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November 30, 2011

Decision

City of Salem Zoning Board of Appeals

Petition of WLODEK MATCZAK requesting a Variance from number of stories, and a Special Permit to extend a nonconforming structure, to construct a shed dormer on the three-family home at 208 NORTH ST (R2 Zoning District).

A public hearing on the above Petition was opened on November 16, 2011, pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on November 11, 2011 with the following Zoning Board of Appeals members present: Rebecca Curran, Richard Dionne, Annie Harris, Jamie Metsch, and Jimmy Tsitsinos (alternate).

Petitioner seeks a Special Permit pursuant to Section 3.3.4 and a Variance pursuant to Section 4.0 of the City of Salem Zoning Ordinances.

Statements of fact:

1. Wlodek Matczak presented his petition at the hearing.
2. In a petition date-stamped October 27, 2011, petitioner requested a Special Permit to extend a nonconforming three-family home and a Variance from number of stories, in order to construct a third-floor shed dormer addition.
3. At the hearing, no member of the public spoke in support of or in opposition to the petition.

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 proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.
2. Owing to conditions affecting the building, literal enforcement of the provisions of the Zoning Ordinance would involve substantial hardship, financial or otherwise, to the appellant, since the configuration of the roofline does not allow for usable living space in this portion of the house.

3. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.
4. In permitting such change, the Board of Appeals requires certain appropriate conditions and safeguards as noted below.

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 under Sec. 3.3.4 of the Salem Zoning Ordinance to expand a nonconforming three-family house is granted in order to construct the proposed shed dormer.
2. A Variance from number of stories is granted in order to construct the proposed shed dormer.

In consideration of the above, the Salem Board of Appeals voted, five (5) in favor (Curran, Harris, Dionne, Tsitsinos and Metsch) and none (0) opposed, to grant petitioner's request for a Special Permit and Variance subject to the following **terms, conditions, and safeguards**:

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 finishes 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.
8. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of

destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.



Rebecca Curran, Chair
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.