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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK, SALEM, MASS.

January 4, 2017

## Decision

### City of Salem Board of Appeals

**Petition of CAROL and SCOTT PERRY requesting a Special Permit per Sec. 3.3.3 Non-Conforming Structures and a Variance per Sec. 4.1.1 Table of Dimensional Requirements for minimum size yard setbacks construct a new dormer and exterior decks on the rear of the building at 7 ORANGE STREET (Map 35 Lot 366) (R-2 Zoning District).**

A public hearing on the above Petition was opened on December 21, 2016 pursuant to M.G.L. Ch. 40A, § 11 closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, Tom Watkins, Mike Duffy, and Jimmy Tsitsinos.

The petitioner is seeking a Special Permit per Sec. 3.3.3 Non-Conforming Structures and a Variance per Sec. 4.1.1 Table of Dimensional Requirements for minimum size yard setbacks construct a new dormer and exterior decks on the rear of the building.

#### Statements of fact:

1. In the petition date-stamped November 28, 2016, the Petitioner requested a Sec. 3.3.3 Non-Conforming Structures and a Variance per Sec. 4.1.1 Table of Dimensional Requirements for minimum size yard setbacks construct a new dormer and exterior decks on the rear of the building.
2. Attorney Grover presented the petition on behalf of the petitioner.
3. The property is located in an R2 (Residential Two-Family) district.
4. The property is a grandfathered existing nonconforming four (4) dwelling unit building.
5. The petitioner is proposing to construct a new dormer and rear decks on an existing non-conforming structure. The petitioner is requesting a special permit per section 3.3.3 Nonconforming Structures, to expand the roofline to create a rear dormer.
6. The proposed rear dormer will raise a portion of the rear roofline by eight (8) feet. The petitioner also proposed to raise the height of the chimney no higher than three (3) feet.
7. The petitioner is also requesting dimensional variances to exceed the minimum side yard setbacks. The Zoning Ordinance requires the minimum side yard width to be ten (10) feet from the property lines. The current existing width of the side yards are approximately two (2) feet at the north property line and eight (8) feet from the south property line.
8. The proposed dormer and decks would be five (5) feet from the north property line and eight (8) feet from the south property line.
9. The petitioner testified that the new dormer would increase the amount of useable space on the existing third story. The petitioner is planning to create two (2) townhouse style units on the second and third floor of the property.

10. The requested relief, if granted, would allow the Petitioner a Special Permit per Sec. 3.3.3 Non-Conforming Structures and a Variance per *Sec. 4.1.1 Table of Dimensional Requirements* for minimum size yard setbacks construct a new dormer and exterior decks on the rear of the building.
11. At the public hearing one (1) member of the public spoke in favor of and none (0) spoke in opposition to, the petition.

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**

1. The proposed expansion of a non-conforming structure would not be more substantially detrimental than the existing non-conforming structure to the impact on the social, economic or community needs served by the proposal.
2. There are no impacts on traffic flow and safety, including parking and loading.
3. The capacity of the utilities is not affected by the project.
4. There are no impacts on the natural environment, including drainage.
5. The proposal improves neighborhood character as it improves the property.
6. The potential fiscal impact, including impact on the City tax base is positive.

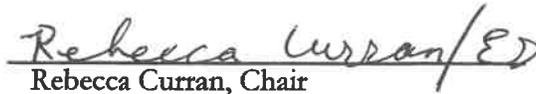
#### **Findings for Variance:**

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.
2. Literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant.
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 four (Peter A. Copelas, Jimmy Tsitsinos, Tom Watkins, Mike Duffy) in favor and one (1) (Rebecca Curran (Chair)) opposed, to grant a Special Permit per Sec. 3.3.3 Non-Conforming Structures and a Variance per *Sec. 4.1.1 Table of Dimensional Requirements* for minimum size yard setbacks construct a new dormer and exterior decks on the rear of the building subject to the following **terms, conditions and safeguards**:

1. The 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. Exterior finishes of new construction shall be in harmony with the existing structure.
6. A Certificate of Inspection shall be obtained.
7. A Certificate of Occupancy shall be obtained.
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  
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.*