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## CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEAL

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2011 MAY -4 A 10: 27

CITY CLERK

May 4, 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, in order to construct a shed dormer and two rear decks on the two-family house at 31 ARBELLA ST (R-2).**

A public hearing on the above Petition was opened on April 20, 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, Elizabeth Debski, Richard Dionne, Annie Harris, Jamie Metsch, and Jimmy Tsitsinos (alternate).

Petitioner seeks a Special Permit pursuant to Section 3.3.5 and Variances pursuant to Section 4.1.1 of the City of Salem Zoning Ordinances.

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

1. In a petition date-stamped March 31, 2011, the petitioner requested a Special Permit and Variances to construct a shed dormer in the rear roof and a three-level deck, which would also serve as the second means of egress for both units in the house.
2. Antonio Barletta presented the petition at the hearing on behalf of petitioner Nicole Barletta.
3. At the hearing, the residents of one abutting property spoke in opposition to the petition, and letters from two other residents were read, also opposing the project, citing concerns about adding decks and parking spaces to a small property. A letter from At-Large Councillor Joan Lovely was presented in support of the project on the grounds that it would enhance and beautify the neighborhood.
4. At the hearing on April 20, 2011, Board members noted the lack of detail provided in renderings of the proposed three-level deck and requested more specific, scaled drawings of the deck, as well as of the rear and side elevations, detail of the bulkhead, and the entrance to the rear floor. The Board also requested a parking plan, drawn to scale, to show the number and dimensions of the parking spaces on the property.
5. The Board proposed dividing the petition, voting on a Special Permit and Variance from dimensional requirements for the dormer (number of stories), and voting to

allow the petitioner to withdraw the remainder of the petition without prejudice with the intent of re-filing it with more detailed plans.

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 for the proposed rear roof dormer 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.

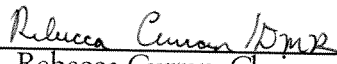
On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the Plans, Documents and testimony, the Zoning Board of Appeals **concludes**:

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 a dormer on the rear roof as shown in the submitted plans.
2. A Variance from number of stories is granted to construct a dormer on the rear roof as shown in the submitted plans.
3. The Board grants the petitioner permission to withdraw without prejudice the requested Variances and a Special Permit to install a three-level deck/ means of second egress.

In consideration of the above, the Salem Board of Appeals voted, five (5) in favor (Debski, Harris, Curran, Dionne and Metch in favor) and none (0) opposed, to grant petitioner's request for a Special Permit and a Variance to construct a dormer on the rear roof, and to withdraw without prejudice the requested Variances and Special Permit to install a three-level deck/ means of second egress, 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.

  
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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.