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MAYOR

CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

2019 DEC 31 AM 9:53

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CITY CLERK
SALEM, MASS

December 31, 2019

Decision

City of Salem Board of Appeals

Petition of CASTLE HILL PARTNERS, LLC for variances per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimum lot frontage for each of three proposed lots on a 5.8-acre parcel of land at 0 STORY STREET (Map 23, Lot 2) (RC Zoning District).

A public hearing on the above Petition was opened on November 20, 2019 pursuant to M.G.L Ch. 40A, § 11. No testimony was heard during the November 20, 2019 hearing. The petition was continued to December 18, 2019 and closed on that date with the following Salem Board of Appeals members present: Peter Copelas, Mike Duffy (Chair), Carly McClain, Rosa Ordaz, and Jimmy Tsitsinos. Paul Viccica was absent on December 18, 2019. At the November 20, 2019 meeting, only Peter Copelas, Mike Duffy (Chair), and Rosa Ordaz were in attendance, and no testimony was heard; this is discussed in the Statements of Fact below. On November 20, 2019, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica were absent; Carly McClain had not yet been confirmed as a Board member.

The petitioner seeks variances per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance.

Statements of Fact:

1. In the petition date-stamped October 22, 2019, the petitioner requested variances per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot frontage for each of three proposed lots on a 5.8-acre parcel of land at 0 Story Street.
2. Attorney Stephen Lovely, representing petitioner Castle Hill Partners, LLC, submitted the petition.
3. The property is currently a vacant lot in the RC zoning district.
4. The proposal is to subdivide the single, 5.8-acre parcel of land at 0 Story Street into three separate lots. The petitioner is seeking a variance from minimum lot frontage for each of the three lots. According to the Statement of Hardship, "The proposed plan and the three (3) proposed lots comply with all the other stringent requirements of the RC zoning district."
5. The required minimum lot frontage in the RC zoning district is 200 feet.
6. Per the plot plan submitted with the petition, and measured as outlined in the Salem Zoning Ordinance, the proposed lot frontages are: 20 feet (Lot A), 20 feet (Lot B), and 125 feet.
7. The requested relief, if granted, would allow the petitioner to provide less than the required minimum lot frontage for each of three proposed lots on the 5.8-acre parcel of land at 0 Story Street.
8. In a previous petition, the petitioner had requested variances from minimum lot width for the same proposal. These variances were granted by the Board in its October 16 meeting; the decision was filed with the City Clerk on October 30, 2019. During that process, it was identified that variances from minimum lot frontage might also be required, as these are two different dimensional requirements in

the Salem Zoning Ordinance (Section 4.1.1 *Table of Dimensional Requirements* and Section 4.1.2 *Notes to Table of Dimensional Requirements*. Lot width is measured at the rear of the required front yard depth; lot frontage is measured along the lot line at the sideline of the street.) The City Solicitor determined that this relief would indeed be required, so the petitioner brought the instant application, which was submitted October 22, 2019.

9. At the November 20, 2019 meeting of the Board of Appeals, only three Board members were in attendance: Peter Copelas, Mike Duffy (Chair), and Rosa Ordaz. Having three members in attendance out of the five-member Board constitutes a quorum (enough members to hold a meeting). However, per the Zoning Board of Appeals' Rules and Regulations, "[t]he concurring vote of at least four (4) members of the Zoning Board of Appeals shall be necessary in any action taken by the Board." As such, the Board could not vote to approve any petitions in the November 20 meeting, and all petitions were continued to the next regularly scheduled meeting. In the meeting, the Board voted three (3) in favor (Peter Copelas, Mike Duffy (Chair), and Rosa Ordaz) and none (0) opposed to approve the motion to continue to the next regularly scheduled meeting, December 18, 2019.
10. At the December 18, 2019 meeting of the Board of Appeals, Stephen Lovely discussed the petition. Mr. Lovely noted that they received the previous approval in the October 16 meeting with the understanding that if the variances for frontage were necessary, they would come back. He stated that the approval is "belt and suspenders" with what has already been done.
11. At the December 18, 2019 meeting of the Board of Appeals, Chair Mike Duffy noted that the Board previously considered and granted variances for lot width. He confirmed with Mr. Lovely that the request for minimum lot frontage is based on all the same information Mr. Lovely provided before.
12. At the December 18, 2019 meeting, Mr. Lovely stated that there have been no changes to the proposal.
13. At the December 18, 2019 meeting of the Board of Appeals, Chair Duffy noted that the Board has already made findings to support a variance; this request is similar. Tom St. Pierre stated that if this request had been before the Board with all the others, they would have approved it. In making his motion, Peter Copelas made reference to the conditions of the October 16, 2019 vote.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings**.

Variance Findings:

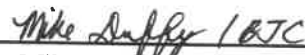
1. Special conditions and circumstances especially affect the land, building, or structure involved, generally not affecting other lands, buildings, and structures in the same district: There are extensive areas of wetland on this property. The topography and presence of ledge on the property impact where the applicant could feasibly place the proposed dwellings, and where the access to the dwellings would have to be.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant in attempting to put the property to productive use.
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.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Peter Copelas, Mike Duffy (Chair), Rosa Ordaz, Jimmy Tsitsinos, and Carly McClain) and none (0) opposed

to grant the requested variances per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimum lot frontage for each of three proposed lots on a 5.8-acre parcel of land at **0 Story 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.

 /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.