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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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February 29, 2012

Decision

City of Salem Zoning Board of Appeals

2012 FEB 29 P 1:37
FILE #
CITY CLERK, SALEM, MASS.

Petition of PASQUANNA DEVELOPERS, INC. requesting Variances from minimum lot area, lot area per dwelling unit, frontage, lot width, front yard setback and rear yard setback, in order to subdivide the property located at 18 THORNDIKE STREET (R-2 Zoning District) into five (5) single-family house lots.

A public hearing on the above Petition was opened on October 19, 2011 pursuant to Mass General Law Ch. 40A, § 11. The hearing was continued to November 16, 2011 (with no evidence taken) and then to February 15, 2012, and closed on February 15, 2012 with the following Zoning Board of Appeals members present: Rebecca Curran (Chair), Annie Harris, Richard Dionne, Jamie Metsch, Jimmy Tsitsinos and Bonnie Belair. Annie Harris was not present at the October 19, 2011 meeting, but reviewed all evidence of the proceedings (including the audio recording) and submitted a signed affidavit to this effect.

Petitioner seeks Variances pursuant to Section 4.0 of the City of Salem Zoning Ordinances.

Statements of fact:

1. Patrick Delulis presented the petition at the hearing.
2. In a petition date-stamped September 22, 2011, petitioner requested Variances pursuant to Sec. 4.0 of the Salem Zoning Ordinance to allow for the subdivision of 18 Thorndike Street into five (5) single-family house lots.
3. At the hearing on October 19, 2011, a resident spoke in opposition to the petition, concerned about the number of homes to be built. Joe Bennett, 15 Hubon Street, submitted a letter in opposition to the project and also spoke in opposition at the February 15, 2012 meeting, citing concerns about the level of density, fire truck access, and proximity of the new homes to his home.

4. At the February 15, 2012 hearing, the petitioner presented revised plans showing movement of the houses and driveways on lots 4 and 5 further away from Thorndike Street abutters, and closer to the Hubon Street lots.

The Board of Appeal, after careful consideration of the evidence presented at the public hearing, and after thorough review of the plans and petition submitted, makes the following **findings:**

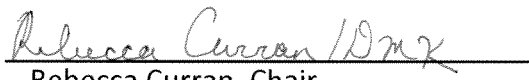
1. Special conditions and circumstances exist affecting the parcel or building, which do not generally affect other land or buildings in the same district, since the property was contaminated, which required extensive cleanup; it is a large lot with very little frontage; and it has a sewer easement running through it, which limited how the lots could be configured.
2. Owing to the previous contamination of the soil and the limitations presented by the sewer easement and lack of frontage, literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the appellant.
3. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance, since the Board finds the proposed development would be in keeping with the neighborhood. The Board also noted the project would offer benefits to the neighborhood including installation of a fire hydrant where none had previously existed, and the cleanup of the formerly contaminated site.
4. In permitting such change, the Board of Appeals requires certain appropriate conditions and safeguards as noted below.

On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the Plans, Documents and testimony, the Zoning Board of Appeals voted five (5) in favor (Curran, Harris, Metsch, Dionne and Belair) and none opposed, to grant the requested Variances. Variances under Section 4.0 are granted to allow subdivision of the property into five (5) single-family house lots, as shown on the submitted plans ("Preliminary Subdivision Layout Geometry for 5 Residential Lots for a site at Thorndike & Hubon Streets, Salem, Massachusetts," prepared by Patrowicz Land Development Engineering, dated July 1, 2011 and last revised January 31, 2012).

The Board of Appeals voted to grant petitioner's request for a Variance subject to the following **terms, conditions, and safeguards:**

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. A Certificate of Inspection is to be obtained.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.



Rebecca Curran, Chair
Salem 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.