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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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2014 SEP 10 P 12: 57

FILE #
CITY CLERK, SALEM, MASS.

September 10, 2014

Decision

City of Salem Board of Appeals

Petition of RIVERVIEW PLACE LLC requesting a Variance from the requirements of Section 8.4.9 *Parking Requirements* of the Salem Zoning Ordinance to allow fewer than the required 2 parking spaces per dwelling unit, and an Amendment to allow less of an encroachment on the 50 foot buffer required for construction activity abutting residential property than the previously issued decision allowed. The property is located at 72 FLINT ST, 67-69 MASON ST, AND 71 MASON ST (NRCC Zoning District).

A public hearing on the above Petition was opened on August 27, 2014 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Duffy, Mr. Watkins, Mr. Copelas (Alternate), and Mr. Tsitsinos (Alternate).

The Petitioner seeks a Variance from the provisions of Section 8.4.9 *Parking Requirements* of the Salem Zoning Ordinance, and an Amendment to a previously issued decision to allow less of an encroachment on the 50-foot buffer required for construction activity abutting a residential property.

Statements of fact:

1. In the petition date-stamped August 6th, 2014, the Petitioner requested: A Variance from Section 8.4.9 *Parking Requirements* of the Salem Zoning Ordinance to allow fewer than the required 2 parking spaces per dwelling unit, and an amendment to a Board of Appeals decision issued on April 22, 2014, to allow less of an encroachment on the 50 foot buffer required for construction activity abutting residential property.
2. Attorney Scott Grover presented the petition for the property located at 72 Flint Street, 67-69 Mason Street and 71 Mason Street.
3. On April 22nd, 2014 the Zoning Board granted an amendment to existing variances to allow a reduction in the number of parking spaces allocated to the commercial use from 37 spaces to 10 spaces, and to allow a reconfiguration of a proposed surface parking lot. These amendments were sought by the petitioner in response to changes to the site plan necessitated by the determination that the property is subject to M.G.L Chapter 91 and MEPA regulations.
4. The changes to the project necessitated by the Chapter 91 and MEPA regulations also require approval by the Salem Planning Board and the Salem Design Review Board.
5. At the meeting of the Design Review Board to review the proposed project changes, members of the Design Review Board suggested that the applicant pursue the possibility of reducing the number of parking spaces to less than 2 spaces per unit.

6. Mr. Feinstein, Symes Associates stated that parking demand could be controlled by restricting parking in their lease agreements, to ensure adequate parking for residents.
7. The proposed reduction of required parking spaces would eliminate a previously proposed parking garage and utilize surface parking. Additionally, the reduction in parking spaces would allow the southwest parking area to be pulled further back from the abutting residential properties from the previously approved 7 feet from the property line.
8. The requested relief, if granted, would allow the Petitioner to have fewer than the required 2 parking spaces per dwelling unit, and to have less of an encroachment on the 50 foot buffer required for construction activity abutting residential property.
9. Chair Curran read into the record two letters submitted to the Board stating opposition to the petition, citing a lack of parking in the neighborhood, an increase in the surface parking, and a lack of evidence and public input, as well as a third letter requesting additional information and documentation to justify the requested relief.
10. At the Public Hearing, ten (10) members of the public, including Councilors Beth Gerard and Arthur Sargent, spoke regarding the petition, with questions and concerns including: the existing limited parking available in the neighborhood, the negative impact on the neighborhood of any additional on-street parking demand, the reality of the residential units only utilizing 1.5 parking spaces per unit, parking accommodations for visitors, the adequacy of the petitioner's stated hardship, and an obligation to provide additional space for on-site public amenities if there is a reduction in on-site parking spaces.
11. The Board requested that the petitioner supply additional information to substantiate the petitioner's statements that 1.5 parking spaces per dwelling unit would adequately meet the parking demands of the future residents of the development.
12. The Petitioner stated that the project is on a tight timeline, and that they did not wish to extend the public hearing to the next Board of Appeals meeting.

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**:

Findings

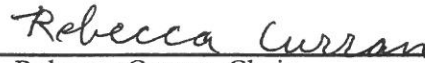
1. The Board requested additional information and data which was deemed necessary in order to understand the effects of reducing on-site parking.
2. The application did not articulate a hardship as required by M.G.L. chapter 40A

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted none (0) in favor, and five (5) opposed (Mr. Watkins, Ms. Curran, Mr. Tsitsinos, Mr. Copelas and Mr. Duffy), to grant the requested Variance from the requirements of Section 8.4.9 *Parking Requirements* of the Salem Zoning Ordinance to allow fewer than the required 2 parking spaces per dwelling unit, and an Amendment to allow less of an encroachment on the 50 foot buffer required for construction activity abutting residential property than the previously issued decision allowed. The petition is denied.

City of Salem Board of Appeals

September 10, 2014

Project: 72 FLINT ST, 67-69 MASON ST, AND 71 MASON ST Page 3 of 3



Rebecca Curran, 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.