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CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

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April 16, 2024

Decision

City of Salem Board of Appeals

The petition of NORTH SHORE COMMUNITY DEVELOPMENT COALITION at 98 LAFAYETTE STREET (Map 34, Lot 413) (B5 Zoning District) for a Variance from Section 3.2.4.3 *Accessory Buildings and Structures* to construct a 230 square feet accessory structure located at the rear of the property. 120 Square feet is allowed.

A public hearing on the above petition was opened on February 14, 2024, and was continued to March 20, 2024, and was closed on March 20, 2024.

On February 14, 2024, the following members of the Salem Board of Appeals were present: Nina Vyedin (Chair), Paul Viccica, Hannah Osthoff and Ellen Simpson.

On March 20, 2024, the following members of the Salem Board of Appeals were present: Nina Vyedin (Chair), Carly McClain, Hannah Osthoff and Ellen Simpson.

Statements of Fact:

The petition is date stamped January 24, 2024. The petitioner requests to construct a 230 square foot accessory structure located at the rear of the property.

1. 98 Lafayette Street is owned by Lafayette Housing Limited Partnership.
2. The petitioner was North Shore Community Development Coalition.
3. Mike Proscia, from Jones Architecture was the representative.
4. 98 Lafayette Street is located in the B5 Zoning District (Map 34, Lot 413).
5. On February 14, 2024, Mike Proscia presented the requested relief to the board.
6. The Applicant proposes to construct an accessory structure in the rear lot. The Applicant refers to the accessory structure as Casa de Abuela-grandmother's house. The Applicant states it will be similar to the Peabody Essex Museum's Yin Yu Tang House. It will be a recreation of a Dominican Republic grandmother's house.
7. The Applicant states it will be an authentic approach to recreating this type of authentic grandmother's house and will be for educational purposes.
8. The Applicant states the intent of the structure is to have tours and exhibits and occasionally live music.

9. With the exception of the maximum allowed square footage, all zoning requirements are met for the proposed accessory. The Applicant has proposed two hundred and thirty (230) square feet where one hundred and twenty (120) square feet is allowed. Due to the required one hundred and twenty (120) square feet the Applicant would be limited in what they can offer for programming.
10. The structure will be made of new wood and reclaimed wood cladding on the exterior, and the windows will be made of wood. The windows will be shuttered, and the roof will be made of aluminum.
11. The Applicant stated that most of the lot is covered by the main structure and adding the accessory structure will improve the grounds.
12. Nina Vyedin inquired about access to the structure. The Applicant stated that there are two, open to the public, alleyways that provide access to the structure.
13. Mike Proscia stated that when the project on the first floor of the primary structure is completed, there may be access through that unit as well.
14. Paul Viccica stated that he had concerns that there is not restricted access to the proposed structure. He stated that it could end up being a free for all without rules for access since the structure is accessible from two public alleyways.
15. Mike Proscia stated that the owners of the structure and proposed project may have the answers; however, the owners were not in attendance.
16. Paul Viccica stated that he really liked the idea of the petition; however, he had concerns over the lack of details in the petition about access and the hours of operation.
17. Nina Vyedin opened the meeting to the public.
18. Darguin Fortuna, 50 Grove Street, stated he wished that he had been chosen as the architect for this project and stressed that he was disappointed that something of this nature was being kept in the rear of the structure and not where the public could see it.
19. Jeff Cohen, 12 Hancock Street, Ward 5 Councilor, stated he fully supported the project.
20. Paul Viccica stated that he would like more information regarding trash collection, alley security, hours of operation and the security of the accessory structure in order for him to be able to vote in favor.
21. Nina Vyedin also expressed that she wanted to know if the accessory structure would need a parking variance.
22. City staff stated they would investigate the parking requirements for the petition.
23. Mike Proscia requested to continue to the March 20, 2024, Zoning Board of Appeals meeting. The Board voted to continue the meeting to the March 20, 2024, meeting.
24. On March 20, 2024, Mike Proscia continued his presentation to the board.
25. Mr. Proscia spoke to the questions the board had from the February meeting. There are currently two (2) two-yard dumpsters in the rear of 98 Lafayette Street. These dumpsters are picked up twice per week. The dumpsters are wheeled down the access alley to the curb, where they are picked up by the waste management

contractor. The proposed structure will be in the vicinity of the current dumpsters, which will be moved to a new location on site within a new trash enclosure. The new trash enclosure will be a black metal slat fence, or similar. The new location will not negatively impact trash operations as building management will still wheel the dumpsters to the curb twice per week. The new location is less visible from the street. Residents will have to travel approximately ninety (90) feet further to dispose of trash. Building management will have better access to the street, as the dumpster will now be wheeled down the narrower alley to the curb.

26. Mr. Proscia spoke of another concern the board had brought up at the February meeting. He stated that the proposed structure will have two lockable exterior doors. The windows will be wood-slat louvers and lockable from the structure's interior.
27. Mr. Proscia spoke to the proposed hours of operation and access. The proposed structure and the patio will be open to the public from 9:00 am – 5:00 pm daily, consistent with North Shore Community Development Coalition's office hours.
28. Carly McClain stated that she really appreciated the information provided. However, she felt that this project fell under the Dover Amendment and felt that the project could have been done by right and appreciated that the Applicant came to the ZBA as a courtesy.
29. Nina Vyedini inquired about the appearance of the egress for the residents while the gates are locked.
30. Mr. Proscia stated that there are two options; 1. locate the gate behind the egress door or, 2. place a panic bar on the back of the gate and it would be lockable.
31. There were no more comments from the board.
32. There were no more comments from the public.
33. Mike Proscia went over the statement of hardship for the variance.

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:

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 proposed structure will not impact the neighborhood.
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. The parcel contains a large empty courtyard space that is almost entirely surrounded by buildings and walls. It is unlike most other parcels in the B5 district where the buildings occupy all or a very large portion of a parcel without any meaningful

open space. Literal enforcement of the building area requirement would cause the owner a hardship by depriving it of the opportunity to make reasonable use of this large courtyard.

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. The square footage of the structure does not negatively affect the neighborhood. The structure is an educational benefit to the community.

On the basis of the above statements of fact and findings, **the Salem Board of Appeals voted four (4) in favor (Nina Vyedin (Chair), Carly McClain, Ellen Simpson, Hannah Osthoff)) and none (0) opposed** to grant NORTH SHORE COMMUNITY DEVELOPMENT COALITION at 98 LAFAYETTE STREET a Variance from Section *3.2.4.3 Accessory Buildings and Structures* to construct a 230 square foot accessory structure located at the rear of the property, 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 is to obtain approval from any city board or commission having jurisdiction including, but not limited to, the Planning Board.
9. 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.
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.
12. Petitioner shall schedule Assessing Department inspections of the property, at least annually, prior to project completion and a final inspection upon project completion.

Nina Vyedin, 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.