



CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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KIMBERLEY DRISCOLL
MAYOR

March 1, 2022

Decision

City of Salem Board of Appeals

2022 MAR - 1 PM 12: 10
CITY CLERK
SALEM, MASS

The petition of DUANE R. SANDLER AND JINJI L. SANDLER at 293 JEFFERSON AVENUE (Map 23, Lot 129)(B1 Zoning District), for a variance per Section 4.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for minimal lot area per dwelling unit of 1,164 SF where 3,500 SF required and to maintain 5.1 side yard width with addition, where 10' is required.

A public hearing on the above Petition was opened on February 16, 2022 and was closed on February 16, 2022.

On February 16, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy(chair), Rosa Ordaz, Carly McClain, Paul Viccica and Steven Smalley.

The petitioner seeks a variance per Section 4.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for minimal lot area per dwelling unit of 1,164 SF where 3,500 SF required and to maintain 5.1 side yard width with addition, where 10' is required.

Statements of Fact:

The petition is date stamped December 29, 2021. The petitioner has requested a variance per Section 4.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for minimal lot area per dwelling unit of 1,164 SF where 3,500 SF required and to maintain 5.1 side yard width with addition, where 10' is required.

1. 293 Jefferson Avenue is owned by Duane R Sandler and Jinji L. Sandler.
2. Duane R Sandler and Jinji L. Sandler were represented by Attorney Bill Quinn.
3. 293 Jefferson Avenue is located in the B1 zoning district. (Map 23, Lot 129)
4. The requested relief, if granted, would allow the Petitioner to replace a structure over an existing foundation and maintain the use of six parking spaces and add one additional space.
5. On February 16, 2022, attorney Quinn presented the petition for 293 Jefferson Avenue to the Board.

6. 293 Jefferson Avenue is currently vacant. It was used as a restaurant and an office space in the past.
7. The petitioner would like to construct a building that will be a four (4) family residence that has handicap accessibility for some of the units.
8. They are extending on one side to create an addition to the foundation for more space for the proposed dwellings.
9. Attorney Quinn addressed the criteria for a hardship. He spoke about the odd shaped lot (triangle in nature). The lot was impacted by the railroad tracks that run behind the property and the construction of an overpass by the property. As well as changes in the topography which slopes dramatically towards the back of the property.
10. Board member Paul Viccica inquired about the total number of proposed units for the structure. There will be four units that are served by six (6) or seven (7) parking spaces.
11. Dan Ricciarelli, architect, discussed the plans and elevations of the proposed structure. The plan is to remove the roof and salvage much of the walls. They will be keeping the foundation and going up two stories. Two of the first-floor units will be handicap accessible.
12. Paul Viccica inquired about the proposed idea of the roof. The roof will be staying at the thirty (30) foot maximum allowed in the B1 zoning district.
13. Chair Duffy opened up the meeting to public comment.
14. Judith Ware, Wilson Street, inquired if there was public access to the railroad through the property. Attorney Quinn responded that there is no public access to the railroad on the property. Ms. Ware also commented about how she approved of the amount of parking for the proposed units.
15. Mike Becker, developer, spoke to the fact that there is a chain link fence that runs the length of the property. He spoke to how all the units will be rental units. They will not be condominiums. They plan to keep as much of the existing building as possible so that they can build on top of it. He reiterated the importance of housing for the community of Salem.
16. Paul Viccica inquired about how the developers plan on getting the seventh parking space for the lot. Mike Becker addressed the question and stated that they were planning on rotating the seventh spot. This would make it parallel to the street and would then make room for the parking space. However, if there isn't space for the seventh spot, they still have the correct amount of required parking (6).
17. Dave Potter, developer, spoke about the handicap accessibility of some of the proposed apartments. He is contact with companies that assist in locating handicap accessible housing. This proposal would help service that population.
18. For the record, Chair Duffy read a letter from the property owner, Jinji Sandler. The letter spoke to how the current use, a vacant restaurant, was not the best use for the property and how turning it into residential use would better serve the community.
19. A letter from Mathew Berman, 15 Parrallell Street, was read giving support to the proposed development and how it will upgrade the neighborhood.

20. Paul Viccica mentioned that he approved of the handicap accessible spaces, however he had concerns over the plot plan that did not show the parking spaces that allowed a five (5) foot area between parking spaces that allow for access to the vehicles for individuals who are handicapped and have wheelchairs.
21. Chair Duffy discussed the special permit and variance criteria.
22. 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 December 15, 2021 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 be in keeping with and improving 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 topography of the lands and the shape of the lot impact 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 Steven Smalley) and none (0) opposed to grant of DUANE R. SANDLER AND JINJI L. SANDLER a for a variance per Section 4.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance for minimal lot area per dwelling unit of 1,164 SF where 3,500 SF required and to maintain 5.1 side yard width with addition, where 10' is required

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

Receiving five (5) in favor votes, the petition for a 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. The site must have no less than six (6) parking spaces on the site.

A handwritten signature in black ink that reads "Mike Duffy / DL". The signature is written in a cursive style and is positioned above 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.