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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

October 30, 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 width 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 October 16, 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, Jimmy Tsitsinos, and Paul Viccica.

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 September 24, 2019, the petitioner requested variances per Section 4.1.1 *Table of Dimensional Requirements* from minimum lot width 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, presented 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 width 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 width in the RC zoning district is 200 feet.
6. Per the plot plan submitted with the petition, the proposed lot widths are: 20 feet (Lot A), 20 feet (Lot B), and 185 feet (Lot C).
7. The requested relief, if granted, would allow the petitioner to provide less than the required minimum lot width for each of three proposed lots on the 5.8-acre parcel of land at 0 Story Street.
8. After the petition was advertised but before the October 16, 2019 hearing, it was identified that relief from the minimum lot frontage requirement in the RC zoning district might also be required. This question was not resolved in the October 16, 2019 hearing on this petition.
9. At the October 16, 2019 meeting of the Board of Appeals, Attorney Stephen Lovely discussed the petition. Attorney Lovely explained some of the history in purchasing the property. He noted that in speaking with Mr. Corriston earlier that day, he was told he would need a variance from frontage, but did not have time to prepare research; Attorney Lovely's position was that he did not need a variance from frontage, but he stated that if he is wrong, he will come in and reapply. Attorney Lovely noted

that he initially wanted to apply for a cluster development to request a waiver for frontage and lot size, but thought the present proposal would be better as it is less expensive and less time sensitive than the cluster development permitting process. Attorney Lovely stated that he will need to go through the Engineering Department, Conservation Commission, and Planning Board, create a sewer line, do site work, and potentially do blasting at the site.

10. At the October 16, 2019 meeting, Attorney Lovely stated that the hardship is that there are wetlands that bifurcate the existing parcel. He stated that after consulting with the Fire Chief and safety officer, the plans have been approved and stamped. He submitted the stamped plans to the Board.
11. At the October 16, 2019 meeting, the question of lot frontage was discussed. Attorney Lovely stated that frontage is the width of the lot at the street. Mr. Viccica asked Attorney Lovely if the request was to condition approval on the basis of getting approval by the City Solicitor and Building Inspector; Attorney Lovely stated he would be fine with that. Mr. St. Pierre stated that he has looked at the plans, and that he and Mr. Corrison want further input from the City Solicitor regarding whether a variance for frontage is required.
12. At the October 16, 2019 meeting, Chair Duffy asked Mr. Lovely for more detail about the conditions affecting the land that present hardship. Mr. Lovely discussed the wetlands condition on the site, including the need to build a bridge to access certain parts of the site. He also added that there is ledge and there are elevation changes.
13. At the October 16, 2019 public hearing, no (0) members of the public spoke in favor of the petition, and one (1) member of the public spoke in opposition to the petition. This member of the public raised concerns about the wetlands and about the church parking, as the lot is currently used for church parking.
14. At the October 16, 2019 public hearing, Mr. Lovely responded to the questions. He noted that he owns the parking lot and has historically allowed the church to use the lot. He also acknowledged that he stores his boats in the lot during the winter. Mr. Lovely indicated he has not had any neighbor complaints, and that a neighbor abutting his property has some litter visible but that it is not on the lot in question. Mr. Lovely stated he has always had good communication with the archdiocese and that the area has been used for a variety of reasons, despite his ownership with no issue or objection. Mr. Lovely said that he has no intent to build a bridge on the lot.
15. At the public hearing, Chair Duffy stated that the question about another variance is a question for the City Solicitor.

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 (Mike Duffy (Chair), Peter Copelas, Paul Viccica, Jimmi Heiserman, and Jimmy Tsitsinos) 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 width 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.



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.