



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEAL

120 WASHINGTON STREET, 3RD FLOOR
SALEM, MASSACHUSETTS 01970

TELEPHONE: 978-745-9595
FAX: 978-740-9846

2011 MAR 24 P 1:11

FILED
CITY CLERK SALEM MASS.

March 24, 2011

Decision

City of Salem Zoning Board of Appeals

Petition of EXPRESS AUTO BODY, INC, seeking a Special Permit to change one nonconforming use to another in order to convert the existing building located at 164-168 BOSTON ST, Salem, MA to an auto body shop (Industrial Zoning District).

A public hearing on the above Petition was opened on December 15, 2010 pursuant to Mass General Law Ch. 40A, § 11. The hearing was continued to January 19, 2011, February 16, 2011, and March 16, 2011. The hearing was closed on March 16, 2011 with the following Zoning Board of Appeals members present: Rebecca Curran, Beth Debski, Richard Dionne, Bonnie Belair (alternate), and James Tsitsinos (alternate).

Petitioner seeks a Special Permit pursuant to Section 3.3.2, Nonconforming Uses, of the City of Salem Zoning Ordinances.

Statements of fact:

1. Attorney Peter Martino represented the petitioner, Carlos Farias, at the hearings. The property is owned by Robert Cucurull, who authorized the petition.
2. During the hearings, Board members expressed concern about parking on the site. The Board requested a parking plan showing which spaces would be dedicated to each use on the site.
3. Also at the hearings, several members of the public spoke in opposition to the proposal, citing concerns about congestion, parking and fumes near a residential neighborhood.
4. At the March 16, 2011 hearing, Board members noted the requested information, a parking plan, had not been received; the applicant was not present; and a phone call and email to the applicant had not been returned.

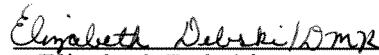
The Board of Appeal, after careful consideration of the evidence presented at the public hearing, and after thorough review of the plans and petition submitted, makes the following **findings**:

1. The petitioner did not attend the hearing on March 16, 2011 or respond to inquiries as to the status of the petition.
2. The petitioner did not demonstrate that the proposed change would not be substantially more detrimental than the existing nonconforming use to the neighborhood.

On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the Plans, Documents and testimony, the Zoning Board of Appeals **concludes**:

1. A Special Permit to change the existing nonconforming use to another nonconforming use (auto body shop) is not granted.

In consideration of the above, the Salem Board of Appeals voted, five (5) opposed (Curran, Debski, Dionne, Belair and Tsitsinos) and none (0) in favor, to grant petitioner's requests for a Special Permit. The petition is denied.



Elizabeth Debski,
Salem 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.