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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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May 10, 2022

Decision

City of Salem Board of Appeals

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

The petition of LH CAPITAL DEVELOPMENT, LLC at 57 BUFFUM STREET (Map 27, Lot 28) (R2 Zoning District), for a Variance and a Special Permit to construct a 2.5 story addition at the rear of the existing structure to add two new residential units and to provide garage and surface parking on site for eight (8) motor vehicles. The Variance is per section 4.1.1 *Dimensional Requirements* for lot area per dwelling. In the R2 Zoning District 7,500 sq. feet is required and 1,182 sq. feet is being requested. Maximum lot coverage is 35% and 57.6% is being requested. Maximum height is 2.5 stories and 3 stories are being requested. The petitioner is also seeking an extension for both nonconforming side setbacks. LH CAPITAL, LLC is also seeking a Special Permit per section 3.3.2 *Nonconforming Uses* to extend the existing nonconforming three (3) family use to a nonconforming five (5) family use.

A public hearing on the above Petition was opened on April 27, 2022. The public hearing was closed on April 27, 2022.

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

Statements of Fact:

The petition is date stamped March 2, 2022. The petitioner seeks a Variance and a Special Permit to construct a 2.5 story addition at the rear of the existing structure to add two new residential units and to provide garage and surface parking on site for eight (8) motor vehicles. The Variance is per section 4.1.1 *Dimensional Requirements* for lot area per dwelling. In addition, the petitioner is seeking a Special Permit per section 3.3.2 *Nonconforming Uses* to extend the existing nonconforming three (3) family use to a nonconforming five (5) family use.

1. 57 Buffum Street is owned by LH Capital Development, LLC.
2. LH Capital Development was represented by Attorney Bill Quinn.
3. 57 Buffum Street is located in a R2 zoning district. (Map 27, Lot 28)
4. The requested relief, if granted, would allow the Petitioner to construct a three-family home into a five (5) family structure with relief from setbacks and parking requirements.
5. On April 27, 2022, Bill Quinn presented the petition for 57 Buffum Street to the Board.
6. 57 Buffum Street is currently used as an existing non-conforming three (3) family unit in the R2 zoning district.
7. The current petition is a new proposal with revisions from the previous application. They decreased the size of the original petition.
8. The new proposal has a dormer added to the third floor to the existing building to get three flats into the structure and to build two (2) units over the garage space for a total of five (5) units.
9. The new parking proposal consists of five (5) spaces outside and three (3) spaces in the garage of the proposed addition.
10. Attorney Quinn addressed the neighbor's concern from the last petition which were traffic, the size of the addition, and drainage.
11. Attorney Quinn said they will accept any condition for adding a drainage system to offset rainwater.
12. Dan Ricciarelli, Seger Architects, spoke to the board about this petition. They have been able to reduce the massing of the proposal by adding the dormer to the third floor. They are also only constructing two (2) units instead of the original four (4) units that will average 800 to 1,000 sq.ft.
13. Chair Duffy opened the meeting up to comments from the board.
14. Peter Copelas stated that he felt the reduction in units still does not address the statement of hardship. He stated that the building sold for \$560,000 in 2019 and was purchased by the current owners for \$610,000 in 2021. And that the reduction of three (3) units to two (2) units does not constitute a hardship.
15. He also stated that he had concerns about the proposed parking. After looking at the proposed plan, he stated that he felt the parking was shoehorned into the property and that he wasn't sure all the spaces were legal. He also felt that the current parking layout could require multiple point turns and was possible to have a tenant need to back out into the street.
16. Dan Ricciarelli responded to the concerns. He stated that they have an engineer to make sure all parking is safe including turn radiuses. As well as, functional access for parking. He stated that they have an engineer ready to go for the drainage. However, the amount of money for that would be large and they aren't going to spend that money before they know that they have the Zoning Board's approval on the petition.
17. He also clarified that there is a green space area in the plans. And explained the location of the green space by going over the plans. They plan on replacing the City's street trees and there will be a green space at the

back/middle of the property for the owners to barbeque and enjoy the outdoors.

18. Chair Duffy opened the meeting up to public comments.
19. Dan Finn, 19 Bryant Street, expressed that he is opposed to the petition. He agreed with Mr. Copelas that the petitioners paid market value for the property and that does not constitute a hardship for the land.
20. Jaimie Mitchell, 55 Buffum Street, expressed his support for the petition. He stated that it adds two (2) more units for the housing stock for the City.
21. Peter Copelas stated the for transparency, Mr. Mitchell is the person who sold the property at 57 Buffum Street to the current owners.
22. Tom Macdonald, 11-13 Bryant Street, expressed his opposition to the petition. He stated that the property has already been granted relief earlier in the R2 Zoning to be able to be a three (3) family unit. He didn't want the R2 to turn into a business district.
23. Brian Macdonald, 61 Buffum Street, expressed his opposition to the petition because there are too many things going on with the project from an engineering standpoint.
24. Jim Flemming, Buffum Street, expressed his opposition to the proposal because Buffum Street is a family-oriented neighborhood and this petition would hurt that by allowing non-families there.
25. Chair Duffy acknowledged the pubic letter submitted from John MacDonald, 61 Buffum Street expressing his dissent to the petition.
26. Attorney Quinn expressed his appreciation for the public comment. He wanted express that the fact remains that they City needs housing and this petition would provide access to housing.
27. Chair Duffy addressed the Variance and Special Permit criteria.
28. Rosa Ordaz made the motion to approve the petition at 57 Buffum Street.
29. 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.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in opposition (Rosa Ordaz, Mike Duffy (chair), Carly McClain, Paul Viccica and Peter Copelas) and none (0) in favor to deny the application for a Special Permit and Variance.

The Special Permit and Variances are denied.

A handwritten signature in cursive script that reads "Mike Duffy / DL". The signature is written in dark ink and is positioned above the printed name.

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.