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CITY CLERK
SALEM, MASS

October 6, 2021

Decision

City of Salem Board of Appeals

Petition of 2 BRIDGE LLC, for a special permit per Section 6.10.4 *Special Permit Required* and Section 6.10.12 *Requirements Specific to Marijuana Retailer Establishments* of the Salem Zoning Ordinance to operate a licensed marijuana retail establishment in a portion of the existing structure, and variances from provisions of Section 5.1.8 *Table of Required Parking Spaces* and Section 8.2.5 *Parking Areas* to operate a restaurant with service of food and alcoholic beverages seating up to 100 customers in the remainder of the existing structure with fewer than the required number of off-street parking spaces and without all required parking lot landscaping at 2 BRIDGE STREET (Map 37, Lot 58) (B2 and ECOD Zoning Districts).

A public hearing on the above Petition was opened on September 22, 2021, pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Mike Duffy (Chair), Peter Copelas, Paul Viccica, Rosa Ordaz, Carly McClain. Steven Smalley (Alternate) was absent.

The petitioner seeks a special permit per Section 6.10.4 *Special Permit Required* and Section 6.10.12 *Requirements Specific to Marijuana Retailer Establishments* of the Salem Zoning Ordinance to operate a licensed marijuana retail establishment in a portion of the existing structure, and variances from provisions of Section 5.1.8 *Table of Required Parking Spaces* and Section 8.2.5 *Parking Areas* to operate a restaurant with service of food and alcoholic beverages seating up to 100 customers in the remainder of the existing structure with fewer than the required number of off-street parking spaces and without all required parking lot landscaping at 2 BRIDGE STREET.

Statements of Fact:

1. In the petition date-stamped July 28, 2021, the petitioner requested a special permit under Section 6.10 *Marijuana Establishments* and variances from provisions of Section 8.2.5 *Parking Areas* and Section 5.1.8 *Table of Required Parking Spaces* to “operate a retail marijuana store in a separated portion of the existing building” and provide “20 parking spaces on the site”.
2. 2 Bridge Street is owned by M&A Hospitality Group, LLC. The petitioner submitted a letter from the authorized manager of M&A Hospitality Group, LLC, consenting to applications for “all necessary permits and approvals”, and eventual operation of a marijuana store and restaurant at 2 Bridge Street.

3. The petitioner was represented by attorney Bill Quinn of Tinti & Navins, P.C.
4. 2 Bridge Street currently has a restaurant on the site. The existing restaurant use is allowed in the Business Highway (B2) zoning district.
5. The petitioner proposed to use the existing structure to operate a licensed marijuana retail establishment in a portion of the existing structure, while continuing to operate a restaurant with service of alcoholic beverages in the remainder of the structure. The restaurant is an allowed use in the Business Highway (B2) zoning district. Marijuana retail establishment is a use that may be permitted in the B2 district upon receipt of a special permit granted by the Zoning Board of Appeals.
6. On September 14, 2021, the petitioner submitted a written request to withdraw without prejudice all relief related to the restaurant use. This includes the variances from provisions of Section 8.2.5. *Parking Areas* and Section 5.1.8 *Table of Required Parking Areas*.
7. The proposed marijuana retail establishment is not located within five hundred (500) feet of a pre-existing public or private school providing education in kindergarten or any of grades 1 through 12, or houses of worship or funeral homes; or within one thousand (1000) feet of institutions of higher education.
8. The petitioner held a community outreach meeting that was held on July 31, 2021.
9. The proposed marijuana retail establishment will use 884 square feet of the existing structure.
10. The requested relief if granted would allow the petitioner to operate a licensed marijuana retail establishment at a portion of the existing structure at 2 Bridge Street.
11. Due to the ongoing COVID-19 pandemic and related precautions and An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency signed into law by Governor Baker on June 16, 2021, the September 22, 2021, meeting of the Board of Appeals was held remotely, via the online platform Zoom.
12. At the September 22, 2021. public hearing, the board began the public hearing by voting on the petitioner's request to withdraw without prejudice all relief related to the restaurant use.
13. At the September 22, 2021, public hearing, **the Board voted five (5) in favor (Rosa Ordaz, Carly McClain, Peter Copelas, Mike Duffy (Chair), Paul Viccica) and none (0) opposed** to withdraw without prejudice the request for variances from provisions of Section 5.1.8 *Table of Required Parking Spaces* and Section 8.2.5 *Parking Areas* to operate a restaurant with service of food and alcoholic beverages seating up to 100 customers in the remainder of the existing structure with fewer than the required number of off-street parking spaces and without all required parking lot landscaping at 2 Bridge Street.

