



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS

## BOARD OF APPEALS

120 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TELE: 978-745-9595 ♦ FAX: 978-740-9846

2018 MAR 16 AM 10:00  
CITY CLERK  
SALEM, MASS

March 16, 2018

### Decision

### City of Salem Board of Appeals

Petition of 309-311 HIGHLAND AVENUE LLC, requesting a special permit per Sec. 3.3.3 *Nonconforming Structures* and Sec. 3.3.4 *Variance Required* of the Salem Zoning Ordinance, to extend an existing nonconforming structure, specifically to extend an exterior wall the same nonconforming distance within a required yard at 309-311 HIGHLAND AVE (Map 8 Lot 139)(B2, ECOD).

A public hearing on the above Petition was opened on February 28, 2018 pursuant to M.G.L Ch. 40A, § 11 and was closed on that date with the following Salem Board of Appeals members present: Rebecca Curran (Chair), Peter A. Copelas, Jimmy Tsitsinos, Mike Duffy and Jim Hacker (alternate).

The petitioner is seeking a special permit per Sec. 3.3.3 *Nonconforming Structures* and Sec. 3.3.4 *Variance Required* of the Salem Zoning Ordinance, to extend an existing nonconforming structure, specifically to extend an exterior wall the same nonconforming distance within a required yard.

#### Statements of fact:

1. In the petition date-stamped January 25, 2018, the Petitioner requested a special permit per Sec. 3.3.3 *Nonconforming Structures* and Sec. 3.3.4 *Variance Required* of the Salem Zoning Ordinance, to extend an existing nonconforming structure, specifically to extend an exterior wall the same nonconforming distance within a required yard.
2. Attorney Joseph Correnti presented the petition.
3. The petitioner is seeking a special permit to allow an addition the existing building along Green Ledge Street for a new tenant, Town Fair Tire. The proposed commercial use of the property is allowed by-right in the zoning district.
4. The property is located in a B-2 Business Highway Zoning District and Entrance Corridor Overlay District. The site is located on Highland Avenue between DiPietro Avenue and Green Ledge Street, near the intersection of Swampscott Road.
5. The existing building is a one-story commercial building and is currently vacant. The existing building is nonconforming as to setbacks along Highland Avenue and Green Ledge Street.
6. The petitioner is proposing to construct an approximately 1,916 square foot addition, as shown on the plans submitted with the petition, by extending the exterior wall along Green Ledge Street to add four (4) garage bays to the existing building.
7. The existing non-conforming structure is approximately 6,673 +/- square feet and will be renovated.
8. The petitioner provided a traffic study dated February 22, 2018 to document the expected traffic generation of the proposed Town Fair Tire store. In summary, the proposed Town Fair Tire proposal is a significantly lower traffic generator than both the former automobile dealership that operated on the site as well as other by right retail uses that could be located at this property due to the limited hours of operation and the option for customers to make appointments with the retailer prior to visiting the location.

9. The petitioner anticipates one (1) tire truck delivery per day in addition to regular UPS and FEDEX delivery services. All delivery vehicles will enter into the site from DiPietro Avenue and all loading and unloading will take place on the property.
10. The requested relief, if granted, would allow the petitioner to extend an existing nonconforming structure, specifically to extend an exterior wall the same nonconforming distance within a required yard.
11. The petitioner is proposing to demolish an existing 881 +/- square foot outbuilding on the property and reconfigure the existing parking lot to provide the required forty-three (43) parking spaces and associated landscaping.
12. The petitioner is also proposing an approximately 440 square foot tire cage and dumpster pad.
13. At the public hearing, three (3) members of the public spoke in opposition, and none (0) spoke in support of 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**:

The adverse effects of the proposed use will not outweigh its beneficial impacts to the City or neighborhood.

1. There are community needs that are served by the proposal as the existing vacant property will be utilized by an allowed use as a matter of right.
2. There are no negative impacts on traffic flow and safety including parking and loading. The traffic study referred to above has determined that the proposed use will generate less traffic than the previous use. The Board finds that there is adequate access via the existing curbcut along DiPietro Avenue, as this point of access has been used for decades, and the traffic light facilitates safe traffic movements.
3. Utilities and other public services are adequate.
4. There are no negative impacts to the neighborhood character as property is zoned as B-2 Business Highway District and the proposed use is allowed by right. Further, the petitioner is proposing architectural details to the addition that will visually break up the massing of the north façade wall.
5. There are no negative impacts to the natural environment as the petitioner is removing a substantial amount of impervious surface from the property, adding landscaping to the rear, side and front of the property and improving on site drainage.
6. Potential economic and fiscal impact, including impact on City services, tax base, and employment is positive.

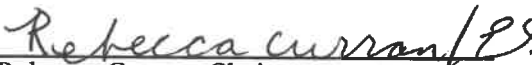
On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5)(Rebecca Curran (Chair), Peter A. Copelas, Jimmy Tsitsinos, Mike Duffy and Jim Hacker (alternate)) in favor and none (0) opposed, to extend an existing nonconforming structure, specifically to extend an exterior wall the same nonconforming distance within a required yard subject to the following **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 Inspection is to be obtained.
7. A Certificate of Occupancy is to be obtained.
8. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.

Special Conditions:

1. The applicant shall prepare a plan to be submitted to the Planning Department for administrative review and approval with additional architectural features on the north façade to help visually break up this elevation massing and remove the north side customer entrance except for an emergency egress door on this side.
2. Loading and unloading of deliveries shall take place on the property and not on Green Ledge Street.

  
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.*

