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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

March 28, 2022

Decision

City of Salem Board of Appeals

The petition of LIFE STORAGE LP at 435-443 HIGHLAND AVENUE (Map 3, Lot 127) (B2/ECOD Zoning District), for a variance per Section 8.2.6 *Signage* of the Salem Zoning Ordinance to seek relief in order to place signage approved by the Design Review Board on the front of the building to a maximum height of twenty-nine (29) feet, where twenty-five (25) feet is required.

A public hearing on the above petition was opened on March 16, 2022 and was closed on March 16, 2022.

On March 16, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy(chair), Rosa Ordaz, Carly McClain, Paul Viccica, Peter Copelas and Steven Smalley.

The petitioner seeks a variance per Section 8.2.6 *Signage* of the Salem Zoning Ordinance to seek relief to place signage approved by the Design Review Board on the front of the building to a maximum height of twenty-nine (29) feet, where twenty-five (25) feet is required.

Statements of Fact:

The petition is date stamped February 15, 2022. The petitioner seeks a variance per Section 8.2.6 *Signage* of the Salem Zoning Ordinance to seek relief to place signage approved by the Design Review Board on the front of the building to a maximum height of twenty-nine (29) feet, where twenty-five (25) feet is required.

1. 435-443 Highland Avenue is owned by Life Storage LP
2. The owner of the property was represented by Attorney Bill Quinn.
3. 435-443 Highland Avenue is located in the B2/ECOD zoning district. (Map 3, Lot 127)

4. The requested relief, if granted, would allow the Petitioner to place a sign with a maximum height of twenty-nine (29) feet where twenty five (25) feet is required.
5. On March 16, 2022, Attorney Bill Quinn presented the petition for 435-443 Highland Avenue.
6. Attorney Quinn reminded the Board that the property at 435-443 Highland Avenue has previously been approved for variances for the structure to be built as a large storage warehouse. He stated The Salem Planning Board approved of the site plan for this building that is currently under construction. Attorney Quinn reiterated that the Planning Board had agreed that the twenty-nine (29) foot sign, that is part of Life Storage, LP, design standards was approved for the building through their review process. Also, the Salem Design Review Board recommended the twenty-nine (29) foot sign.
7. Attorney Quinn stated that by using the City Ordinances 4-44 *Variances* and the 4-51 *On-premises signs in nonresidential districts* and the approvals from The Planning Board and the Design Review Board that he did not try to articulate a substantial hardship for the relief requested in this petition.
8. Paul Viccica asked Attorney Quinn to elaborate on what the practical difficulties are for this petition.
9. Attorney Quinn responded the final design plans have been approved by two of Salem Planning Boards and that the Zoning Board has the authority to approve the sign and the property will not be able to receive a building permit without approval from the Zoning Board.
10. Attorney Quinn stated the practical difficulties are that Life Storage, LP are a national company that has an eighty-six (86) page book that gives guidance for the uniform design of their properties. This sign was approved by two other Planning boards, and they are seeking the approval from the Zoning Board for Life Storage's national design standards. Based on the company standards the sign can be placed at a height of twenty-nine (29) feet. Attorney Quinn stated that the company will need to return to the design stage of the property if the sign variance is opposed. If the Zoning Board were to oppose of the twice approved sign, that would then become the practical difficulty.
11. Peter Copelas stated that the Salem Design Review Board can be an advisory, but they cannot approve the sign. The relief would need to be granted by the Zoning Board. Attorney Quinn agreed and reiterated that is why they were at the current meeting, because the Zoning Board is the permit granting authority.
12. Paul Viccica stated the Zoning Board does not have to approve the requested relief just because Life Storage Corporate's design manual states that the sign must be at twenty-nine (29) feet and that that does not make it a practical difficulty.
13. Attorney Quinn stated that he was aware that the Zoning Board has the granting authority. He wanted to make clear that two other boards that have been involved with the permitting process for the last three years have given their approval for the sign to be at twenty-nine (29) feet.
14. Chair Duffy asked where the measurement starts for the window height. Was it to be at the sidewalk or the finished grade at the property? Tom St. Pierre,

Building Commissioner, stated that it is the either the sidewalk or the average grade in front of the building. He also stated that other boards in Salem are charged with monitoring aesthetics. Those boards did give their go ahead with the height of the proposed sign. He expressed that it was a minimal change in the ordinance and since the boards that are charged with keeping aesthetics aligned in Salem gave their approval, that the Zoning Board could too.

15. Chair Duffy stated that they are quite a few signs on the Highland Avenue competing and this one didn't overextend with the request for an additional four (4) feet.
16. Paul Viccica expressed his was not objecting to the sign. He was objecting to the argument that the sign had to be approved because corporate design standards dictated that it had to be done.
17. Tracy Almeter, project manager, stated that the project required a height variance for the building to start construction, which is one of the reasons that they are seeking a sign variance to have the sign match the height of the window glazing. She stated that this site had flooding and drainage issues which is another reason the building needed a height variance which now impacts where the sign can go. Therefore, they are seeking a sign variance.
18. 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 16, 2022 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

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: The topography of the lands and the shape of the building impact where the applicant could feasibly place the proposed sign.
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 two (2) in favor (Rosa Ordaz, Mike Duffy (chair)), and three (3) opposed (Carly McClain, Paul Viccica and Peter Copelas) to deny LIFE STORAGE LP at 435-443 HIGHLAND AVENUE (Map 3, Lot 127) (B2/ECOD Zoning District), for a variance per Section 8.2.6 *Signage*

of the Salem Zoning Ordinance to seek relief in order to place signage approved by the Design Review Board on the front of the building to a maximum height of twenty-nine (29) feet, where twenty-five (25) feet is required.

Receiving two (2) in favor votes, and three (3) votes opposed, the petition for a variance is denied.

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. 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.
11. All construction shall be done per the plans and dimensions submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

A handwritten signature in dark ink that reads "Mike Duffy" followed by a stylized "IDL" or similar mark.

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.