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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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May 31, 2017

Decision

City of Salem Board of Appeals

A public hearing for all persons interested in the petition of 295 BRIDGE STREET ASSOCIATES, requesting a Special Permit to *Sec. 3.3.3* of the Salem Zoning Ordinance, *Nonconforming Structures*, to allow the petitioner to extend a nonconforming structure, and a Variance to *Sec. 5.1.5* of the Salem Zoning Ordinance, *Parking Design*, to exceed the maximum width of entrance and exit drives at 293 BRIDGE STREET and 297 BRIDGE STREET (Map 26, Lots 634, 635)(B-4 Zoning District).

A public hearing on the above Petition was opened on April 19, 2017 pursuant to M.G.L Ch. 40A, § 11 and continued to May 17, 2017 and closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos, and Paul Viccica (alternate).

The petitioner is seeking a Special Permit per Special Permit per *Sec. 3.3.3* of the Salem Zoning Ordinance, *Nonconforming Structures*, to allow the petitioner to extend a nonconforming structure, and a Variance to *Sec. 5.1.5* *Parking Design*, of the Salem Zoning Ordinance, to exceed the maximum width of entrance and exit drives.

Statements of fact:

1. Attorney Joseph Correnti and Attorney Kristin Kolick, representing 295 Bridge Street Associates. The project team also includes: Andrew McBeth, Contractor, Greenleaf Construction; Mark McLeod, Project Engineer, H.L. Turner Group Inc.; Andrew Loverud, Project Architect, Design Science; Bob Matvichuk, F.W. WEBB Salem Store Manager.
2. The City of Salem is also a co-applicant as the City is the owner of 297 Bridge Street, which lot is under agreement with F.W. WEBB.
3. In the petition date-stamped March 29, 2017, the petitioner requested a Special Permit per *Sec. 3.3.3* *Nonconforming Structures*, to allow the petitioner to extend an existing non-conforming structure and a Variance per *Sec. 5.1.5* *Parking Design*, to exceed the maximum width of entrance and exit drives.
4. 293 Bridge Street and 297 Bridge Street were rezoned to the B-4 Zoning District. The parcels were previously within the NRCC zoning district.
5. The current use of the building is classified as Industrial wholesale, warehouse or distribution facility, and sale and storage of building supplies, and retail store, except department store, not elsewhere set forth. These uses are by right under the B-4 Zoning District.
6. The proposed project includes the use of two (2) separate lots, including the City of Salem municipal parking lot and existing F.W. WEBB site. The municipal parking lot is currently under agreement per a public auction conducted on November 14, 2016, at which F.W. Webb or nominee was the low bidder, as set forth in a Memorandum of Sale of even date.

7. The petitioner is requesting a Special Permit per Sec. 3.3.3 *Nonconforming Structures*, at the property of 293 Bridge Street, to allow the petitioner to extend a nonconforming structure. The petitioner is proposing a 7,600 +/- square foot single story addition and associated five-story stairway to the existing structure.
8. The existing F.W. WEBB building is non-conforming as to the height and rear yard setback. The proposed addition does not exceed the existing non-conforming dimensions. Five-story stairwell does not exceed the height of the existing non-conforming structure and the proposed one-story showroom does not exceed the existing rear yard setback non-conformity.
9. The petitioner was originally proposing a 40,000 +/- square foot freestanding structure on the municipal parking lot at 297 Bridge Street. This proposal was met with significant neighborhood opposition. The petitioner then proposed a 16,000 +/- square foot two (2) story showroom on the 293 Bridge Street lot, which was also met with significant opposition. The proposal before the Zoning Board of Appeals is a significant compromise consisting of a one-story 7,600 +/- square foot addition at 293 Bridge Street.
10. The proposed addition is a one-story brick structure that will be used as a showroom and retail space for F.W. WEBB. The front façade has ribbon storefront windows and the brick is proposed to compliment the existing historic brick as much as possible.
11. F.W. WEBB has been located at the property for over a half century and would like to upgrade the business to include a bed and bath showroom in the proposed expansion. The proposal will keep F.W. WEBB in the City of Salem and increase employment and tax revenue to the City.
12. The petitioner is also requesting a Variance per Sec. 5.1.5 *Parking Design*, to exceed the maximum width of entrance and exit drives.
13. The Zoning Ordinance allows a maximum of 30' feet of width for curbcuts in business and industrial districts.
14. In the original petition, the applicant proposed a 35' foot wide curbcut at western most entrance, 67' wide curbcut at the center entrance and 53' wide curbcut at the eastern most entrance.
15. At the request of the Board at the April 19, 2017 meeting, the petitioner amended the plans to include safer pedestrian access across the proposed 67' wide curbcut.
16. The amended plans included a reduction of curbcut width such that the most eastern and western curbcuts comply with the zoning ordinance dimensional requirements. The curvature of the western most driveway was reconfigured to be 30' feet wide and also provide adequate access for tractor-trailers to exit the property.
17. The petitioner is now requesting a Variance per Sec. 5.1.5 *Parking Design*, only for the proposed 67' foot wide curbcut.
18. The plan for the 67' foot wide curbcut was amended to include a sidewalk setback onto the parking lot area such that the pedestrian crossing width was reduced from 67' feet to 57' feet.
19. There are many pedestrians who use the existing sidewalk in front the property to access the commuter rail train station.

