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FILE #
CITY CLERK, SALEM, MASS.

February 1, 2012

Decision

City of Salem Zoning Board of Appeals

Petition of JAMES & KATHERINE KLEIN requesting a Special Permit under Sec. 3.3.5 of the Salem Zoning Ordinance to expand a nonconforming single-family home on the property located at 43 BAY VIEW AVE (R-1 Zoning District).

A public hearing on the above Petition was opened on January 18, 2012 pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on January 18, 2012 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 3.3.5 of the City of Salem Zoning Ordinances.

Statements of fact:

1. Attorney Scott Grover represented the petitioner at the hearing.
2. In a petition date-stamped November 28, 2011, petitioner requested a Special Permit to allow expansion of the existing, nonconforming single-family house on the property located at 43 Bay View Avenue.
3. At the hearing, numerous residents spoke in support of the project. 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, since the project would not be substantially more detrimental than the existing nonconforming structure 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 Section 3.3.5 is granted to construct the addition to the property as shown on the submitted plans.

In consideration of the above, the Salem Board of Appeals voted, five (5) in favor (Harris, Metsch, Dionne, Belair and Tsitsinos) and none (0) opposed, to grant petitioner's request for a Variance and 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.
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.
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.

Annie Harris / DMK
Annie Harris,
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.