

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

May 12, 2011

Amended Decision

City of Salem Zoning Board of Appeals

Petition of A.L. PRIME ENERGY CONSULTANTS requesting a Special Permit under Sec. 3.3.2 of the Salem Zoning Ordinance to extend a nonconforming use (gas station), and Variances under Sec. 3.3.4, 4.0 and 6.3 to construct a convenience store and canopy over gas pumps for the properties located at 175 LAFAYETTE ST. (B-1 and R-3) and 183 LAFAYETTE ST. (B-1 Zoning District).

A public hearing on the above Petition was opened on March 16, 2011, pursuant to Mass General Law Ch. 40A, § 11. The hearing was continued to April 20, 2011 and closed on that date with the following Zoning Board of Appeals members present: Rebecca Curran, Elizabeth Debski, Richard Dionne, Annie Harris, Jamie Metsch, Jimmy Tsitsinos (alternate) and Bonnie Belair (alternate).

Petitioner seeks a Special Permit pursuant to Section 3.3.2 and Variances under Sections 3.3.4, 4.0 and 6.3 of the City of Salem Zoning Ordinances.

Statements of fact:

1. Attorney George Atkins represented the petitioner at the hearings.
2. In a petition date-stamped December 22, 2010, petitioner requested Special Permits and Variances to extend a nonconforming use (gas station), and reconstruct a nonconforming structure (constructing a convenience store), and requested relief from screening requirements for the properties located at 175 LAFAYETTE ST. and 183 LAFAYETTE ST.
3. At the meeting on March 16, 2011, one resident spoke in opposition to the proposal, citing concerns about traffic congestion and safety, snow removal problems currently on the site, and the potential for loitering late at night.
4. Also at the March 16 meeting, Ward 1 Councillor Robert McCarthy spoke in support of the petition, citing the project's potential to improve traffic congestion and queuing on Lafayette St. and noting that the petitioner's other facilities were well-maintained.
5. At the March 16 and April 20 meetings, Ward 7 Councillor Joseph O'Keefe spoke in support of the project, citing proposed fire safety improvements (larger, safer storage

CITY CLERK'S OFFICE
2011 MAY 12 P 1:42

tanks, canopy sprinkler system) and improved access and circulation due to double-sided pumps.

6. At the March 16 meeting, some Board members expressed concern about the number of pumps proposed, suggesting four new double-sided pumps might increase traffic to the site and increase the intensity of use too much, and also noted that snow removal could be a problem.
7. The hearing was continued to April 20. At this meeting, the petitioner presented revised plans showing a reduction in the number of pumps from four to three, additional landscaping, and a designated area for snow stacking. Attorney Atkins also noted that subject to Planning Board approval, the petitioner would place "Do Not Enter" signs at the Palmer Street driveway to ensure one-way traffic flow. Board members noted that these were improvements to the plan.
8. At the April 20 hearing, some Board members expressed concern about the width of the existing 79' driveway from Lafayette Street (saying it was too wide and created an unsafe pedestrian environment), while others were satisfied with the dimensions. Board members agreed to allow this issue to be addressed by the Planning Board during their review and noted that they would send a letter to the Planning Board suggesting they examine this and the location of the crosswalk that currently exists on Lafayette Street.

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 proposed plan is expected to reduce queuing on Lafayette Street, improve traffic congestion and circulation on the site, reduce the number of uses currently on the site, provide for a higher level of fire safety, and provide landscaping that will improve the site aesthetically.
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 extend a nonconforming use (gas station) is granted.
2. Variances under Sec. 3.3.4, 4.0 and 6.3 to construct a convenience store and canopy over gas pumps as shown on the approved plan are granted.

3. Relief from the screening requirements of Sec. 6.3 is granted (landscaping is to be done as shown on the approved plan).

In consideration of the above, the Salem Board of Appeals voted, five (5) in favor (Curran, Debski, Dionne, Tsitsinos and Belair) and none (0) opposed, to grant petitioner's request for Special Permits 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. Approved plan is titled "Site Improvement Plan," sheet C-1, prepared by Ayoub Engineering, last revised 4/14/11.
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.



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.