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CITY CLERK
SALEM, MASS

July 2, 2020

Decision

City of Salem Board of Appeals

Petition of BAY FLOW LLC and property owner ROBERT D. GOODWIN for a variance per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot area per dwelling unit to convert a two-family home to a three-family home with interior renovations only at 74 TREMONT STREET (Map 17, Lot 22) (B1 Zoning District).

A public hearing on the above Petition was opened on March 18, 2020 pursuant to M.G.L. Ch. 40A, § 11. No testimony was heard on March 18, 2020. The hearing was continued to 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 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 variance per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot area per dwelling unit to convert a two-family home to a three-family home with interior renovations only at 74 Tremont Street.

Statements of Fact:

1. In the petition date-stamped January 28, 2020, the petitioner requested a variance per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot area per dwelling unit to convert a two-family home to a three-family home with interior renovations only at 74 Tremont Street.
2. 74 Tremont Street is owned by Robert D. Goodwin. A consent letter from Robert D. Goodwin permitting Bay Flow LLC to file a petition on his behalf was included with the application to the Board.
3. 74 Tremont Street is a two-family home located in the Business Neighborhood (B1) zoning district. This is an allowed use in the B1 district.
4. The proposal is to convert the two-family home to a three-family home, with interior renovations only. The proposed multifamily use is also allowed in the B1 district.
5. A variance is required because with three dwelling units, the property would not meet the minimum the required lot area per dwelling unit in the B1 district. The minimum requirement is 3,500 square feet per dwelling unit. With three units, 74 Tremont Street would have 3,117 square feet per dwelling

unit. As such, the petitioner is appropriately seeking a variance per Section 4.1.1 *Table of Dimensional Requirements* from this requirement.

6. The application noted that “The Property can accommodate the required five (5) on-site parking spaces as shown on the Plot Plan of Land by Eastern Land Survey filed herewith.”
7. The requested relief, if granted, would allow the petitioner to convert the two-family home at 74 Tremont Street to a three-family home, with interior renovations only.
8. 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.
9. 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.
10. 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.
11. At the April 15, 2020 public hearing, Attorney William Quinn discussed the petition. He noted that the property is a large home located near several other large two- and three-family homes. Attorney Quinn explained that the proposed work is interior only; there will be no change to building footprint or height. The work will reconfigure the large space to accommodate three units rather than two oversized units. Attorney Quinn noted that no relief for parking is needed.
12. At the April 15, 2020 public hearing, Paul Viccica asked about keeping the historic elements on the building’s exterior including the slate roof and railings. Jim Cook from the applicant team stated that their architect advised upgrading the existing porches and railings by using modern products but keeping some of the original design. Mr. Cook noted the slate roof has failed and will be replaced with a different product with a similar appearance to slate.
13. At the April 15, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
14. At the April 15, 2020 public hearing, Chair Duffy discussed the variance 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:

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. This is a large lot with a large building and a unique shape.

2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant: With two existing, oversized units, literal enforcement of the provisions of the Ordinance would not make for the best economic use of the property.
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. There will be no changes to the building footprint and there is sufficient parking available on the property.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Steven Smalley, Paul Viccica, Rosa Ordaz, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed to grant the requested Variance per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot area per dwelling unit to convert a two-family home to a three-family home with interior renovations only at **74 Tremont 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.

/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.