



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TELE: 978-745-9595 ♦ FAX: 978-740-9846

October 26, 2018

Decision

City of Salem Board of Appeals

2018 OCT 26 AM 8:52
CITY CLERK
SALEM, MASS.

Petition of JUNIPER POINT INVESTMENT Co LLC, requesting a special permit per Sec. 3.3.2 Nonconforming Uses to allow a change from one non-conforming use (automobile repair garage) to another non-conforming use (residential multi-family) to construct 2 buildings, each consisting of four (4) residential townhouse style dwelling units. The petitioner is also requesting Variances per Sec. 4.1.1 Table of Dimensional Requirements from the required minimum lot area per dwelling unit, minimum depth of front yard, and minimum depth of rear yard at 106 BRIDGE STREET (Map 36, Lot 73) (R-2 and ECOD Zoning District).

A public hearing on the above Petition was scheduled for September 19, 2018 but then continued to October 17, 2018. The public hearing pursuant to M.G.L Ch. 40A, § 11 was opened on October 17, 2018 and closed on that date with the following Salem Board of Appeals members present: Mike Duffy (Chair), James Hacker, Patrick Shea, and Paul Viccica.

Statements of fact:

1. Attorney Joseph C. Correnti presented the petition on behalf of the petitioner.
2. The property is located in the R-2 Zoning District and Entrance Corridor Overlay District.
3. In the petition date-stamped August 23, 2018, the petitioner requested a special permit per Sec. 3.3.2 Nonconforming Uses to allow a change from one non-conforming use (automobile repair garage) to another non-conforming use (residential multi-family) to construct 2 buildings, each consisting of four (4) residential townhouse style dwelling units. The petitioner is also requesting Variances per Sec. 4.1.1 Table of Dimensional Requirements from the required minimum lot area per dwelling unit, minimum depth of front yard, and minimum depth of rear yard.
4. Petitioner's proposal will have 1,670 +/- square feet of lot area per dwelling unit, versus a minimum of 7,500 square feet required by zoning; front yard depth of 1.6 feet versus a minimum of 15 feet required by zoning, and minimum rear yard depth of 5.2 feet versus 30 feet required by zoning.
5. Four members of the public spoke in favor of the petition and four spoke in opposition at the public hearing.
6. The Board received three emails in favor of the petition and four in opposition, which were either read or summarized during the hearing.
7. The proposal includes the closure of several curb cuts at the site, including the curb cut on Bridge Street, near the traffic light at Bridge Street and Webb Street, which will remove a dangerous condition.
8. The site is currently used as an auto repair garage and has historically been used for other auto-related purposes. Consequently, the cost of improving the environmental condition to residential standards is quite substantial.

9. The proposed buildings are similar in scale and character to other buildings in the neighborhood.
10. The location of the proposed buildings will help to maintain an active and pedestrian friendly streetscape.
11. The petitioner considered different configurations of buildings and number of units, and the petitioner demonstrated that the building footprint envelope prevented any desirable and feasible as of right construction and use of the lot.
12. The residential use is similar in character to other surrounding residential uses.
13. The existing building will be demolished, which also increases the costs of development, and the site will be improved with new buildings and landscaping.
14. Existing trees will be maintained wherever possible.

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 change in one non-conforming use (automobile garage) to another non-conforming use (residential multi-family) is not substantially more detrimental than the existing use to the neighborhood.

1. Social, economic and community needs served by the proposal as additional dwelling units will provide housing to the community.
2. Traffic flow and safety, including parking and loading is adequate and the elimination of a curb cut will mitigate the traffic impacts in a congested intersection.
3. Adequacy of utilities and other public services will not be negatively impacted.
4. Impacts on the natural environment, including drainage will be positive. The proposed development will result in cleanup of soil conditions on the site and any draining impacts are anticipated to be minor.
5. The proposal fits with the character of the neighborhood.
6. The proposed project will generate 4-5 times the amount of taxes to the City compared to the existing automotive use.

Findings for Variances:

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. Specifically, the property abuts streets on three sides and the application of the literal dimensional requirements would limit the developable area of the site to a small area in the middle of the property not suitable to reasonable redevelopment.
2. Literal enforcement of the provisions of the Zoning Ordinance would involve substantial hardship to the applicant. Specifically, limiting development of the site to the literal dimensions under the Zoning Ordinance severely constrains any potential development to a point where it is either impractical or financially not feasible for the developer, which faces substantial costs for demolition of the existing building and addressing the soil conditions of the site.

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 facts and findings, the Salem Board of Appeals voted four in favor (Mike Duffy [Chair], James Hacker, Patrick Shea, and Paul Viccica) and none opposed, to grant a special permit per Sec. 3.3.2 Nonconforming Uses to allow a change from one non-conforming use (automobile repair garage) to another non-conforming use (residential multi-family) to construct 2 buildings, each consisting of four (4) residential townhouse style dwelling units, and Variances per Sec. 4.1.1 Table of Dimensional Requirements from the required minimum lot area per dwelling unit, minimum depth of front yard, and minimum depth of rear yard, subject to the following **terms, conditions and safeguards:**

Standard Conditions:

1. Petitioner shall comply with all city and state statues, 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 neighborhood.
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, if needed.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.

Special conditions:

1. Prior to issuance of a building permit, petitioner shall submit to the Department of Planning & Community Development, for review and approval, a site plan including landscaping, lighting, and trash disposal.
2. Prior to issuance of a building permit, petitioner shall submit to the Department of Planning & Community Development, for review and approval, final construction plans and mock ups.
3. Light trespass onto adjacent parcels/rights of way, shall be avoided.


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.