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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 SPIRE INVESTMENTS LLC for an amendment to the July 3, 2018 decision of the Board of Appeals, seeking an additional variance per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to allow two dormers on the attic level of the mansion at 94 WASHINGTON SQUARE EAST (Map 35, Lot 536) (R2 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 an amendment to the July 3, 2018 decision of the Zoning Board of Appeals granting a special permit and variances.

Statements of Fact:

1. In the petition date-stamped September 25, 2019, the petitioner requested an amendment to the decision granting a special permit and variances to the same petitioner by the Zoning Board of Appeals on July 3, 2018.
2. Attorney Scott Grover, representing petitioner Spire Investments LLC, presented the petition.
3. In the decision date-stamped July 3, 2018, the Board granting a special permit per Section 3.3.2 *Nonconforming Uses* to change the nonconforming function hall into a multifamily residential use and variances per 3.3.4 *Variance Required* and 4.1.1 *Table of Dimensional Requirements* for lot area per dwelling unit, number of stories, height, front yard and side yard setbacks to allow a two-story addition to the existing one-story rear structure.
4. The proposal is to amend the previous decision to add another variance per Section 3.3.4 *Variance Required* to allow two dormers on the attic level of the mansion at 94 Washington Square East. This proposal would not change the footprint of the building, but would increase the square footage of the loft, from 472 feet (as approved before) to 519 square feet. The proposed dormers will not exceed the peak height of the existing building.
5. The requested relief, if granted, would allow the petitioner to build two dormers on the attic level of the mansion (the rear structure) at 94 Washington Square East.
6. At the October 16, 2019 meeting of the Board of Appeals, Attorney Scott Grover discussed the petition. He also introduced the property owner, Jay Goldberg, and architect Peter Pitman. Attorney Grover noted that construction has been going well and that the project is expected to be completed next year. He noted that the proposed change is the addition of two dormers, which will not increase the overall height of the building. He stated that the circumstances and findings made by the Board previously demonstrating grounds for relief are the same. Mr. Pitman noted that this Federal structure

was reframed in the Industrial Age after the third floor was burned. The framing consists of massive steel trusses. The petitioners want to be able to take advantage of this architectural feature and space. Mr. Pitman noted that the dormer would allow an unusable area to be utilized. He noted that the dormers will have windows, and that the dormer siding will match the siding of the building. Attorney Grover added that the proposed change will not increase the number of bedrooms but will just increase square footage.

7. At the October 16, 2019 meeting, Paul Viccica discussed the design for the project with the petitioners. Mr. Pitman noted that the width was dictated by the desire to align the dormer with the windows below. Mr. Viccica asked about using the roofing material (slate) for the siding of the dormer instead of the clapboard used for the building siding, to make the dormer disappear within the roof color. Mr. Pitman stated that he was amenable to that change.
8. At the October 16, 2019 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition. Chair Duffy noted that the Board received an email from Milo Martinez, the head trustee at 78 Washington Square and a member of the Historic Commission. Mr. Martinez learned about the request, and though he recognizes the property is outside the jurisdiction of the Historic Commission, due to the prominent location on the Common, Mr. Martinez believes it would be beneficial for the applicant to go before the Historic Commission for comment before final approval. Mr. Corriston clarified this is not a letter from the Commission, just from Mr. Martinez.
9. At the October 16, 2019 public hearing, Paul Viccica suggested that the petitioner consider the change in material and the proportion of the dormer, though the proportion would not be made a condition.
10. At the October 16, 2019 meeting, Chair Duffy stated that the hardship that impacts the property has been previously considered in granting the previous variance, and notes that this change to incorporate dormers falls under the same analysis conducted before. Chair Duffy explained that this does not trigger the need for new discussion of findings, as it would echo what has already been discussed. Chair Duffy noted that all previous conditions should hold as well.

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 (from July 3, 2018 decision):

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 building is a prominent historic mansion with a large one-story addition. The total interior square footage of the building is 20,244 +/- square feet. The petitioner plans to restore the main building to the historically appropriate standards and create a structure that is in harmony with the existing neighborhood.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant as only two (2) residential units could be constructed. This reuse is impractical and would prevent any reasonable re-use of this property. Further, the proposed density is needed to support the restoration of the mansion and the density requested is in keeping with the existing density of the neighborhood.
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 proposed change from the existing non-conforming function hall to a residential use is more consistent with the underlying zoning than the existing commercial use.


On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Jimmi Heiserman, Jimmy Tsitsinos, Paul Viccica, Peter Copelas, and Mike Duffy (Chair)) and none (0) opposed to grant the requested amendment to the July 3, 2018 decision of the Board of Appeals, seeking an additional variance per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to allow two dormers on the attic level of the mansion at **94 Washington Square East**, 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 or amend the original 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 Inspection is to be obtained.
7. A Certificate of Occupancy 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.

Special Condition:

1. The cladding material of the dormer shall be the same cladding material as the roof.

 /BJC

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.