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2020 JUL -2 PM 1:49
CITY CLERK
SALEM, MASS

July 2, 2020

Decision

City of Salem Board of Appeals

Petition of 61 BRIDGE STREET LLC for a special permit per Section 3.3.2 *Nonconforming Uses* and a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to convert one existing commercial unit in a mixed-use building into two residential units at 61 BRIDGE STREET (Map 36, Lot 300) (B4 and ECOD Zoning Districts).

A public hearing on the above Petition was opened on February 19, 2020 pursuant to M.G.L Ch. 40A, § 11. The hearing was continued to March 18, 2020 (during which no testimony was heard); and April 15, 2020, and closed on April 15, 2020, with the following Salem Board of Appeals members present: Peter A. Copelas, Mike Duffy (Chair), Rosa Ordaz, Steven Smalley, and Paul Viccica.

At the February 19, 2020 meeting, Peter A. Copelas, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica were present; Mike Duffy (Chair) and Carly McClain were absent, and Steven Smalley was not yet a member. At the March 18, 2020 meeting, Peter A. Copelas, Mike Duffy (Chair), Carly McClain, Rosa Ordaz, and Steven Smalley were present; Jimmy Tsitsinos and Paul Viccica were absent. At the April 15, 2020 meeting, Peter A. Copelas, Mike Duffy (Chair), Rosa Ordaz, Steven Smalley, and Paul Viccica were present, as noted above; Carly McClain and Jimmy Tsitsinos were absent.

The petitioner seeks a special permit per Section 3.3.2 *Nonconforming Uses* and a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to convert one existing commercial unit in a mixed-use building into two residential units at 61 Bridge Street.

Statements of Fact:

1. In the petition date-stamped January 23, 2020, the petitioner requested a special permit per Sections 3.3.2 *Nonconforming Uses* and 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to “convert two commercial unit[s] into residential unit.”
2. 61 Bridge Street is owned by petitioner 61 Bridge Street LLC.
3. 61 Bridge Street is a mixed-use (commercial and residential) building in the Wholesale & Automotive (B4) zoning district and the Entrance Corridor Overlay District.
4. At the time of application, the property contained one commercial unit on the first floor and two residential units on the second floor. The application noted, “Since the time of purchase we have had tremendous difficulty finding and maintaining commercial tenants for the space at 61 Bridge.”
5. The proposal is to convert the first-floor commercial unit into two residential units, bringing the number of residential units in the building from two to four and bringing the total number of units in

- the building from three to four. No exterior construction or footprint changes are part of this proposal.
6. The existing use of “Dwelling unit above first floor retail, personal service, or office use” is not allowed in the B4 district. The proposed “Dwelling, Multifamily” use is also not allowed in the B4 district. As such, the petitioner has appropriately sought a special permit per Section 3.3.2 *Nonconforming Uses* to change form one nonconforming use to another. There is no minimum lot area per dwelling unit in the B4 district, so despite the proposed increase in number of dwelling units, no variance for lot area per dwelling unit is required.
 7. The requested relief, if granted, would allow the petitioner to convert the first-floor commercial unit at 61 Bridge Street into two (2) residential units.
 8. In advance of the February 19, 2020 meeting, petitioners were informed that there would only be four members in attendance. With four members in attendance, the positive vote of all members is required to grant a special permit or variance. In these situations, petitioners are afforded the opportunity to request to continue to a future meeting in which five members might be in attendance. The petitioner decided to move forward with the hearing on February 19.
 9. In the February 19, 2020 meeting of the Board of Appeals, the Board heard discussion of the proposal. Francisco Bellini, Manager of 61 Bridge Street LLC, and contractor Robert Polansky presented the petition. Mr. Polansky explained that Mr. Bellini told him he had difficulty renting the first-floor commercial unit. This spurred the desire to convert this commercial unit into two residential units. There had been a fire at the property in July and Mr. Bellini noted it makes sense to do the work to convert the unit while finishing repairs to the second floor from the fire damage.
 10. In the February 19, 2020 public hearing, there was discussion of parking. Peter Copelas expressed concern that there are only four legal parking spaces, as there are eight tandem spaces, but tandem spaces do not count towards the legal requirement. There was some discussion of the proposed residential units. Paul Viccica noted that six spaces are required for four residential units and asked if they have had a surveyor check if six spaces could fit without tandem parking. Mr. Polansky noted that they had not. Mr. Viccica asked Mr. Polansky to provide a plot plan that might allow for two additional cars, pending a survey. The Board also asked Mr. Polansky to include a location for trash and recycling barrels on the plot plan. Mr. Viccica suggested continuing the petition.
 11. In the February 19, 2020 public hearing, two (2) members of the public spoke about the petition, both expressing concerns about parking but expressing support for the creation of residential units instead of the commercial unit. No (0) other members of the public spoke in favor of or in opposition to the petition.
 12. In the February 19, 2020 public hearing, the Board approved a motion to continue to March 18, 2020 with four (4) in favor (Peter A. Copelas, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed.
 13. 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 March 18, 2020 meeting of the Board of Appeals was slated to take place via conference call, with a public call-in option. However, it was determined that the meeting as planned would not meet the temporary requirements of the partially suspended Open Meeting Law, and as such, no testimony should be heard. As such, the meeting was held for the sole purpose of continuing all matters before the Board.