20. Mark McLeod, project engineer, H.L. Turner Group Inc. Concord, NH presents associated traffic circulation patterns. The existing loading docks for F.W. WEBB are on the east side of the building. Currently, when deliveries are made from the west, drivers pass the site and then cross over both traffic lanes on Bridge Street to back onto the site.
21. The existing F.W. WEBB parking lot is shared with visitor and employee parking, deliveries and exterior storage. The proposed plan will improve safety on Bridge Street and on-site circulation and safety.
22. The existing driveway opening at the F.W. WEBB property is approximately +/- 90 feet wide, which the petitioner is proposing to narrow to a 28' wide curbcut and provide two (2) parking spaces in front of the proposed showroom/retail space, as shown on the approved plans herein.
23. The existing driveway opening at the municipal parking lot (297 Bridge Street) has a single +/- 30' wide curbcut. The petitioner is proposing two (2) curbcuts including a 30' foot wide curbcut and a 67' wide curbcut.
24. At the April 17, 2017 meeting, Mr. McLeod presented plans with circulation patterns to demonstrate that the 67' wide curbcut opening is necessary to provide an adequate turning radius for tractor-trailers to access the parking lot from the east and west direction. The curbcut also allows drivers to maneuver the tractor-trailers on site in a safe circulation pattern.
25. At the April 17, 2017 meeting, the Board requested that the petitioner look at other curbcut arrangements, including two (2) driveways to allow tractor-trailer traffic onto the site in order to reduce the 67' wide curbcut width proposed. Mr. McLeod was concerned that the circulation pattern required by the tractor-trailers would require multiple turning movements to back into the loading dock. Having multiple turning movements on the site is difficult for truck drivers and creates hazardous circulation conditions in a shared lot with employee and customer parking. Further, two (2) driveways to allow tractor-trailer traffic would require one (1) 40' wide curbcut and one (1) 50' wide curbcut, which would require two (2) variances rather than the one (1) variance requested.
26. A single 67' wide entrance-point, closer to the F.W. WEBB building, makes it clearer to truck drivers to enter at this location. The width of the curbcut allows tractor trailers to enter the site from the east and west bound directions and the curvature of the opening allows for smooth tractor trailer circulation to back into the proposed loading docks without having to make multiple on-site turning movements. The 30' foot driveway to the west will be used by tractor-trailers to exit the site.
27. The literal enforcement to allow only 30' foot curbcut widths would prohibit tractor-trailer trucks from entering the site in a safe manner. A result of the literal enforcement of *Sec. 5.1.5 Parking Design*, would cause on street loading on Bridge Street.
28. At the May 17, 2017 meeting, the Board requested that the petitioner consider additional measures to provide safer pedestrian access across the 67' wide curbcut. The Board requested that the petitioner install a rumble strip or raised pavers to visually narrow the opening such that tractor-trailers could drive over the material, cars could drive in-between, and pedestrians could feel safe crossing the driveway because the change in materials would visually shorten the perceived distance of the curbcut opening.

29. The petitioner proposed cast concrete sidewalks on either end of the property, with a stretch of asphalt along the existing parking lot frontage. The Board requested that the sidewalk be concrete across the entire length of the property frontage.
30. The petitioner is proposing a 9,000 square foot fenced in outdoor product storage location along the rear of parking lot. There is currently outdoor product storage where the one-story addition is proposed.
31. At the April 17, 2017 meeting, the Board requested that the applicant provide a lighting plan.
32. At the May 17, 2017 meeting, the petitioner presented a lighting plan and showed that there will be no light spill over onto adjacent properties.
33. The Board requested that the dumpster shown at the rear property line be moved to a more central location on site to be less obtrusive to the neighborhood. The Board requested that the dumpster be enclosed within the proposed outdoor storage area or a separate enclosure just outside of the outdoor storage area.
34. The Board recognized that the major concern of neighbors is that this project is not subject to Planning Board site plan review. The proposed addition is less than 10,000 gross square feet of new construction, which is the threshold for triggering Site Plan Review of non-residential structures by the Planning Board.
35. On May 17, 2017, the Building Commissioner provided a statement to confirm the interpretation that the 10,000 square foot threshold for triggering Site Plan Review is only triggered by the square footage of new building construction.
36. The Zoning Board, under the criteria of the requested special permit, has reviewed the typical site plan review items including a lighting, dumpster location, fencing, and landscaping to the extent that the Zoning Board could reasonably review these features.
37. This petition is under review by the Salem Conservation Commission and will also be reviewed by the Planning Board for a Floor Hazard Overlay District Special Permit only.
38. The requested relief, if granted, would allow the petitioner to extend a nonconforming structure, and exceed the maximum width of entrance and exit drives.
39. At the public hearing no members of the public spoke in favor of, and nine (9) 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 Special Permit:

The Board finds that the proposed extension of the nonconforming structure is not substantially more detrimental than the existing non-conforming structure to the neighborhood.

