lot area per dwelling unit to construct a new residential development.

Statements of fact:

1. Attorney Correnti presented the petition on behalf of the applicant.
2. In the petition date-stamped September 27, 2016, the Petitioner requested Variances requesting relief from the provisions of the Salem Zoning Ordinance *Sec. 8.4.5* to allow the distance between adjacent residential lots to be less than the required 100' ft.; *Sec. 8.4.9 Parking Requirements* to allow less than the required on-site parking; *Sec. 8.4.13 Transitional Overlay District* to allow less than the required 50' buffer area, and *Sec. 4.1.1 Table of Dimensional Requirements* for minimum lot area per dwelling unit to construct a new residential development.
3. The petitioner proposes to construct two (2) new buildings consisting of a total of fifty (50) dwelling units and a 736 square foot commercial space.
4. The project site is a combination of small parcels located at 70-92 ½ Boston Street in the NRCC zone, with a portion of the site in the B2 and R2 zones.
5. The site also falls within the Transitional Overlay District (TOD) of the NRCC and the Entrance Corridor Overlay District (ECOD).
6. The proposed project was reviewed and approved by the Planning Board, Design Review Board and Conservation Commission. The site plan was peer reviewed for traffic and civil analysis.

7. The property is an existing brownfield site. The petitioner is proposing to clean up the brownfield site and redevelop it for resident and commercial uses, which are compatible with the NRCC zone.
8. The petitioner testified that due to the cost of the brownfields cleanup and the unique topographical features of the site, the project would not be feasible without the requested relief.
9. The petitioner testified that the property is unique as to shape as the site has frontage on three (3) streets including Boston, Beaver and Goodhue Streets. The property also wraps around a parking lot owned by the City of Salem at the corner of Beaver Street and Goodhue Street. The unique shape of the site impacts the design of pedestrian and vehicular access.
10. The petitioner provided evidence that the property is unique as to topography as there is a steep slope of approximately twenty five (25) feet from Boston Street down to Goodhue Street. There is also a significant slope along Boston Street toward the intersection of Bridge Street and Goodhue Street. The topography presents many design challenges which affect the configuration and location of the buildings.
11. The petitioner is requesting relief from the provisions of the Salem Zoning Ordinance *Sec. 8.4.5* to allow the distance between adjacent residential lots to be less than the required 100' feet. The building is located 89' feet from the property line of an adjacent residential lot. The unique topography of the property does not allow the corner of the building to be moved as it would be located in a fire lane and negatively impact pedestrian access.
12. The petitioner is requesting relief from the provisions of the Salem Zoning Ordinance *Sec. 8.4.13 Transitional Overlay District* of the NRCC to allow less than the required 50' buffer area. The petitioner is proposing parking, a tiered retaining wall and a small piece of the proposed townhouse structure to be located within the 50' foot buffer.
13. The petitioner is requesting relief from the provisions of the Salem Zoning Ordinance *Sec. 8.4.9 Parking Requirements* to allow less than the required on-site parking. The petitioner is proposing 96 parking spaces where 105 are required. Specifically, the NRCC requires two (2) parking spaces per dwelling unit and one (1) parking space per 150 Gross Square Feet for commercial retail. Through Site Plan Review conducted by the Planning Board, the traffic peer reviewer deemed an existing curbcut on Beaver Street as not feasible or safe. The location of the curbcut and some parking spaces needed to be eliminated to provide safe site circulation and access. Due to the size, shape and topography of this unique lot, there is no other feasible option to lay out this development. Further, the petitioner testifies that there is great good to the City and the neighborhood with the redevelopment of this site in comparison to its current condition as a deteriorated industrial brownfield that is located at an entrance to our City.
14. The petitioner is requesting relief from the provisions of the Salem Zoning Ordinance *Sec. 4.1.1 Table of Dimensional Requirements* for minimum lot area per dwelling unit to construct a new residential development. The petitioner is proposing to construct 50 dwelling units of which five (5) units will be affordable dwelling units as granted by Special Permit by a Planning Board density bonus allowed in the NRCC. The property size is approximately 1.68 acres, which would allow the petitioner to construct approximately twenty (20) residential units as of right. The petitioner testifies that the by-right density is not feasible due to unique construction and brownfield cleanup costs associated with the site.

15. The requested relief, if granted, would allow the distance between adjacent residential lots to be less than the required 100' ft.; allow less than the required on-site parking; allow less than the required 50' buffer area, and allow the construction of a new residential development.
16. At the public hearing no members of the public spoke in favor of, or 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 Variances:

1. Special conditions and circumstances that especially affect the land, building, or structure involved generally not affecting other lands, buildings and structures in the same district include the fact that the property is a brownfield site and that there is a steep slope of approximately twenty five (25) feet from Boston Street down to Goodhue Street. There is also a significant slope along Boston Street toward the intersection of Bridge Street and Goodhue Street. Further, the property is unique as to shape as the site has frontage on three (3) streets including Boston, Beaver and Goodhue Streets.
2. Literal enforcement of the provisions of the Ordinance would create a substantial and unique hardship for the following reasons: 1) As to *Sec. 8.4.5* to allow the distance between adjacent residential lots to be less than the required 100' feet, the building is located 89' feet from the property line of an adjacent residential lot. The unique topography and shape of the property does not allow the corner of the building to be moved as it would be located in a fire lane and negatively impact pedestrian access. 2) As to *Sec. 8.4.13 Transitional Overlay District* of the NRCC to allow less than the required 50' buffer area. The petitioner is proposing parking, a tiered retaining wall and a small piece of the proposed townhouse structure to be located within the 50' foot buffer due to the topography and shape of the lot 3) As to *Sec. 8.4.9 Parking Requirements* to allow less than the required on-site parking the proposed plan is the site configuration that provides safe access and circulation. The unique shape of the site impacts the design of pedestrian and vehicular access. 4) *Sec. 4.1.1 Table of Dimensional Requirements* for minimum lot area per dwelling unit to construct a new residential development. The by-right density is not feasible due to unique demolition, construction and brownfield cleanup costs associated with the site.
3. The desired relief may be granted without nullifying or substantially derogating from the intent of the district or purpose of the City of Salem Zoning Ordinance.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Ms. Curran, Mr. Copelas, Mr. Duffy, Mr. Watkins, Mr. Tsitsinos in favor) and none (0) opposed, to grant Variances requesting relief from the provisions of the Salem Zoning Ordinance *Sec. 8.4.5* to allow the distance between adjacent residential lots to be less than the required 100' ft.; *Sec. 8.4.9 Parking Requirements* to allow less than the required on-site parking; *Sec. 8.4.13 Transitional Overlay District* to allow less than the required 50' buffer area, and *Sec. 4.1.1 Table of Dimensional Requirements* for minimum lot area per dwelling unit to construct a new residential development, subject to the following **terms, conditions and safeguards**:

Standard Conditions:

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 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.

Rebecca Curran/El
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.