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BOARD OF APPEAL

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CITY CLERK SALEM MASS

May 4, 2011

Decision

City of Salem Zoning Board of Appeals

Petition of ANDREW LYALL requesting a Variance from minimum width of side yard, and a Special Permit to extend a nonconforming structure, to allow an attached garage approx. 10' x 19' at 40 COLUMBUS AVENUE (R-1).

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

Statements of fact:

1. The petitioner represented himself at the hearing.
2. In a petition date-stamped March 30, 2011, the petitioner requested a Variance from required side yard setback and a Special Permit to construct a second story on an existing garage attached to the single-family house located at 4 Patton Road.
3. At the meeting on April 20, 2011, three residents spoke in support of the petition. No one spoke in opposition.

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 Variance from side yard setback requirements of Section 4.1.1 of the Salem Zoning Ordinance is granted.
2. A Special Permit under Sec. 3.3.5 of the Salem Zoning Ordinance to extend a nonconforming single-family house is granted.

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 Variances 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. Windows are to comply with Building Code requirements.

Rebecca Curran 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.