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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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SALEM, MASS

September 18, 2020

Decision

City of Salem Board of Appeals

Petition of DANIEL WRIGHT and property owner WRIGHT FAMILY TRUST for a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to renovate a historic carriage house and convert it into a dwelling unit at 9 APPLETON STREET (Map 27, Lot 221) (R2 Zoning District).

A public hearing on the above Petition was opened on August 19, 2020 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas, Mike Duffy (Chair), Rosa Ordaz, and Paul Viccica. Carly McClain (Alternate), Steven Smalley (Alternate), and Jimmy Tsitsinos were absent.

The petitioner seeks a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* of the Salem Zoning Ordinance to renovate a historic carriage house and convert it into a dwelling unit at 9 Appleton Street.

Statements of Fact:

1. In the petition date-stamped July 29, 2020, the petitioner requested a special permit per Section 3.1.2 *Special Permit: Zoning Board of Appeals* to convert a historic carriage house into a dwelling unit. The application notes, "I am proposing to renovate an original carriage house and change its use to a dwelling at my families [*sic*] home at 9 Appleton St., in the R-2 district."
2. 9 Appleton Street is owned by Wright Family Trust. The petitioner for the instant application is Daniel Wright.
3. 9 Appleton Street is a two-family home in the Residential Two-Family (R2) zoning district.
4. The existing two-family use is allowed in the R2 zoning district.
5. Per Section 3.1 *Principal Uses* of the Salem Zoning Ordinance, the use "Dwelling unit in historic carriage house" is allowed in the R2 zoning district by special permit from the Zoning Board of Appeals.
6. Section 10.0 *Definitions* of the Salem Zoning Ordinance defines "Historic carriage house" as "An accessory or outbuilding, originally built to house carriages, horses, or for use as a barn, that has been in existence since 1900 at its present location."
7. The proposal is to renovate a historic carriage house and convert it into a dwelling unit at 9 Appleton Street.
8. The requested relief, if granted, would allow the petitioner to renovate a historic carriage house and concert it into a dwelling unit at 9 Appleton Street.

9. 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 August 19, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
10. The petitioner included with the application some narrative description and photographs of the structure, which were presented as evidence that the structure meets the definition of "historic carriage house" set forth in the ordinance. Prior to the meeting, the petitioner also provided an image of an 1897 atlas of the City of Salem that appears to show a barn, stable or shed located to the rear of the primary structure at 9 Appleton Street.
11. At the August 19, 2020 public hearing, representative Ellen A. Wright, Esq. and petitioner Daniel Wright discussed the proposal. (Attorney Wright and Mr. Wright are siblings.) Attorney Wright discussed their plan to create a dwelling unit on the first floor of the existing carriage house structure. She explained that Daniel Wright and their older mother currently live at 9 Appleton Street, with Mr. Wright helping their mother. Their plan is to move Mr. Wright into a carriage house dwelling unit so the first-floor apartment of the two-family dwelling can be rented for income. Attorney Wright presented the 1897 atlas with the structure at 9 Appleton Street as well as the photos submitted with the application, which included evidence that the structure was used for horses and hay. They noted that the trim matches the existing home. They provided a picture from 1986 showing rehabilitation of the foundation. They noted that the original carriage doors were removed around 35 years ago. Attorney Wright discussed the proposal in relation to the special permit criteria.
12. At the August 19, 2020 public hearing, the Board discussed with the applicant the setup of utilities for the carriage house. Mr. Wright indicated that he planned to route utilities from the main structure so the utilities would be shared. Building Inspector Steve Cummings indicated that there would be some legal ramifications if they wanted to do shared utilities; he stated that he would probably try to separate the utilities. He noted that there could be health department and renters' rights issues if a non-family member is involved. Mr. Copelas also noted his thought that it would be prudent for the property to have separate utilities, but he was unclear whether the Board could require it. Attorney Wright stated that they agreed with the Board and they would probably take steps to separate utilities.
13. At the August 19, 2020 public hearing, Paul Viccica asked about the finishes of the structure and the plan for the building. Mr. Viccica noted that part of the reason this option is in the ordinance is to preserve older historic structures. He noted that he is convinced the structure is pre-1900, but he stated that some of the new construction seems to be covering up historic elements including windows from the inside. Mr. Wright noted that they are open now, but the plan is to cover them. Mr. Viccica asked what the plan for the windows is from the outside. Mr. Wright noted that they are already covered in cement fiber siding. He stated that there was vinyl siding installed about twenty years ago; he re-did the house wrap and put fiber siding on top of it. He noted that he had already pulled permits for exterior work - siding, windows, and roof. Mr. Viccica asked if the fiberboard will be clapboard sized. Mr. Viccica noted that the intent of the ordinance is for the buildings to be preserved, and the definition of preservation these days goes beyond using an old structure for a different use without acknowledging its character. Attorney Wright noted that the global scheme of the design is colonial and not modern. Mr. Viccica expressed his concern that the intent of preserving includes preserving material and/or character of the building. Mr. Cummings asked if the Board should touch base with the Historical Commission on this as they have on previous carriage houses. Mr. Viccica noted the Historical Commission gives good guidance. There was more discussion about historic preservation; Mr. Viccica noted that the Historical Commission is a good resource to utilize.