14. In the March 18, 2020 meeting of the Board of Appeals, held remotely via public conference call, Chair Duffy described each application before the Board and noted that due to the unique circumstances, he would entertain a motion to continue all matters until the next regularly scheduled meeting on April 15, 2020. The vote was four (4) in favor (Peter A. Copelas, Mike Duffy (Chair), Rosa Ordaz, and Steven Smalley) and none (0) opposed.
15. Prior to the April 15, 2020 public hearing, the applicant submitted a revised plot plan dated 03/05/2020, showing five parking spaces along the rear property line and one space running parallel to the rear of the structure. The plan also illustrated the proposed location of eight trash barrels.
16. Board members Mike Duffy (Chair) and Steven Smalley, who were absent at the February 19, 2020 hearing on this petition, each signed an affidavit of service on April 15, 2020, certifying that he examined all evidence pertaining to 61 Bridge Street which was distributed at the single missed session on February 19, 2020, which evidence included an audio recording of the missed session. Each submitted this certification via email prior to participating in the vote on this matter in the April 15, 2020 public hearing.
17. The April 15, 2020 meeting of the Board of Appeals was held remotely using the web conference platform Zoom. The meeting was also accessible via public conference call and Salem Access TV.
18. At the April 15, 2020 public hearing, Robert Polansky discussed the petition. He noted that architect Richard Griffin is responsible for renovating the second floor and he developed the plans currently before the Board. Mr. Griffin noted that the lot can accommodate six (6) legal parking spaces. he noted that it is possible to exit onto Cromwell Street, a dead-end street with minimal traffic, using a three-point turn. He added that two trash barrels per unit will fit under the staircase.
19. At the April 15, 2020 public hearing, Peter Copelas noted that the main concern was parking configuration which seems to have been adequately addressed. Rosa Ordaz about the setback of the parking spots from the property line; Mr. Griffin expressed that there was a sufficient setback from the end of the surfaced area of the parking lot to the lot line.
20. At the April 15, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
21. At the April 15, 2020 public hearing, Chair Duffy discussed the special permit criteria.

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 nonconforming use is not substantially more detrimental than the existing nonconforming use to the neighborhood.

1. Social, economic, or community needs are served by the proposal.
2. Traffic flow and safety, including parking and loading, is improved with the new parking plan.
3. Adequacy of utilities and other public services: Existing utilities and other public services are adequate.
4. Impacts on the natural environment, including drainage: No negative impact is anticipated.
5. Neighborhood character: The proposal is in line with the increasingly residential nature of this portion of Bridge Street.

6. Potential fiscal impact, including impact on City tax base and employment: Providing four residential units (up from two) might have a positive impact on the City tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Steven Smalley, Rosa Ordaz, Peter A. Copelas, Paul Viccica, and Mike Duffy) and none (0) opposed to grant the requested Special Permit per Section 3.3.2 *Nonconforming Uses* and special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to convert one existing commercial unit in a mixed-use building into two residential units at **61 Bridge Street**, 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. 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 shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
10. All construction shall be done per the plans and dimensions submitted to and approved by this Board. 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 / BTC

Mike Duffy, Chair
Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK.

Appeals, if any, shall be made pursuant to M.G.L., Chapter 40A, Section 17. Please be advised that any statutory deadlines for filing such appeals have been suspended by order of the Supreme Judicial Court of the Commonwealth of Massachusetts which order was entered on April 27, 2020. 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.