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BOARD OF APPEALS

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2020 DEC 30 AM 11:31

CITY CLERK
SALEM, MASS

December 28, 2020

Decision

City of Salem Board of Appeals

Petition of JAHU INDUSTRIES, LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one non-conforming use (storefront) to another (coffee shop) at 57 LORING AVEUE (Map 32, Lot 146) (R1 Zoning District).

A public hearing on the above Petition was opened on December 16, 2020 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Zoning Board of Appeals members present: Mike Duffy (Chair), Rosa Ordaz, Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate). Board members Peter A. Copelas and Jimmy Tsitsinos were absent.

The petitioner seeks a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one non-conforming use (storefront) to another (coffee shop) at 57 Loring Avenue.

Statements of Fact:

1. In the petition date-stamped November 25, 2020, the petitioner requested a special permit per “Section 3.3.2.2 [sic]” of the Salem Zoning Ordinance to “change from one nonconforming use to another, less detrimental, nonconforming use”.
2. 57 Loring Avenue is owned by Loring Avenue Realty Trust. The petitioner, Jaho Industries, LLC submitted a written statement of consent from the owner authorizing the petitioner to “make application to the City of Salem Zoning Board of Appeal and any other municipal or state authority necessary for the permitting of a coffee shop, café and bakery use at the Property”.
3. 57 Loring Avenue is a single-story commercial structure in the Residential One-Family (R1) zoning district.
4. The proposal is to change from one nonconforming use to another nonconforming use.
5. Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance states, “The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determined that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood”.
6. The requested relief, if granted, would allow the petitioner to use the existing structure at 57 Loring Avenue to operate a coffee shop.
7. 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 16, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

8. During the December 16, 2020 meeting, attorney Joe Correnti discussed the proposal. This proposed location for a Jaho coffee shop would be Jaho's second Salem location. Attn. Correnti described 57 Loring Avenue as a commercial building in the Residential One-Family (R1) zoning district. The structure was built in the 1980's and has continuously been a nonconforming commercial use. Attorney Correnti described the history of commercial and retail use at the site. Salem State were the most immediate prior tenant, who used the site as office space. Attn. Correnti provided a plan of the site. 57 Loring Avenue has ten parking spaces for customers, and four parking spaces for staff and operations.
9. During the December 16, 2020 meeting, petitioner Anil Mezini, the founder and owner of Jaho Industries, LLC, described the coffee shop operations. Attorney Correnti explained that this location will not have a liquor license.
10. At the December 16, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the proposal.
11. At the December 16, 2020 public hearing, Chair Duffy discussed how the proposal meets the criteria for special permit (as noted below).
12. At the December 16, 2020 public hearing Carly McClain asked if the petitioner plans to bake at this location. Petitioner Mezini responded that most baking will be done at the Derby Street location if there is any baking "it will be very light...or something that will be made to order".

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearings, and after thorough review of the petition, including the application narrative and plans, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Special Permit Findings:

The Board finds that the proposed modifications will not be substantially more detrimental than the existing nonconforming structure to the neighborhood:

1. Social, economic, or community needs are served by this proposal.
2. Traffic flow and safety, including parking and loading: It seems that there is a fair amount of parking available for this use.
3. Adequate utilities and other public services already service the structure.
4. Impacts on the natural environment, including drainage: No negative impact is expected.
5. Neighborhood character: Even though this is a residential zone, there have been commercial uses at this location, and the coffee shop will fit the college neighborhood's character.
6. Potential fiscal impact, including impact on City tax base and employment: Positive fiscal impact from taxes and employment.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Mike Duffy (Chair), Paul Viccica, Rosa Ordaz, Carly McClain, and Steven Smalley), and none (0) opposed to grant to **Jaho Industries, LLC** a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one non-conforming use (storefront) to another (coffee shop) at **57 Loring Avenue**, subject to the following terms, conditions, and safeguards:

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. All construction shall be done per the plans and dimensions, submitted to and approved by this Board, as amended. No change, extension, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Mike Duffy / LM

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.