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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK
SALEM, MASS

January 3, 2018

Decision

City of Salem Board of Appeals

Petition of 107 NORTH STREET LLC, requesting a special permit per sec. 3.3.2 *Nonconforming Uses* and 3.3.3 *Nonconforming Structures*, of the Salem Zoning Ordinance, to extend an existing non-conforming use and structure. The petitioner is proposing to expand the existing building to accommodate a total of three (3) dwelling units, first floor commercial space and associated on-site parking at 107 NORTH STREET (Map 26, Lot 345)(B-1, ECOD)

A public hearing on the above Petition was opened on December 20, 2017 pursuant to M.G.L Ch. 40A, § 11 and the hearing was closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, Tom Watkins, Mike Duffy, Jimmy Tsitsinos.

The petitioner is seeking a special permit per sec. 3.3.2 *Nonconforming Uses* and 3.3.3 *Nonconforming Structures*, of the Salem Zoning Ordinance, to extend an existing non-conforming use and structure. The petitioner is proposing to expand the existing building to accommodate a total of three (3) dwelling units, first floor commercial space and associated on-site parking.

Statements of fact:

1. In the petition date-stamped November 20, 2017, the Petitioner requested a special permit per sec. 3.3.2 *Nonconforming Uses* and 3.3.3 *Nonconforming Structures*, of the Salem Zoning Ordinance, to extend an existing non-conforming use and structure. The petitioner is proposing to expand the existing building to accommodate a total of three (3) dwelling units, first floor commercial space and associated on-site parking.
2. Attorney Kristin Kolick- Serafini, Darling and Correnti- presented the petition.
3. The property is located in a B-1 residential business district and Entrance Corridor Overlay District.
4. The existing building includes a first floor commercial space and one (1) residential unit. There are also two (2) on-site parking spaces.
5. The petitioner is proposing to raise the rear of the structure and reconfigure the interior space to create three (3) residential units behind and above the existing commercial space. The petitioner is proposing one (1) flat residential unit and two (2) townhouse style units on the second and third floor of the structure.
6. The townhouse style units are three (3) bedroom units and the first floor residential unit is a two (2) bedroom unit.
7. The structure is nonconforming as to front, side and rear yard setbacks. No changes to the footprint of the structure are proposed.

8. The petitioner is proposing lower the grade of a portion of the site by approximately fifteen (15") inches to construct a two (2) car garage within the side of the existing structure. The petitioner is also proposing to add dormers to the third floor of the structure.
9. There is an existing eight (8') foot right-of-way to allow access via the existing driveway to a rear property.
10. The petitioner is proposing to provide a total of five (5) on-site parking spaces.
11. Currently, the first floor commercial space is 2,000 square feet. The petitioner is proposing to reduce the commercial space square footage to approximately 1,000 square feet.
12. At the public hearing twelve (12) members of the public spoke in favor of and none (0) opposed 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**:

The Board finds that the proposed expansion of the non-conforming use and non-conforming structure are not more detrimental than the existing non-conforming use and non-conforming structure to the neighborhood.

Special Permit Findings:

1. There are social, economic and community needs served by the proposal as the proposed rehabilitation allows a commercial use to remain and creates new residential units.
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 proposed improvements are in keeping with the existing neighborhood character.
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 five (4) (Peter A. Copelas, Tom Watkins, Mike Duffy, Jimmy Tsitsinos) in favor and one (1) (Rebecca Curran, Chair) opposed, to allow a special permit per sec. 3.3.2 *Nonconforming Uses* and 3.3.3 *Nonconforming Structures*, of the Salem Zoning Ordinance, to extend an existing non-conforming use and structure. The petitioner is proposing to expand the existing building to accommodate a total of three (3) dwelling units, first floor commercial space and associated on-site parking 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. A Certificate of Occupancy 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, 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.