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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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2015 NOV -4 P 12: 07

FILE #
CITY CLERK, SALEM, MASS.

November 4, 2015

Decision

City of Salem Board of Appeals

Petition of GARY and ANN LAVOIE seeking a Variance requesting relief from Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimum side yard setback to allow the construction of a 6' x 10' one-story addition at the property of 33 NURSERY STREET (Map 27 Lot 183) (R2 Zoning District).

A public hearing on the above Petition was opened on October 21, 2015 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, James Tsitsinos, Mike Duffy, Jim Hacker (alternate)).

The Petitioner seeks a Special Permit from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimum side yard setback to allow the construction of a 6' x 10' one-story addition.

Statements of fact:

1. In the petition date-stamped September 22, 2015, the Petitioner requested a Variance per Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimum side yard setback to allow the construction of a 6' x 10' one-story addition.
2. The petitioners, Gary and Ann Lavoie presented the petition.
3. The petitioner proposes to construct a 6' x 10' one-story addition within five (5) feet of the required ten (10) feet from the side yard property line.
4. The existing building on the property is located within three (3) feet of the property line with a side porch. The proposed addition is a breezeway that will be located on the existing porch and not extend beyond the existing deck.
5. The requested relief, if granted, would allow the petitioner to construct a 6' x 10' one-story addition.
6. At the public hearing, no (0) members of the public spoke in support and no (0) members 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, makes the following **findings:**

Findings for Variance:

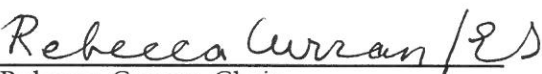
- 1) Special conditions and circumstances that especially affect the land, building, or structure involved, generally not affecting other lands, buildings and structures in the same district in that there is an existing building located in the side-yard setback and there is a deck and the new structure would be on top of the existing structure.

- 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 mollifying 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 (Rebecca Curran (Chair), Peter A. Copelas, James Tsitsinos, Mike Duffy, Jim Hacker (alternate) and none (0) opposed, to approve Variance requesting relief from Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance from minimum side yard setback to allow the construction of a 6' x 10' one-story addition subject to the following **terms, conditions and safeguards**:

Standard Conditions:

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 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.