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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 GIDEON COLTOF (BIT BAR) seeking a Variance per Sec. 4-5.1 On-Premises Signs in Nonresidential Districts of the Salem Code of Ordinances, to allow the petitioner to install signs that are above the top of the sills of the first level of windows above the first story at the property of 50 ST. PETER STREET (Map 35 Lot 179)(B-5 Zoning District).

A public hearing on the above Petition was opened on May 18, 2016 pursuant to M.G.L Ch. 40A, § 11. 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, Paul Viccica (alternate).

The Petitioner seeks a Variance of the provisions of Sec. 4-5.1 On- Premises Signs in Nonresidential Districts of the Salem Code of Ordinances to allow the petitioner to install signs that are above the top of the sills of the first level of windows above the first story.

Statements of fact:

1. In the petition date-stamped April 26, 2016, the Petitioner requested a Variance of the provisions of Sec. 4-5.1 On- Premises Signs in Nonresidential Districts of the Salem Code of Ordinances to allow the petitioner to install signs that are above the top of the sills of the first level of windows above the first story.
2. Steven Hall and Gideon Coltof, of Bit Bar, presents the petition.
3. Bit Bar is located on the first floor of the Old Salem Jail. The petitioners are proposing to install signage above the maximum height allowed. Specifically, the Sign Ordinance of Sec 4-5.1 a.4 and d.2 state that the signs may not be higher than the top of the sills of the first level of windows above the first story.
4. The proposed signage calls for the highest point of the tallest sign to align with bottom sills of the second story.
5. The petitioners testify that the restaurant location, building scale, and mass of the Old Jail are significantly greater than other buildings in the area that contain retailers. Further the building is physically set back about 150 feet from fast moving traffic on Bridge Street and Church Street.
6. The Sign Ordinance states that "the bottom of the sign is at least ten (10) feet from grade and its top is no higher than whichever of the following is lowest: ...the top of the sills of the first level of windows above the first story..." If the literal enforcement of the sign ordinance were applied, it would only allow the petitioner to have signs that are two (2) feet tall.

7. The petitioners testify that two (2) feet tall signs are not sufficient in relation to the location, building scale, building mass and location.
8. There are a total of three (3) signs proposed for this location including two (2) blade signs and one (1) wall mounted sign.
9. The signage has been reviewed and approved by the Design Review Board and Salem Redevelopment Authority.
10. The requested relief, if granted, would allow the petitioner to install signs that are above the top of the sills of the first level of windows above the first story signage for this business located at the rear of the property.
11. At the public hearing, no members of the public spoke in favor or 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, makes the following findings:

Findings Sign Variance:


1. Special conditions and circumstances that especially affect the land, building, or structure involved is that the building scale, and mass of the Old Jail are significantly greater than other buildings in the area that contain retailers. Further the building is physically set back about 150 feet from fast moving traffic on Bridge Street and Church Street.
2. Literal enforcement of the provisions of the Ordinance would create a substantial hardship to the applicant as the Ordinance the literal enforcement of the sign ordinance were applied, it would only allow the petitioner to have signs that are two (2) feet tall on a large building setback from the street.
3. The desired relief may not be granted without nullifying or substantially derogating from the intent of the district or purpose of the City of Salem Zoning Ordinance.

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, Paul Viccica (alternate) and none (0) opposed, to approve the requested Variance to allow signage at the property subject to the following eight (8) standard **terms, conditions and safeguards**:

Standard:

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. Exterior finished of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to 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.