Mr. Viccica expressed his concern that the application is not going in the right direction relative to what the ordinance intends to allow. Mr. Corrison noted that he spoke with Preservation Planner Patti Kelleher who offered comments along the same lines. He noted that the Historical Commission meets twice a month and noted the option of continuing this hearing before the Board of Appeals meeting to September 16 and trying to get on the Historical Commission agenda for September 2.

14. At the August 19, 2020 meeting, Mr. Viccica asked about the construction. Mr. Wright noted the exterior is 98% complete. He added that the cupola was enlarged. Mr. Viccica stated that the application is crossing his line a bit. Mr. Viccica noted that in terms of the intent of the ordinance to allow an historic structure to be preserved for a use that would not typically be allowed, he believed the intent was the preservation of that piece. He stated that his level of preservation has been challenged by the presentation and photographs. Following this comment, Attorney Wright stated that they would respectfully withdraw the petition, consult with the Historical Commission, and perhaps resubmit at a later date.
15. At the August 19, 2020 meeting, there was some discussion about the application and permitting procedure. Steve Cummings noted that the Building Department probably issued a permit to do work on a barn/carriage house, but it sounds like the intent of having a living unit was not presented when the permit was pulled. Mr. Cummings noted that these elements conflict. Mr. Wright noted that when he got the permits, he told Tom St. Pierre his intentions for the Building, and Tom mentioned that there was a proposed accessory dwelling unit ordinance that might go through or the carriage house special permit. Mr. Wright noted that the path of least resistance was to not officially declare the use of the building yet but to get the permit to do the exterior work. Mr. Cummings noted that as Mr. Viccica noted, this conflicts with the preservation of a carriage house; it sounds like putting the cart before the horse. Ms. Ordaz noted that she is unclear on how the historic carriage house ordinance relates to the failed accessory dwelling unit ordinance, especially since (in this case) the family member would be moving into a detached structure to create a third unit which would be rented. Chair Duffy advised discussion with Tom's office and with Mr. Corrison on this matter. Mr. Viccica asked what the applicants' intent was at this time; Attorney Wright noted that they would stop construction and consult with the Historical Commission among others.
16. At the August 19, 2020 public hearing, the applicant requested to withdraw without prejudice. As a result, no public comment was taken.

On the basis of the above statements of fact, the Salem Board of Appeals voted four (4) in favor (Peter A. Copelas, Mike Duffy (Chair), Rosa Ordaz, and Paul Viccica) and none (0) opposed to allow the applicant to withdraw the petition without prejudice.

This application is withdrawn without prejudice.

Mike Duffy / BJC

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.