



CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

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ROBERT MCCARTHY
ACTING MAYOR

July 12, 2023

Decision

City of Salem Board of Appeals

The petition of CANAL STREET STATION, LLC 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) (B2, I, ECOD Zoning Districts) for a Variance per Section *4.1.1 Dimensional Requirements* of the Salem Zoning Ordinance specifically, for building heights. The petitioner proposes five (5) buildings with building heights between 39 feet and 58 feet. In the B2 district 30 feet is allowed and in the I district 45 feet is allowed.

A public hearing on the above petition was opened on June 21, 2023 and was closed on June 21, 2023.

On June 21, 2023, the following members of the Salem Board of Appeals were present: Peter A. Copelas (Chair), Carly McClain, Paul Viccica, Nina Vyedin and Hannah Osthoff

Statements of Fact:

The petition is date stamped April 26, 2023. The petitioner is requesting height variances for five (5) buildings that have heights between thirty-nine (39) and fifty-eight (58) feet.

1. 266 Canal Street is owned by JAB Trust, 266 Canal Street Trust and Esther Realty, Inc.
2. The petitioner was Canal Street Station, LLC.
3. Canal Street Station, LLC was represented by Attorney Joseph Correnti.
4. 266 Canal Street (Map 32, Lot 38), 282 Canal Street (Map 32, Lot 37), 286 Canal Street (Map 32, Lot 36), 282R Canal Street (Map 23, Lot 144) and 2 Kimball Road (Map 32, Lot 102) are located in the B2, I, ECOD zoning districts.

5. On June 21, 2023, Attorney Joe Correnti presented the plans to the board. Attorney Correnti reminded the board that the petitioners had come before the board in May of 2022 for height variances because this is a Planned Unit Development. (P.U.D.) Attorney Correnti explained that the only dimensional requirement for a PUD is the height of the structure.
6. Attorney Correnti stated that the project crosses over two sections of Zoning- The Business Neighborhood Zone (B2) and the Industrial Zone (I). These two districts have different height requirements. B2 Zone is thirty (30) feet and the I Zone is forty-five (45) feet.
7. Attorney Correnti reminded the board that in the past, the board had approved a plan that had seven (7) buildings and the new proposal in front of the City's Planning Board has five (5) buildings.
8. Attorney Correnti stated that with the new project they will need new variances for the heights for the proposed five (5) new buildings.
9. Chris Koeplin, Canal Street Station, LLC, reviewed the five (5) building layout on the site. He went through the plans for the thirteen acres at the site.
10. Attorney Correnti stated that they have been in front of multiple City boards including the Planning Board, Historical Commission, Design Review Board and the Conservation Commission. They are currently wrapping up their peer reviews for the Engineering and Traffic and Parking Departments.
11. Attorney Correnti informed the board that they have design plans to tie the new buildings directly into the multi-modal use path. Improving the quality of the site for everyone who will live there and use the multi-modal path.
12. Attorney Correnti stated that they went to the Historical Commission to request a demolition delay waiver due to the historical context of the buildings on the site.
13. The Historical Commission stated that the current buildings on the site were "not preferably preserved". That decision clears the way for the demolition of those buildings.
14. Attorney Correnti stated they had unanimous approval from the Design Review Board that has been submitted to the Planning Board for review.
15. Attorney Correnti stated that they are working with the Conservation Commission specifically for adherence to the new Wetlands Protection Ordinance. Also, they are working with the city for the proposed new Flood Plain Ordinance. Attorney Correnti stated they are doing all the requirements for the project and now request from the board a variance for building heights.
16. Attorney Correnti stated that the solution to meet the suggested criteria from the city boards and commissions is to place the parking under the structures. This is the reason for the request of height variances. To put the parking under the structures will raise the overall height of the buildings due to the parking underneath. This is the reason for the request for relief. Also, this is done to alleviate the flood concerns at the site. This allows the petitioner to meet the 2070 flood mitigation requirements.

17. Attorney Correnti stated that the commercial spaces on the first floor require certain heights to meet their zoning requirements and those are higher heights than for residential requirements.
18. The provided parking underneath meets the requirements for the Flood Hazard Overlay District and the proposed new city ordinances. Attorney Correnti closed by reiterating the height variances are requested due to the parking under the structure and the zoning requirements for commercial space heights.
19. Chair Copelas inquired if the petitioner would need to return them after the Planning Board receives an approval for the height variances.
20. Attorney Correnti stated that the approval from the Zoning Board should not affect the Planning Board and their deliberations.
21. Chair Copelas inquired about how many units are in the new plan.
22. Attorney Correnti stated that there will be two hundred and fifty units (250). The petitioner has offered twenty percent (20%) of those units at sixty percent (60%) of AMI. The city requires ten percent (10%). This is double what the city requires. There will be fifty units (50) at sixty percent (60%) AMI.
23. Chair Copelas opened the meeting to questions from the board.
24. Nina Vyden asked Attorney Correnti to speak about why the changes were made to this project.
25. Attorney Correnti stated that the original plan had seven buildings. The proposed building "A" was divided into two buildings and after conversations with neighbors and city councilors it was decided to lower the unit count which led to no longer needing an additional building at the site.
26. Carly McClain stated that she felt really positive about the plans and she supports the project. She appreciates the twenty percent of units at sixty percent (60%) and not the eighty percent (80%) most developers offer. She also approves of the connection to the rail trail.
27. Hannah Osthoff stated that she really liked the façade and how the design of the buildings took away from the impact of the density.
28. Chair Copelas opened the meeting up to public comment. There were none.
29. Carly McClain made a motion to approve the petition.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Peter A. Copelas(Chair), Nina Vyden, Paul Viccica, Carly McClain and Hannah Osthoff and none (0) opposed to grant CANAL STREET STATION, LLC 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) (B2, I, ECOD Zoning Districts) for a Variance per Section 4.1.1 *Dimensional Requirements* of the Salem Zoning Ordinance specifically, for building heights.

Receiving five (5) in favor votes, the petition for a Variance is GRANTED.

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. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. This Decision expressly provides otherwise, any zoning relief granted does empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
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.
10. Petitioner shall schedule Assessing Department inspections of the property, at least annually, prior to project completion and a final inspection upon project completion.

Peter A. Copelas/ 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.

