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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
CITY CLERK, SALEM, MASS.

August 31, 2016

Decision

City of Salem Board of Appeals

Petition of MATTHEW CORNELL seeking a Special Permit per *Sec. 3.3.3 Nonconforming Structures* of the Salem Zoning Ordinance to reconstruct, extend and structurally change an existing non-conforming rear deck at the property of 18 BRIGGS STREET (Map 18 Lot 507) (R2 Zoning District)

A public hearing on the above Petition was opened on August 17, 2016 pursuant to M.G.L. Ch. 40A, § 11. The hearing was closed on this date with the following Salem Board of Appeals members present: Peter A. Copelas (Vice- Chair), Tom Watkins, Jimmy Tsitsinos, Paul Viccica (alternate).

The Petitioner seeks a Special Permit per *Sec. 3.3.3 Nonconforming Structures* of the Salem Zoning Ordinance to reconstruct, extend and structurally change an existing non-conforming rear deck.

Statements of fact:

1. In the petition date-stamped July 26, 2016, the Petitioner requested Special Permits per Section 3.3.3 *Nonconforming Structures* to reconstruct, extend and structurally change an existing non-conforming rear deck.
2. Matthew Cornell, petitioner, presented the petition.
3. In 1986, the existing non-conforming rear deck was constructed by special permit. The deck is currently in poor condition and is located within three (3') feet of the rear property line and within eight (8) feet of the side yard lot line.
4. The existing structure is 8' x 17' feet and includes a stairway.
5. The petitioner is proposing to reconstruct and extend a non-conforming 8'x 17' deck with an 8' x 20' x 10' deck and stairway.
6. The existing deck is located within three (3') feet of the rear property line and within eight (8') feet of the side yard lot line. The petitioner is proposing to extend the deck by one (1) foot along the existing non-conforming distance within the required rear yard setback to square off the southwest corner.
7. The requested relief, if granted, would allow the Petitioner to reconstruct, extend, alter a non-conforming rear 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:

This notice posted on "Official Bulletin Board"
City Hall, Salem, Mass. on August 31, 2016
at 8:27am in accordance with MGL Chap. 30A,
Sections 18-25.

Findings for Special Permit:

The Board finds that the proposed modification will not be substantially more detrimental than the existing nonconforming structure.

1. The Board finds that the reconstruction and expansion of the deck will promote safety and welfare as the structure is currently hazardous and in poor condition.
2. The proposed deck is positioned at the rear of the residential lot with no impact on traffic flow, traffic safety, or parking.
3. There will be no changes to utilities or public services related to the proposed deck.
4. The proposed deck fits with the existing neighborhood character.
5. The proposal conforms to the existing neighborhood character.
6. The potential fiscal impact, including impact on the City tax base is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (4) in favor (Peter A. Copelas (Vice- Chair), Tom Watkins, Jimmy Tsitsinos, Paul Viccica (alternate)) and none (0) opposed, to grant a Special Permit, to reconstruct, extend and structurally change an existing non-conforming rear deck 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. 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 the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy shall be obtained.
7. A Certificate of Inspection 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.