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CITY CLERK
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July 3, 2019

Decision

City of Salem Board of Appeals

Petition of 2-A BUFFUM STREET LLC for a special permit per Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance to change from one nonconforming use (single-family residential) to another nonconforming use (two-family residential) and a special permit per Section 3.3.3 *Nonconforming Structures* to alter a nonconforming structure at 2A BUFFUM STREET EXTENSION (Map 26, Lot 71) (I Zoning District).

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 28, 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 (single-family residential) to another nonconforming use (two-family residential) and a special permit per Section 3.3.3 *Nonconforming Structures* to alter a nonconforming structure at 2A Buffum Street Extension.
2. Attorney Scott M. Grover presented the petition on behalf of the petitioner, 2-A Buffum Street LLC.
3. This property is currently a single-family home. This is a nonconforming use in the Industrial (I) zoning district.
4. The property appears to be nonconforming to at least minimum lot area, frontage, and width; maximum lot coverage by all buildings; and minimum front, side, and rear yard setbacks.
5. The petitioner is proposing to change from one nonconforming use (single-family) to another nonconforming use (two-family) and to alter the existing structure. The proposed change of use requires a special permit per Section 3.3.2 *Nonconforming Uses*.
6. The petitioner is proposing to renovate the structure and replace the existing roof covering the rear first floor deck with a new second floor deck to serve the second floor unit. The proposed structural changes to this nonconforming structure require a special permit per Section 3.3.3 *Nonconforming Structures*.
7. The requested relief, if granted, would allow the petitioner to change the use of the building at 2A Buffum Street Extension from one nonconforming use (single-family residential) to another nonconforming use (two-family residential) and to alter the nonconforming structure.

8. At the June 19, 2019 public hearing, Attorney Scott Grover, representing the petitioner, discussed the petition. Eric Towne was also in attendance representing the property owner, 2-A Buffum Street LLC. Architect Steve Livermore was also in attendance. Attorney Grover noted that the property is in a significant state of disrepair and that the owner bought the property after the bank foreclosed on it. He added that there is some evidence that in the distant past the property had been used as a two-family home: there are two electric meters and a front and a rear stairway.
9. At the public hearing, Attorney Grover explained the proposal to add two parking spaces to the existing single parking space. (The existing parking space is through an existing curb cut on the Buffum Street Extension side of the property; the two proposed parking spaces will be accessed through an existing curb cut on the South Mason Street side of the property.) He noted that the curb cut through which the parking will be accessed will be limited to ten feet (10') in width, so that the total width of the two curb cuts is no greater than twenty feet (20').
10. At the public hearing, Attorney Grover explained that the structural change will be to create a deck on the existing roof at the rear of the property. The roof is above the first floor at the rear of the property; this deck will serve the second floor unit.
11. Attorney Grover discussed the grounds for the special permit, noting the multifamily use in the neighborhood.
12. Board member Paul Viccica asked about the curb cut dimensions. Attorney Grover answered that each curb cut will be limited to ten feet (10'). Building Commissioner Tom St. Pierre asked about the units. Attorney Grover answered that there will be two bedrooms in each unit.
13. At the June 19, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
14. Chair Duffy reviewed the special permit criteria.

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 conversion of the property to a two-family home will increase housing opportunities in the City.
2. Traffic flow and safety, including parking and loading: Adequate parking will be provided.
3. Adequacy of utilities and other public services: Adequate utilities and public services exist.
4. Impacts on the natural environment, including drainage will be improved with landscaping that will be added to the property.
5. Neighborhood character: The surrounding neighborhood has significant multifamily uses which are consistent with the proposed use. The proposal will bring the property to a better state of repair.
6. Potential fiscal impact, including impact on City tax base and employment: The increase in units will improve the fiscal impact of the property.


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 (single-family residential) to another nonconforming use (two-family residential) and the requested special permit per Section 3.3.3 *Nonconforming Structures* to alter a nonconforming structure at **2A Buffum Street Extension**, 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 is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

Special Condition:

1. The curb cut on the South Mason Street side shall be limited to ten feet (10') in width. The existing curb cut on the Buffum Street Extension side shall be no greater than ten feet (10') in width.



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.