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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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2015 DEC 30 P 1:17

FILE #
CITY CLERK, SALEM, MASS.

December 30, 2015

Decision

City of Salem Board of Appeals

Petition of MICHAEL GIARDI and JOANNE MATTERA, requesting Variances seeking relief from *Sec. 4.1.1 Table of Dimensional Requirements* for a minimum side yard setback and minimum rear setback to allow the petitioners to construct a shared 12' x 12' deck located at the properties 73 SUMMER STREET and 38 ENDICOTT STREET (Map 25 Lot 614 and 616) (R2).

A public hearing on the above Petition was opened on December 16, 2015 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Duffy, Mr. Copelas, Mr. Watkins, Mr. Viccica (alternate).

The Petitioner requests Variances for relief from *Sec. 4.1.1 Table of Dimensional Requirements* for a minimum side yard setback and minimum rear setback to allow the petitioners to construct a shared 12' x 12' deck.

The Zoning Board of Appeals heard a joint public hearing for the two (2) petitions located at the properties 73 SUMMER STREET and 38 ENDICOTT STREET (Map 25 Lot 614 and 616) (R2).

Statements of fact:

1. Petitioner Joanne Mattera, presented the petitions.
2. In the petitions date-stamped November 23, 2015, the Petitioners requested Variances seeking relief from *Sec. 4.1.1 Table of Dimensional Requirements* for a minimum side yard setback and minimum rear setback to allow the petitioners to construct a shared 12' x 12' deck.
3. Property owner, Michael Giardi of 73 Summer Street requested a Variance for relief from *Sec. 4.1.1 Table of Dimensional Requirements* for minimum rear setback and property owner, Joanne Mattera, of 38 Endicott Street requested a Variance for relief from *Sec. 4.1.1 Table of Dimensional Requirements* and minimum side yard setback to allow the construction of a shared 12 x 12 deck.
4. Both petitioners propose to construct a portion of a shared 12' x 12' deck to the zero (0') lot line to each property.
5. Each petitioner will have access from their own properties to the shared outdoor space.
6. The Board suggests that the petitioners work with a land use attorney to write-up a deeded agreement between property owners for future neighbors.
7. The requested relief, if granted, would allow the Petitioners to have a shared 12' x 12' deck.
8. At the public hearings one (1) member of the public spoke in favor and none (0) spoke in opposition to the proposal.

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:

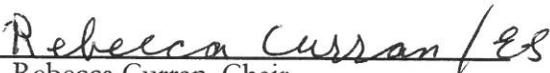
Findings for Variance:

1. Special conditions and circumstances that especially affect the land, building, or structure involved, generally not affecting other lands, buildings, and structures in the same district is that the buildings consume the entire lot and there is no existing outdoor space.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship due a lack of any outdoor space and the proposal will not affect anyone in the neighborhood or be a detriment to the public good.
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 five (5) in favor (Ms. Curran (Chair), Mr. Duffy, Mr. Copelas, Mr. Watkins, Mr. Viccica (alternate) and none (0) opposed, to grant Variances for relief from *Sec. 4.1.1 Table of Dimensional Requirements* for a minimum side yard setback and minimum rear setback to allow the petitioners to construct a shared 12' x 12' deck located at the properties 73 SUMMER STREET and 38 ENDICOTT STREET (Map 25 Lot 614 and 616), subject to the following **terms, conditions, and safeguards:**

Standard Conditions:

1. The Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. The petitioner shall obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered.
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 existing structure.
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.


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.