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CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

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February 15, 2024

Decision

City of Salem Board of Appeals

The petition of DEMETRA KARLIS (A/KOUNSALIEH), TRUSTEE at 152-156 DERBY STREET (Map 35, Lot 348) (B1 Zoning District) for a Special Permit per Section 3.3.2 *Nonconforming Uses* to delete condition #8 from the Board of Appeals decision dated December 30, 2013. Petitioner proposes to change present nonconforming use as a first-floor restaurant with 2 dwelling units above subject to a condition to lease off-street parking to the same use with no requirement to lease off-street parking.

A public hearing on the above petition was opened on January 17, 2024, and was continued to February 14, 2024. The petition was withdrawn without prejudice on February 14, 2024.

On January 17, 2024, the following members of the Salem Board of Appeals were present: Nina Vyedin (Chair), Carly McClain, Paul Viccica, and Hannah Osthoff.

Statements of Fact:

1. 152-156 Derby Street is owned by Demetra Karlis, Trustee.
2. The petitioner was Demetra Karlis, Trustee.
3. Attorney Bill Quinn was the representative.
4. 152-156 Derby Street is located in the B1 Zoning District (Map 35, Lot 348).
5. On January 17, 2024, Bill Quinn presented the requested relief to the board.
6. Attorney Quinn stated that they owner of the Witches Brew restaurant, Spiro Kounsalieh, passed away in 2018. Attorney Quinn represented his widow, Demetra Karils, who is looking to retire from the restaurant business.
7. The building has a restaurant on the first floor and two apartments, one on the second, and one on the third.
8. The Board of Appeals, in 2013, granted a special permit for section 3.3 for *non-conforming uses* and a variance under section 5.1.2 *Location* for the required parking to be located on a separate lot.
9. The applicant has paid to lease the parking spaces for ten years. Unfortunately, the location where the off-site parking was located has been sold and is no longer available to accommodate the off-site parking for this property. This is the reason for the requested relief.

10. Paul Viccica expressed his concern that the application was for a special permit where, in fact, the parking location was granted through a variance. He said he felt he would like the representative and the city solicitor to talk about what proper relief would be.
11. Attorney Quinn stated he would like to request a continuance to have a conversation with the city solicitor.
12. Paul Viccica made a motion to continue until the February 14, 2024 meeting.
13. On February 14, 2024, Attorney Quinn presented to the board.
14. The city solicitor confirmed to Attorney Quinn that the application would require a request for variance.
15. On February 14, 2024, Attorney Quinn stated that his client would be refiling a request for a variance and would like to withdraw the petition without prejudice.
16. Hannah Osthoff made a motion to approve the withdrawal without prejudice.

On the basis of the above statements of fact and findings, **the Salem Board of Appeals voted four (4) in favor (Nina Vyedin(chair), Paul Viccica, Hannah Osthoff, and Ellen Simpson) and none (0) opposed** to approve the request to withdraw without prejudice to DEMETRA KARLIS (A/KOUNSALIEH), TRUSTEE at 152-156 DERBY STREET.

The petition is withdrawn without prejudice.

Nina Vyedin, 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.