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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
CITY CLERK, SALEM, MASS.

February 4, 2015

Decision

City of Salem Board of Appeals

Petition of JOSEPH R. GAGNON and MARIA K. GAGNON seeking Special Permits per Sec. 3.3.5 *Nonconforming Single- and Two-Family Residential Structures*, to allow a change from an existing non-conforming single family structure to a two family residential structure and to reconstruct rear addition. The applicant is also seeking a Variance per Sec. 4.1.1 *Table of Dimensional Requirements* to allow a reduction in minimum lot size per dwelling unit. The proposal is for the property located at 20 LINDEN STREET (Map 30, Lot 15) (R2 Zoning District).

A public hearing on the above Petition was opened on January 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: Ms. Curran (Chair), Mr. Duffy, Mr. Watkins, Mr. Copelas, Mr. Tsitsinos (alternate).

The Petitioner seeks a Special Permit per Sec. 3.3.5 Non-Conforming Single- and Two-Family Residential Structures and a Special Permit per Sec. 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition date-stamped December 4, 2014, the Petitioner requested a Special Permit to allow the reconstruction of a rear addition to an existing non-conforming Single-and Two-Family Residential Structure and a Special Permit to allow a reduction in the minimum lot size per dwelling unit.
2. Mr. Joseph Gagnon, petitioner, presented the application for 20 Linden Street.
3. The petitioner has demolished an existing 199.5 square foot existing rear addition and would like to rebuild a new 196 square foot addition at the rear of the residential structure.
4. The existing 199.5 square foot rear addition of this historic structure did not meet current zoning requirements as the structure was located 1.3 feet from the side yard lot line. The applicant requested a Special Permit for the proposed new addition does not meet the minimum side yard setback zoning requirements.
5. The proposed side yard setback for the new rear addition is 5 feet and the current zoning requirement is 10 feet. The existing rear addition had a rear 1.3 foot side yard setback.
6. The applicant also requested a Special Permit for the minimum lot area per dwelling unit. The required minimum lot area is 7,500 square feet per unit. The petitioner proposes to convert the existing single-family home to a two-family, which is allowed by right. The petitioner requested a Special Permit for minimum lot area as the proposed lot area is 8,250 square feet for two- units.
7. The requested relief, if granted, would allow the Petitioner to reconstruct a rear addition with a five (5) foot side yard setback and allow a reduction in the minimum lot size per dwelling unit to 8,250 square feet for two-units.

8. At the public hearing one (1) members of the public spoke in favor of and none (0) 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, 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:

Findings for Special Permits:

1. The project serves social, economic and community needs by rehabilitating and renovating an existing dilapidated structure.
2. There are no negative impacts on traffic flow and safety, including parking and loading, as there is no major introduction of high demand traffic and off-street parking proposed is within the parking requirements for this use.
3. The existing utilities are adequate to accommodate an additional dwelling unit proposed
4. There are no detrimental impacts on the natural environment and drainage.
5. The proposal fits with the character of the neighborhood.
6. The potential fiscal impact, including impact on City tax base and employment are positive.
7. The desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent 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 (Rebecca Curran, Peter A. Copelas, Mike Duffy, Tom Watkins and Jimmy Tsitsinos) and none (0) opposed, to grant Special Permits, to allow the reconstruction of a rear addition and to allow a reduction in minimum lot size per dwelling unit, subject to the following **terms, conditions, and safeguards**:

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 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.
8. Architectural plans shall be submitted to the Building Department as described in this petition.


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.