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July 3, 2019

Decision

City of Salem Board of Appeals

Petition of 68 ROWLEY RD. LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (light manufacturing) to another nonconforming use (multifamily residential) and a special permit per Section 3.3.3 *Nonconforming Structures* to alter a nonconforming structure at 89-91 CANAL STREET (Map 33, Lot 163) (B4 & ECOD Zoning Districts).

A public hearing on the above Petition was opened on June 19, 2019 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), Jimmi Heiserman, and Paul Viccica (alternate).

The petitioner seeks a special permit per Section 3.3.2 *Nonconforming Uses* and a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance.

Statements of Fact:

1. In the petition date-stamped May 24, 2019, the petitioner requested a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (light manufacturing) to another nonconforming use (multifamily residential) and a special permit per Section 3.3.3 *Nonconforming Structures* to alter a nonconforming structure at 89-91 Canal Street.
2. Attorney Scott M. Grover presented the petition on behalf of the petitioner, 68 Rowley Rd. LLC.
3. This property is a light manufacturing facility. As noted in the Statement of Grounds submitted with the application, "the Property had been used primarily for the production of window treatments and other home décor." This is a nonconforming use in the Business Wholesale & Automotive (B4) zoning district.
4. The property appears to be nonconforming to at least minimum depth of front yard and minimum width of side yard.
5. The petitioner is proposing to change the use of this property from light manufacturing to multifamily residential. Four residential dwelling units are proposed to be included in the existing building. As such, the petitioner has requested the special permit per Section 3.3.2 *Nonconforming Uses*.
6. The petitioner is also proposing to make minor structural changes to the building by removing the rear stairway and enclosing the front stairway. The petitioner has requested the special permit per Section 3.3.3 *Nonconforming Structures* to alter this nonconforming structure.
7. The requested relief, if granted, would allow the petitioner to change the use of the building at 89-91 Canal Street from one nonconforming use (light manufacturing) to another nonconforming use (multifamily residential) and to alter the nonconforming structure.

8. At the June 19, 2019 public hearing, Attorney Scott Grover, representing the petitioner, discussed the petition. Architect Steve Livermore was also in attendance to discuss the project. Attorney Grover noted that this property is located adjacent to the former candy factory that was converted into eight residential units based on approvals from the Zoning Board of Appeals. Attorney Grover stated that the property had until recently contained a light manufacturing business for assembling and distributing home décor items, primarily draperies; it also contained a “cat kennel” where cats were boarded for an extended period of time. He stated that those uses have been discontinued and the property has been vacant for several months, and appears somewhat neglected at this point.
9. At the public hearing, Attorney Grover explained the plans to convert the property to four moderately priced residential condominium units. There will be six parking spaces at the rear of the property, as well as two overflow parking spaces along the side of the building. Attorney Grover noted that there are two existing curb cuts at the property: one shared with the former candy factory (93-95 Canal Street) on the right-hand side of the building, and one on the left-hand side of the building. The primary means of access to the parking will be the left side curb cut. The two overflow parking spaces are not full, legal spaces, so they do not count towards the required parking spaces. The six parking spaces at the rear of the property meet the requirement of 1.5 spaces per dwelling unit.
10. Attorney Grover explained the structural changes. There will be no changes to the footprint of the building. The front stairway, which is currently exterior to the building, will be enclosed. As Attorney Grover noted, this structural change can be made by special permit instead of variance due to a provision of Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance. This section states in relevant part that “the extension of an exterior wall at or along the same nonconforming distance within a required yard shall require a special permit and not a variance from the Board of Appeals.”
11. Attorney Grover spoke to the special permit criteria.
12. Board member Peter A. Copelas asked about the location of mechanicals. Architect Steve Livermore stated that if they do include mechanicals, they will likely be on the roof, which is a fairly flat pitched roof.
13. Attorney Grover noted that the main entrance to the property will be on the side of the building. Building Commissioner Tom St. Pierre expressed concern that the proposed roof over the entrance could be hit by a truck pulling into the property. Board member Paul Viccica suggested some curbing to prevent this from happening.
14. At the June 19, 2019 public hearing, one (1) member of the public spoke in favor of the petition and no (0) members of the public spoke in opposition. Chair Mike Duffy also read from a letter in support of the petition from Mike Becker, owner of 12 Geneva Street.
15. Chair Duffy stated that the findings for the special permit would be consistent with the Statement of Grounds submitted with the application.
16. Board member Paul Viccica asked about trash storage at the site. The property owner stated that they would use city-issued bins, and Attorney Scott Grover showed that they would be kept near the “doghouse” structure at the rear of the building.

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** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Findings for Special Permit:

The Board finds that the proposed nonconforming use and structure are not substantially more detrimental than the existing nonconforming use and structure to the neighborhood.

1. Social, economic and community needs served by the proposal: The change from a commercial use to a residential use will provide much needed housing opportunities to those seeking to live in Salem.
2. Traffic flow and safety, including parking and loading: There is adequate access to and from the street from the existing curb cuts to the parking area. The proposed parking meets the requirements of the zoning ordinance.
3. Adequacy of utilities and other public services: There are adequate utilities and other public services currently serving the property located in the recently upgraded roadway.
4. Impacts on the natural environment, including drainage: The petitioner plans to create areas of green space that presently do not exist to enhance the natural appearance of the property and improve drainage conditions.
5. Neighborhood character: The change to residential use will have far less impact on the residential abutters than most allowed uses and is consistent with the changing character of the neighborhood. The appearance of the building will be dramatically improved.
6. Potential fiscal impact, including impact on City tax base and employment: The redevelopment of the property and its conversion to residential use will substantially increase the tax revenue generated by the property and will provide housing opportunities for individuals who will support the local economy.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Mike Duffy (Chair), Peter A. Copelas, Jimmi Heiserman, and Paul Viccica) and none (0) opposed to grant the requested Special Permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (light manufacturing) to another nonconforming use (multifamily residential) and the requested Special Permit per Section 3.3.3 *Nonconforming Structures* to alter a nonconforming structure at **89-91 Canal 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. 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.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Condition:

1. The petitioner shall submit a plan for curbing and/or other methods to protect the new overhang at the side entrance from damage.

Mike Duffy /BTC

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.