



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

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November 2, 2011

Decision

City of Salem Zoning Board of Appeals

Petition of THREE SONS WINDOW & DOOR INC. requesting a Variance from number of stories and a Special Permit to extend a nonconforming structure in order to construct a shed dormer on the house located at 25-25½ BARR ST (R-2).

A public hearing on the above Petition was opened on October 19, 2011, pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on that date with the following Zoning Board of Appeals members present: Rebecca Curran (chair), Richard Dionne, Jamie Metsch and Bonnie Belair (alternate).

Petitioner seeks a Variance pursuant to Section 4.1 and a Special Permit pursuant to Section 3.3.5 of the City of Salem Zoning Ordinances.

Statements of fact:

1. Peggy Arend of Three Sons Window & Door Inc. presented the petition.
2. In a petition date-stamped August 31, 2011, petitioner requested a Special Permit to extend a nonconforming structure and a Variance from Section 4.1 of the Salem Zoning Ordinance, in order to construct a third-story shed dormer on the existing two-family house located on 25-25 ½ Barr Street.
3. At the hearing, no one spoke in opposition to or in support of 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. 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, since the house was preexisting, and neither the footprint nor the height will increase.

2. 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 Variance from Sections 4.1 (Table of Dimensional Requirements) and a Special Permit under Section 3.3.5 of the Salem Zoning Ordinance are granted to allow the construction of the shed dormer as shown on the submitted plans.

In consideration of the above, the Salem Board of Appeals voted, four (4) in favor (Curran, Metsch, Dionne and Belair) and none (0) opposed, to grant petitioner's request for a Variance and Special Permit 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.

9. The house is to remain a two-family house.

Handwritten signature of Rebecca Curran in cursive script, followed by the initials DMK.

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.