



KIMBERLEY DRISCOLL  
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## CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

June 1, 2011

### Decision

City of Salem Zoning Board of Appeals

**Petition of NICOLE BARLETTA requesting a Special Permit to extend a nonconforming structure, and Variances from number of stories, lot coverage and side and rear setbacks, and from off-street parking regulations, in order to construct two rear decks and create two parking spaces on the property located at 31 ARBELLA ST (R-2).**

A public hearing on the above Petition was opened on May 18, 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, Richard Dionne, Annie Harris, Jamie Metsch, Bonnie Belair and Jimmy Tsitsinos (alternate).

Petitioner seeks a Special Permit pursuant to Section 3.3.5 and Variances pursuant to Section 4.1. and 5.1.5 of the City of Salem Zoning Ordinances.

#### **Statements of fact:**

1. In a petition date-stamped April 28, 2011, the petitioner requested a Special Permit and Variances to construct two decks at the rear of the two-family house at 31 Arbella Street, and to create two parking spaces on the property.
2. Antonio Barletta and Amy Wallick presented the petition at the hearing on behalf of petitioner Nicole Barletta.
3. At the hearing, the Board of Appeals heard three letters from residents opposing the petition due to concerns regarding the size of the lot, proximity of the structures to abutters, use of the rear yard for parking, and objections that the house should not be used as a two-family home.
4. At the hearing, Board members asked Building Commissioner Thomas St. Pierre about the legal use of the building; Mr. St. Pierre confirmed that records indicate the building is a legal two-family home.
5. At the hearing, Board members expressed concern about the dimensions of the proposed parking area, noting the width did not seem great enough to accommodate cars easily.

6. At the hearing, Board members suggested decreasing the dimensions of the decks and relocating them so as to be less obtrusive into the rear yard area. The Board also suggested eliminating the rear parking area and placing tandem spaces along the side of the property. The petitioner revised the drawing according to the Board's comments.

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.
2. In permitting such change, the Board of Appeals requires certain appropriate conditions and safeguards as noted below.

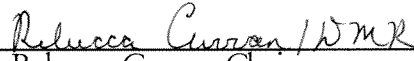
On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the Plans, Documents and testimony, the Zoning Board of Appeals **concludes**:

1. A Special Permit under Sec. 3.3.5 of the Salem Zoning Ordinance is granted to alter a nonconforming two-family house by constructing two rear decks as shown in the revised plans.
2. Variances from number of stories, lot coverage and side and rear setbacks, are granted to construct two decks at the rear of the property as shown in the revised plans.
3. A Variance from off-street parking regulations are granted to allow two tandem parking spaces, as shown on the revised plans.

In consideration of the above, the Salem Board of Appeals voted, five (5) in favor (Harris, Curran, Dionne, Belair and Metch in favor) and none (0) opposed, to grant petitioner's request for a Special Permit and Variances to construct two rear decks and create two tandem parking spaces, 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 Occupancy 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. A new set of drawings to reflect the Board's comments, based on the revised drawings submitted at the May 18, 2011 hearing, are to be submitted for approval by the Building Commissioner.
10. Dimensions of the second floor deck are to be no greater than 5'x14'. Dimensions of the third floor deck are to be no more than 4'x8'.
11. The second parking space is to be 9' wide.
12. The back yard is to be restricted from parking.

  
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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.