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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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2022 MAY 10 PM 1:00
CITY CLERK
SALEM, MASS

May 10, 2022

Decision

City of Salem Board of Appeals

The petition of SANDRA S. POWER at 16 LORING AVENUE (Map 32, Lot 88) (R2 Zoning District), for a Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to add an additional dwelling unit on the second floor to convert the five (5) family dwelling into a six (6) family dwelling. The petitioner is also seeking a variance per section 4.1 Dimensional Requirements for lot area per dwelling unit +/- 2,833 sq. ft requested where the existing nonconforming use is 3,400 sq. ft per dwelling unit.

A public hearing on the above petition was opened on March 16, 2022 and was continued to April 27, 2022 and was closed on April 27, 2022.

On April 27, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy(chair), Rosa Ordaz, Carly McClain, Paul Viccica, Peter Copelas and Steven Smalley.

Statements of Fact:

The petition is date stamped February 14, 2022. The petitioner seeks a Special Permit per Section 3.3.2 *Nonconforming Uses* and a Variance per section 4.1 *Dimensional Requirements* of the Salem Zoning Ordinance to add an additional dwelling unit to the property.

1. 16 Loring Avenue is owned by Sandra S. Power, Trustee.
2. The petitioner was represented by Attorney Bill Quinn.
3. 16 Loring Avenue is located in the R2 zoning district. (Map 32, Lot 88)
4. The requested relief, if granted, would allow the Petitioner to add an additional dwelling unit to the home and allow for a reduction in lot area per dwelling unit.
5. On March 16, 2022, Attorney Quinn presented to the board, that they had just become aware that they were seeking additional relief that was not originally

- requested. Attorney Quinn requested a continuance to the April 27, 2022 meeting to submit the proper relief required for the petition.
6. The petitioner would like to construct an additional unit to the property to make the five (5) unit building into a six (6) unit building.
 7. On April 27, 2022 Attorney Quinn presented the petition to the board.
 8. 16 Loring Avenue has two half houses on either side of the structure and a maid's quarters on the third floor. In 1976, the owners came in front of the Zoning Board of Appeals and sought relief to convert from four (4) units to a five (5) unit structure.
 9. The petitioner is seeking the relief to be able to live out the rest of their days in the home and to be able to supplement their income due to the increase in cost of living.
 10. The relief is sought so that they can add the sixth (6th) unit to the property, but this will come with a reduction in living area per dwelling unit which is why the owner is seeking a variance.
 11. The petitioner is also seeking to add an exterior stairwell at the rear of the structure for an egress for all dwellings on the property.
 12. There are nine (9) parking spaces with the property which is the required amount of spaces for the property.
 13. Attorney Quinn addressed the criteria for the variance. He stated that case law allows for a variance when a historical property is in need of significant financial contributions to keep it up to date.
 14. Attorney Quinn also addressed the soil conditions for the variance. He spoke about how the fill that was brought into the property eighty (80) years ago is causing drainage issues for the elevated yard and that water is seeping into the lower-level garage and causing large amounts of construction and maintenance to occur to the property.
 15. Attorney Quinn discussed the special permit criteria.
 16. The board opened up the petition to public comment.
 17. Jeff Cohen, 12 Hancock Street, expressed his support for this petition.
 18. Todd Waller, 26 Hardy Street, expressed his support for the petition whole heartedly.
 19. Due to the ongoing COVID-19 pandemic and related precautions and Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the April 27, 2022 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

Special Permit Findings:

The Board finds that the proposed modifications will not be substantially more detrimental than the existing nonconforming use to the neighborhood and that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City and the neighborhood:

1. Social, economic, or community needs were served by this petition.
2. Traffic flow and safety, including parking and loading: there will no impact on traffic or parking.
3. Adequate utilities and other public services: The petition will not impact utilities or public services.
4. Impacts on the natural environment, including drainage: No negative impact would be expected.
5. Neighborhood character: The project will continue to keep with the residential neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment. There will be a positive fiscal impact on the city or its tax base.

Variance Findings:

1. Special conditions and circumstances especially affect the land, building, or structure involved, generally not affecting other lands, buildings, and structures in the same district: The soil above the garage and the drainage issues caused by the fill above the garage are special conditions that cause a hardship. Also, the cost of upkeep for the historical significance of the property.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant in attempting to put the property to productive use.
3. Desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Rosa Ordaz, Mike Duffy (chair), Carly McClain, Paul Viccica and Peter Copelas) and none (0) opposed to grant SANDRA S. POWER at 16 LORING AVENUE (Map 32, Lot 88) (R2 Zoning District), a Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to add an additional dwelling unit on the second floor to convert the five (5) family dwelling into a six (6) family dwelling. Also, a variance per section 4.1 Dimensional Requirements for lot area per dwelling unit.

Receiving five (5) in favor votes, the petition for a special permit and variance is approved.

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 finishes 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.
9. All construction shall be done per the plans and dimensions submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Special Conditions:

1. Petitioner will meet with the Historic Commission to discuss the plans.



Mike Duffy, 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.