



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

120 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TELE: 978-619-5685 ♦ FAX: 978-740-0404

April 30, 2012

Decision

City of Salem Zoning Board of Appeals

2012 MAY - 1 P 2: 14
FILE #
CITY CLERK, SALEM, MASS.

Petition of THOMAS J. PELLETIER requesting a Special Permit to change a nonconforming use (office space) to another nonconforming use, in order to convert the second floor of the building located at 214 DERBY STREET to residential (R2 Zoning District). A Variance from off-street parking regulations is also requested.

A public hearing on the above Petition was opened on April 18, 2012 pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on April 18, 2012 with the following Zoning Board of Appeals members present: Richard Dionne (chairing the meeting), Annie Harris, Jamie Metsch, Jimmy Tsitsinos and Bonnie Belair.

Petitioner seeks a Special Permit pursuant to Section 3.3.2 and a Variance pursuant to Section 5.1 of the City of Salem Zoning Ordinances.

Statements of fact:

1. In a petition date-stamped April 12, 2012, petitioner requested a Special Permit pursuant to Section 3.3.2 and a Variance pursuant to Sec. 5.1 of the Salem Zoning Ordinance to convert the second floor of the building at 214 Derby Street to a residential unit.
2. The petitioner represented himself at the hearing.
3. At the hearing, the petitioner stated that he had had difficulty renting the office space, and that he felt he would have greater success renting residential space, based on the current market.
4. At the hearing, the petitioner stated that his intent was to convert the first floor space to two two-bedroom units.

5. At the hearing, no member of the public spoke in opposition to or in support of the petition.

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**:

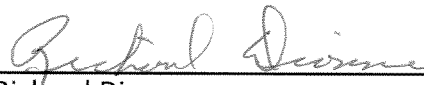
1. The inability to lease the existing office space has created substantial hardship to the appellant.
2. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance, since the proposed residential use is more compatible with the residential zoning district, and would generate less traffic than an office use. Additionally, the petitioner has agreed to lease three parking spaces in order to satisfy the parking requirements for two residential units.
3. 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 voted five (5) in favor (Dionne, Metsch, Harris, Tsitsinos and Belair) and none (0) opposed, to grant the requested Variance and Special Permit. A Variance under Section 5.1 and a Special Permit under Section 3.3.2 are granted to allow conversion of the office space to two residential units.

The Board of Appeals voted to grant petitioner's request for a Special Permit and a Variance 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 shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. Owner shall lease three (3) parking spaces at his expense at the South Harbor Garage for use by the residential units.



Richard Dionne
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.