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## CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

### Decision

#### City of Salem Zoning Board of Appeals

**Petition of TERI KALGREN for a Home Occupation Special Permit and a Variance from off-street parking regulations to allow an herb shop in the first floor of the building at 3 HAWTHORNE BLVD.**

A public hearing on the above Petition was held on January 18, 2012 pursuant to Mass General Law Ch. 40A, § 11 with the following Zoning Board of Appeals members present: Annie Harris (acting as Chair), Richard Dionne, Jamie Metsch, Jimmy Tsitsinos, and Bonnie Belair.

Petitioner seeks a special permit pursuant to Section 3.2.2 and a Variance pursuant to Section to 5.1 of the Salem Zoning Ordinance.

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

1. Ms. Kalgren is the proprietor of Artemisia Botanicals, an herb shop located at 102 Wharf Street, Salem.
2. In a petition date-stamped December 28, 2011, Ms. Kalgren requested a Special Permit for a home occupation and a variance from off-street parking regulations for a home occupation at 3 Hawthorne Blvd.
3. Sean P. Pray and Richard L. Smith are the owners of 3 Hawthorne Blvd. Ms. Kalgren has the property under agreement and seeks to move her herb shop there from 102 Wharf Street.
4. At the hearing on January 18, 2012, Attorney James Burke presented the petition on behalf of Ms. Kalgren.
5. In her application and at the hearing, Ms. Kalgren stated her intent to occupy the residential unit in the building once the current tenants' lease is up in August 2012.
6. At the hearing, the petitioner and the Building Commissioner noted that the building had a long history of having a commercial use in the first floor, but because of a two-year lapse, the commercial use was no longer grandfathered.

7. The property has parking available for three cars; however, installation of a required wheelchair ramp will cause the loss of one of the parking spaces.
8. At the hearing, two residents spoke in favor of the petition, and two other residents submitted letters of support (Kathie Driscoll-Gauthier, 52 Bayview Ave.), and Donald Fyfe MacFadyen, 1 Hawthorne Blvd.). No one opposed 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. A special permit and variance may be granted to allow this request without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Salem Zoning Ordinance.

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. To allow for the home occupation, a special permit may be granted under the Salem Zoning Ordinance § 3.2.2 *Home Occupations*.
2. To allow for only two parking spaces, a variance may be granted under the Salem Zoning Ordinance § 5.1, *Off Street Parking*.
3. In permitting such change, the Board of Appeals requires certain appropriate conditions and safeguards as noted below.

In consideration of the above, the Salem Board of Appeals voted, five (5) in favor (Harris, Dionne, Belair, Metsch and Tsitsinos) and none (0) opposed, to grant petitioner's request for a special permit 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 (specifically, elevation drawings titled "Europa Antiques Façade Improvements, Salem, Massachusetts," dated 1/31/08, Scheme 2, pages A-4 and A-5).
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 Occupancy 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.

Annie Harris / D m x  
Annie Harris  
Salem Zoning 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.