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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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June 1, 2016 Decision City of Salem Board of Appeals

Petition of RICARDO GARCIA and ROSE HELEN GARCIA, seeking a Variance from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, for minimum lot area per dwelling unit at the property of 24 Lemon Street (Map 36 Lot 44)(R2 Zoning District).

A public hearing on the above Petition was opened on April 20, 2016 pursuant to M.G.L Ch. 40A, § 11. Evidence was heard on that date and the petition was continued to the next regularly scheduled meeting on May 18, 2016. The hearing was closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins and James Hacker (alternate).

The Petitioner seeks seeking a Variance from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, for minimum lot area per dwelling unit to allow two (2) dwelling units at the property.

Statements of fact:

1. In the petition date-stamped March 14, 2016, the Petitioner requested a Variance from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, for minimum lot area per dwelling unit to allow two (2) dwelling units on a 4,084 square foot lot.
2. Mr. Ricardo Garcia and Ms. Rose Helen Garcia, petitioners presented the petition.
3. The property is located in an R2 Zoning District and a two (2) family dwelling unit is an allowable use by right.
4. The property is currently used as a single family home on an existing 4,084 square feet of the 15,000 square foot lot area required.
5. The petitioner proposed to formally create a driveway and three (3) parking spaces, which meets the parking requirements of the Salem Zoning Ordinance.
6. At the March 14, 2016 Zoning Board of Appeal meeting, the petitioner also proposed to construct a rear stairway for a second egress and railing above an existing single story rear deck.
7. At the March 14, 2016 Zoning Board of Appeal meeting, the Board requested additional information from the petitioner including a revised parking plan - Revised parking plan with additional measurements and labels to indicate the location of the fire hydrant, street name, and property measurements; a permit for a curbcut from the Engineering Department for permission to provide a formal curbcut, amended elevation plans of the proposed rear stairway and egress, an updated plot plan showing the proposed rear stairway location for review, a revised Statement of Hardship.
8. The petitioner provided the requested materials and information for the Board.

9. After review of the revised petition, the Building Commissioner ruled that the request for the rear stairway would require a special permit from section 3.3.5 *Non-conforming Single and Two-Family Structures* of the Salem Zoning Ordinance to reconstruct, extend, alter or change the non-conforming structure.
10. On May 18, 2016 the petitioner requested to withdraw the application without prejudice to re-apply to the Board with a revised application to include the request for a Special Permit.
11. The requested relief, if granted, would allow the petitioner to withdraw the petition without prejudice.
12. At the public hearing, no (0) member of the public spoke in support and no (0) members spoke in opposition to the petition. A petition of support with numerous abutters was presented to the Board for the record.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Peter A. Copelas (Vice-Chair), Jimmy Tsitsinos, Mike Duffy, Tom Watkins and James Hacker (alternate) and none (0) opposed, to allow the petitioner to withdraw without prejudice.

THE PETITION IS WITHDRAWN WITHOUT PREJUDICE.


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.