1. Social, economic and community needs are served by the proposal.

2. Traffic flow and safety, including parking and loading are adequate.
3. Adequacy of utilities and other public services will not be negatively impacted.
4. Impacts on the natural environment, including drainage will be subject to review by the Conservation Commission.
5. The proposal fits with the character of the neighborhood. The F.W. WEBB industrial wholesale, warehouse and distribution and sale and storage of building supplies and associated parking lot are both existing uses. The proposed addition is located away from the Federal Street residences as much as possible. The proposed expansion fits with the architectural character of the existing historic structure.
6. Potential fiscal impact is positive. The proposed expansion will allow F.B. WEBB to continue to operate and expand employment in the City of Salem by modernizing the existing internal function of this historic building and provide a showroom and retail space for customers.

Findings for Variance:

1. The lot shape and size are unique to the district, such that the literal enforcement to allow only a 30' foot curbcut width would prohibit tractor-trailer trucks from entering the site.
2. The hardship of literal enforcement of *Sec. 5.1.5 Parking Design*, is that a 30' wide curbcut width would cause on street loading on Bridge Street, which would create a traffic and unsafe public conditions. The petitioner demonstrated that the proposed 67' wide curbcut is necessary to create the turning radiuses for trucks to enter into the parking lot and safely maneuver on site to the loading docks rather than load and unload on Bridge Street.
3. Desirable relief can be granted without denigrating from the ordinance and without substantial detriment to the public good. The Board has taken care to consider and request traffic calming measures to mitigate pedestrian access and safety across the 67' wide curbcut.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Rebecca Curran (Chair), Tom Watkins, Mike Duffy, Jimmy Tsitsinos, and Paul Viccica (alternate)) and none (0) opposed, to grant a Special Permit to *Sec. 3.3.3* of the Salem Zoning Ordinance, *Nonconforming Structures*, to allow the petitioner to extend a nonconforming structure, and a Variance to *Sec. 5.1.5 Parking Design*, of the Salem Zoning Ordinance, to exceed the maximum width of entrance and exit drives, 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 Occupancy is to 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.

Special Conditions:

Hours of Operation:

1. The hours of operation shall be Monday through Wednesday and Friday 6:30am to 5pm. Thursday 6:30am-8pm. Saturday 7am to 12pm. Sunday- Showroom only within the hours of 10am-3pm., with no operation of loading and service counter on Sunday.

Traffic and Pedestrian Access:

2. The petitioner has accepted a voluntary condition to install poured concrete sidewalks along the entire length of the properties.
3. The petitioner shall submit a revised site plan indicating proposed rumble strips and/or textured materials to provide a safe pedestrian crossing, while maintaining access for tractor-trailers and passenger vehicles. The plan shall be submitted to the Engineering Department for review and approval prior to the issuance of a building permit.

Lighting:

1. The parking lot lighting shall be controlled such that lighting shall be reduced one hour after closing time. Full lighting shall be turned on no earlier than a half hour before opening time.
2. Elevation plans of the new addition showing lighting fixture locations and cut sheets of lighting fixtures shall be submitted to the Department of Planning and Community Development for review and approval prior to the issuance of a building permit. The applicant shall propose lighting fixtures that are in accordance with the submitted lighting plan.

Landscaping and Maintenance:

3. The applicant shall submit a landscape plan to the Department of Planning and Community Development staff planner for review and approval prior to issuance of a building permit.
4. To the extent allowed under the existing AUL and applicable laws, the applicant shall install plantings and screening along the rear perimeter of the properties that abut the Federal Street residences to provide year round screening, including evergreens, between the Federal Street residences and 293-297 Bridge Street properties.
5. The applicant, owner, or assigns shall maintain the landscaping along the rear perimeter of the properties in perpetuity.

Dumpster and Outdoor Storage Area:

6. The petitioner shall move the dumpster location to be adjacent to the outdoor storage location within an enclosure as to screen the dumpster in accordance with the dumpster ordinance.

7. The chain link fence surrounding the outdoor storage area shall include slats or screening as reviewed and approved by the Department of Planning and Community Development prior to the issuance of a building permit.

Rebecca Curran/ES

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.