



CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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KIMBERLEY DRISCOLL
MAYOR

February 4, 2022

Decision

City of Salem Board of Appeals

2022 FEB -1, AM 9:10
CITY CLERK
SALEM, MASS

The petition of LH CAPITAL DEVELOPMENT, LLC, at 57 BUFFUM STREET (Map 27, Lot 28)(R2 Zoning District) for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to alter and enlarge an existing non-conforming three (3) family use to a non-conforming six (6)family use. Also, the petitioner seeks a variance for 4.1 *Dimensional Requirements* maximum lot coverage 35% required; 57.6% proposed, rear yard setback 30' required; 5.1' proposed. Height 2.5 stories required; three (3) stories proposed. And nine (9) parking spaces required and six (6) proposed.

A public hearing on the above Petition was opened on January 19, 2022. The public hearing was closed on January 19, 2022.

On January 19, 2022, the following members of the Salem Board of Appeals were present: Peter Copelas, Mike Duffy(chair), Rosa Ordaz, Carly McClain and Paul Viccica.

The petitioner seeks a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to alter and enlarge an existing non-conforming three (3) family use to a non-conforming six (6)family use. Also, the petitioner seeks a variance for 4.1 *Dimensional Requirements* maximum lot coverage 35% required; 57.6% proposed, rear yard setback 30' required; 5.1' proposed. Height 2.5 stories required; three (3) stories proposed. And nine (9) parking spaces required and six (6) proposed.

Statements of Fact:

The petition is date stamped November 22, 2021. The petitioner has requested a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to alter and enlarge an existing non-conforming three (3) family use to a non-conforming six (6)family use. Also, the petitioner seeks a variance for 4.1 *Dimensional Requirements* maximum lot coverage 35% required; 57.6% proposed, rear yard setback 30' required; 5.1' proposed. Height 2.5 stories required; three (3) stories proposed. And nine (9) parking spaces required and six (6) proposed.

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 six (6) family structure with relief from setbacks and parking requirements.
5. On January 19, 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 petitioner would like to build rear addition with an additional four (4) units and reconstruct the current three (3) family structure into a two (2) family structure for a total of six (6) units.
8. Attorney Quinn spoke about how the layout of the lot, is the main reason they are seeking relief from the Salem Zoning Ordinance.
9. Each unit would have their own parking spot. They would not take away on-street parking from the neighborhood.
10. Attorney Quinn spoke about this petition would be adding much needed housing for the City of Salem and how this petition would contribute to the city's housing stock.
11. Architect, Dan Ricciarelli, spoke about the plans and layout of the proposed petition at 57 Buffum Street. They will not be doing any construction to the exterior; they will only be restoring the exterior.
12. The intent is to add four (4) flat units to the rear of the existing building. They will be removing one of the units from the original structure and adding that unit to the newer construction and make the older structure into town homes. This will create a total of six (6) units.
13. Six (6) vehicles spaces will be provided for the units. Nine (9) spaces are required per Zoning Ordinance.
14. Paul Viccica asked Att. Quinn to address the statement of hardship for the criteria of a zoning variance. Att. Quinn, responded by explaining that the hardship comes from the narrowness and the shape of the lot. The amount of land on the property doesn't allow for any buildable options based on setbacks in the zoning code which is why they are seeking relief from the dimensional requirements. The shape of the current building on the lot and the narrowness of the lot are contributing factors to seeking relief.
15. Peter Copelas inquired if the garage on the property is still there because it was not on the submitted plot plan. Mr. Ricciarelli stated the garage will be removed for this project. Mr. Copelas also pointed out inconsistencies with the plot plan grid. Stating that parking numbers for spaces per unit was improperly submitted. There are four (4) spaces available, not two (2) which is what was submitted.
16. Mr. Copelas also mentioned that the plans showing the existing structure was showing two (2) units, where there are three (3) units. Mr. Copelas points out that on the existing plans there are windows, but there are not windows there. It is a door for the property.
17. Mr. Copelas expressed that a property that was sold in 2019 for \$570,000 and then purchased eighteen months later at \$610,000. The buyer paid a fair

- market price for the three (3) family home and spending a fair market price does not constitute a hardship for a variance.
18. Paul Viccica stated that having a narrow lot does not lead to having a hardship for a variance at this property. He spoke to how there is ample parking there currently at the property. The plans show that they are going to build a structure where they have current parking. This creates their own hardship.
 19. Carly McClain asked whether the proposed units are going to be converted in condos or will they stay as rentable units. Len Karan answered that they will remain rentable units.
 20. There were five (5) letters submitted opposing the petition from abutters. There were two (2) letters offering approval for the petition.
 21. There were four (4) calls from members of the public in opposition to the petition. There two (2) calls from the public that expressed support for the petition.
 22. Attorney Quinn stresses that they have created a plan that accommodates the needs of the densely populated neighborhood. He also inquired if the board would feel better if the petitioner were to provide a traffic study based on comments from the public.
 23. Paul Viccica stresses that traffic was not a large concern to be addressed. He mentions that the relief requested does not ask for a maximum height variance and the plans show they are far above the dimensional requirements for height in an R2 zoning district.
 24. Chair Duffy opens up a discussion amongst the board members.
 25. Attorney Quinn requested that the petitioners get an opportunity to regroup and discuss the proposed plans and request to withdraw without prejudice.
 26. The board made a motion to allow for the withdrawal of the petition.
 27. 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.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Peter Copelas, Rosa Ordaz, Mike Duffy (chair), Carly McClain and Paul Viccica) and none (0) opposed to allow the applicant to withdraw the petition without prejudice.

This application is withdrawn without prejudice.

Handwritten signature of Mike Duffy in cursive, with a horizontal line drawn across the bottom of the signature.

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.