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BOARD OF APPEAL

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November 30, 2011

00:00:00

Decision

City of Salem Zoning Board of Appeals

Petition of JAY GOLDBERG, GERREN REALTY TRUST requesting Special Permits under Sec. 3.3.2 of the Salem Zoning Ordinance to extend a nonconforming structure and to change one nonconforming use to another nonconforming use, in order to open a Doggy Daycare/Training Business at 9-11 FRANKLIN ST, and to construct a 32'x24' vinyl fenced area (B1 and R2 Zoning Districts).

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 Special Permits pursuant to Sections 3.3.2 and 3.3.3 of the City of Salem Zoning Ordinances.

Statements of fact:

1. Jay Goldberg presented the petition at the hearing. Also present was Jermaine Anderson, proprietor of Loyal Canines, the business that is proposed as a tenant for 9-11 Franklin Street.
2. In a petition date-stamped October 26, 2011, petitioner requested Special Permits to extend a nonconforming structure and to change one nonconforming use to another nonconforming use, in order to open a Doggy Daycare/Training Business at 9-11 Franklin Street, and to construct a 32'x24' vinyl fenced area.
3. Currently, there are several commercial uses in the building on 9-11 Franklin Street, including an automotive business, a martial arts school, and a transmission shop. The space for which Loyal Canines is proposed was most recently a flooring business.
4. At the meeting on November 16, 2011, several residents spoke in opposition to the proposal, citing concerns about the potential noise and smell from the dogs, traffic congestion, cleanliness, property values, nonconforming uses already on the site, and neighborhood safety. Two residents submitted letters in opposition to the petition, including Ward 6 Councillor Paul Prevey, 26 Tremont Street, who also spoke in opposition at the hearing. Neighbors also submitted a petition against the project with signatures from neighbors.

5. Also at the November 16 hearing, several clients of Mr. Anderson spoke in favor of the project, attesting to his professional manner and skill with dog training.
6. At the hearing, Mr. Anderson stated that his dogs are trained not to bark.
7. At the hearing, Mr. Goldberg stated that the previous use, a flooring business, had trucks loading and unloading, and forklifts operating, which created beeping noises when backing up.

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, since the proposed doggie day care/training use is not substantially more detrimental than the previous nonconforming use (a flooring business) to the neighborhood.
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. 3.3.2 of the Salem Zoning Ordinance to change one nonconforming use to another nonconforming use is granted. The Special Permit is granted for a period of nine (9) months from the date of issuance of a Certificate of Occupancy, and is valid for use only by Loyal Canines, run by Jermaine Anderson.
2. A Special Permit under Sec. 3.3.3 of the Salem Zoning Ordinance to extend a nonconforming structure is granted. The Special Permit is granted for a period of nine (9) months from the date of issuance of a Certificate of Occupancy.

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 Special Permits 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. A Certificate of Occupancy is to be obtained.
6. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
7. Special Permits are granted for a period of nine (9) months from the date of issuance of a Certificate of Occupancy.
8. Hours of operation for the doggie day care are limited to 7:00 a.m. to 7:00 p.m., Monday through Friday. Dog training only is allowed on weekends.
9. Special Permit for use is granted only to Loyal Canines, run by Jermaine Anderson.
10. Applicant is to contact the Board of Health and Animal Control Officer prior to opening the business.



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.