14. At the September 22, 2021, public hearing attorney Bill Quinn presented the proposal. Mr. Quinn described how the property is relatively isolated on the end of the Bridge Street Neck peninsula. Mr. Quinn presented a letter from the Salem Fire Marshall, Lt. Peter Schaeublin, attesting the Fire Department reviewed the applicant's Emergency Response plan. Mr. Quinn presented a letter from the Salem Police Chief, Lucas Miller, attesting the Police Department reviewed the applicant's security related plans.
15. Per Section 5.1.8 *Table of Required Parking Spaces* of the Salem Zoning Ordinance retail businesses are required to provide one (1) space for each one hundred fifty (150) square feet of gross floor area of the building, excluding storage area. At the September 22, 2021, public hearing attorney Bill Quinn presented a calculation showing the proposed marijuana retail establishment will have an area of eight hundred and eighty-four (884) square feet, and an area of seven hundred fifty one (751) square feet excluding storage area. Mr. Quinn presented that this area would require a total of five (5) parking spaces, which the petitioner can provide with the existing nineteen (19) parking spaces on-site.
16. At the September 22, 2021, public hearing attorney Bill Quinn summarized the findings of a transportation impact assessment prepared by Vanasse & Associates, Inc. for the project. Mr. Quinn noted the report concluded that there would be, "minimal impact on traffic volumes on the roadways adjacent to the site."
17. At the September 22, 2021, public hearing the board asked questions of the petitioner and representatives. Peter Copelas asked about the structure's square footage. Attorney Quinn responded that there are approximately four thousand (4,000) square feet of gross area, of which, eight hundred and eighty four (884) are set to be used for the marijuana retail establishment. The remaining three thousand or so feet will be available for use to be determined later. Carly McClain stated she appreciated that the location and layout of this proposed business seemed appropriate.
18. At the September 22, 2021, public hearing, no (0) members of the public spoke in favor of the petition. Three (3) members of the public spoke in opposition to the petition.
19. At the September 22, 2021 public hearing, Chair Mike Duffy discussed how the petitioner has addressed the special permit criteria as notes in the Statement of Grounds included on the original petition form (as noted below).

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. The proposal will put this property back into productive and legal use as an amenity to the community and a taxpayer to the City.
2. Traffic flow and safety, including parking and loading: There are no significant impacts as concluded by the report submitted by the applicant's traffic engineer.
3. Adequate utilities and other public services already service the structure.
4. Impacts on the natural environment, including drainage: These conditions are not expected to be worsened because the footprint of the building and the paved area will not be increased.
5. Neighborhood character: The project is in keeping with the neighborhood character. This will return a vacant business property in the Business Highway (B2) district to productive and appropriate use.
6. Potential fiscal impact, including impact on City tax base and employment: There is a potential positive fiscal impact, including new construction and retail jobs; and the improved structure will increase the assessed value resulting in increased real estate tax revenue to the City.

Findings for Marijuana Establishments:

The Board finds that the applicant has demonstrated that the following specific criteria for retail marijuana establishments will be met and is in accordance with Section 6.10.4 of the Salem Zoning Ordinance:

1. The applicant demonstrates that the marijuana establishment will meet all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations including, but not limited to M.G.L c.94G, Section 12 General Marijuana Establishment Operations.
2. The applicant has satisfied all of the conditions and requirements of this section and other applicable sections of the Zoning Ordinance and any applicable city ordinances.
3. The facility provides adequate security measures to ensure that there are not direct threats to the health or safety of employees, staff, or members of the public.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Rosa Ordaz, Carly McClain, Peter Copelas, Mike Duffy (Chair), and Paul Viccica)) and none (0) opposed to grant to **2 Bridge LLC** a special permit per Section 6.10.4 *Special Permit Required* and Section 6.10.12 *Requirements Specific to Marijuana Retailer Establishments* of the Salem Zoning Ordinance to operate a licensed marijuana retail establishment in a portion of the existing structure at **2 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. A Certificate of Occupancy is to be obtained.
6. A Certificate of Inspection is to be obtained.
7. 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.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
10. All construction shall be done per the plans and dimensions, submitted to and approved by this Board, as amended. Any modification to the plans and dimensions must be approved by the Board of Appeals, unless such change has been deemed a minor field change by the Building Commissioner, in consultation with the Chair of the Board of Appeals.

Special Conditions for Retail Marijuana Facility:

1. The applicant shall not operate until the issuance and submission of a copy of the issued state license by the Commonwealth and all other state and local requirements are met.
2. A community host agreement shall be executed with the City within six (6) months of issuance of this special permit. A six (6) month extension can be granted by the Board of Appeals if good cause is shown.
3. The applicant shall be issued a state license within six (6) months of the issuance of this special permit. A six (6) month extension can be granted by the Board of Appeals if good cause is shown.

4. No on-site consumption will take place on the premises.


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.