



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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2022 MAY 10 PM 1:01  
CITY CLERK  
SALEM, MASS

**May 10, 2022**

## **Decision**

### **City of Salem Board of Appeals**

The petition of JUNIPER POINT INVESTMENT CO, LLC for Variances from section 4.1.1 *Dimensional Requirements* for maximum height of buildings at 266 CANAL STREET(Map 32, Lot 38), 282 Canal Street (Map 32, Lot 37), 2 Kimball Road (Map 32, Lot 102), 286 Canal Street (Map 32, Lot 36), and 282R Canal Street (Map 23, Lot 144) in the B2 and I Zoning Districts to allow construction of a mixed use development, consisting of a blend of affordable, workforce, and market rate housing, with first floor commercial space along Canal Street. In the B2 Zoning District thirty (30) feet is the maximum height allowed and in the I Zoning District forty-five (45) feet is the maximum height allowed. The petitioner is seeking variances from the maximum building height requirement for seven (7) buildings that range from thirty-three (33) feet to fifty (50) feet in building height.

A public hearing on the above petition was opened on 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, Steven Smalley and Peter Coplelas

### **Statements of Fact:**

The petition is date stamped February 28, 2022. The petitioner seeks Variances from section 4.1.1 *Dimensional Requirements* for maximum height of buildings at 266 CANAL STREET(Map 32, Lot 38), 282 Canal Street (Map 32, Lot 37), 2 Kimball Road (Map 32, Lot 102), 286 Canal Street (Map 32, Lot 36), and 282R Canal Street (Map 23, Lot 144) in the B2 and I Zoning Districts to allow construction of a mixed use development, consisting of a blend of affordable, workforce, and market rate housing, with first floor commercial space along Canal Street. In the B2 Zoning District thirty (30) feet is the maximum height allowed and in the I Zoning District forty-five (45) feet is the maximum height allowed. The petitioner is seeking variances from the maximum

building height requirement for seven (7) buildings that range from thirty-three (33) feet to fifty (50) feet in building height.

1. 266 Canal Street is owned by JAB Trust, 266 Canal Street Trust and Esther Realty, Inc.
2. The petitioner was represented by Attorney Joe Correnti.
3. 266 Canal Street, 282 Canal Street (Map 32, Lot 37), 2 Kimball Road (Map 32, Lot 102), 286 Canal Street (Map 32, Lot 36), and 282R Canal Street (Map 23, Lot 144) are located in the B2 and I zoning districts.
4. The requested relief, if granted, would allow the petitioner to construct a mixed-use development, consisting of a blend of affordable, workforce, and market rate housing, with first floor commercial space along Canal Street.
5. On April 27, 2022, Attorney Correnti presented to the board.
6. Attorney Correnti stated that the whole purpose of this petition is to increase the housing stock in the City of Salem.
7. The petition has two two (2) story buildings, and the others will be three (3) stories with commercial/retail use on the first floor
8. Attorney Correnti stated that the Zoning Board was the first of multiple stops. If approved, they will be presenting to multiple boards, the Planning Board, The Conservation Commission, the Design Review Board and the Historical Commission. There will be much feedback to help refine the finished project once they receive approval from the Zoning Board. Attorney Correnti wanted to be clear that the current plans were a concept and not representing the final plans for the proposal.
9. Attorney Correnti wanted to board to know that these buildings are requiring a height variance because they will be providing parking under each of the buildings. Also, the commercial space on the first floor requires a certain measurement to comply with ordinances which increases the height of the buildings.
10. Attorney Correnti stated these would be rental units to help the City of Salem's housing stock. He also mentioned that the amount of units is in flux due to floor plans not being determined because they are still gathering data about egresses and other essential elements for the individual units.
11. Chair Duffy opened the meeting up to comments from the board.
12. Peter Copelas inquired about the buildings fitting within the disturbed area of the property. He asked if "building 5" was stretching out into the disturbed area. Attorney Correnti stated that currently "building 5" would be extending outside of the current disturbed area. Attorney Correnti stated that per ordinance you are allowed to extend by thirty (30) feet into another more restrictive district from a less restrictive district.
13. Attorney Correnti stressed that without the variances they won't be able to get the density that they need for the project. And if they cannot get the density of number of units, they won't be able to offer the twenty percent (20%) at sixty percent (60%) AMI, or the workforce housing associated with this petition.
14. Chair Duffy opened the petition to public comment.

15. Jeff Cohen, 12 Hancock Street, expressed his support for the workforce housing and the ratio of affordability housing.
16. Andy Varela, 23 Cedar Crest Avenue, expressed his support for the granting of the variance. He stated that the compromise for the parking with the variance is a great idea.
17. Peter Copelas made the motion to approve the variance.
18. 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.

### **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 topography of the land impacts where the applicant could feasibly place the proposed dwellings.
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 JUNIPER POINT INVESTMENT CO, LLC for Variances from section 4.1.1 *Dimensional Requirements* for maximum height of buildings at 266 CANAL STREET (Map 32, Lot 38), 282 Canal Street (Map 32, Lot 37), 2 Kimball Road (Map 32, Lot 102), 286 Canal Street (Map 32, Lot 36), and 282R Canal Street (Map 23, Lot 144) in the B2 and I Zoning Districts to allow construction of a mixed use development, consisting of a blend of affordable, workforce, and market rate housing, with first floor commercial space along Canal Street.

**Receiving five (5) in favor votes, the petition for the variances 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.

A handwritten signature in dark ink, appearing to read "Mike Duffy / DL", written over a horizontal line.

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.