

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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November 20, 2012

Decision

City of Salem Zoning Board of Appeals

Petition of JOANNE R. HIGGINS for an administrative appeal of a decision of the Building Commissioner for the property located at 7 FLORENCE STREET

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FILE #
CITY CLERK, SALEM, MASS.

A public hearing on the above Petition was opened on November 7, 2012 pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on November 7, 2012 with the following Zoning Board of Appeals members present: Rebecca Curran (Chair), Annie Harris, Michael Duffy, Jamie Metsch, Richard Dionne, and Jimmy Tsitsinos (alternate).

Petitioner seeks an administrative appeal of a decision of the Building Commissioner.

Statements of fact:


1. On April 25, 2001, the Board issued a Variance allowing commercial use for the premises.
2. In a petition date-stamped August 9, 2012, petitioner requested an appeal of a decision of the Salem Licensing Board to issue a Used Car Dealers License Class II to Salter Motor Sports, LLC for activities to take place at 7 Florence Street, Salem.
3. Attorney Joseph Wellington represented petitioner at the hearing.
4. In an attachment to the petition, and at the hearing, petitioner stated the Licensing Board's decision to issue the license was predicated on guidance received from Thomas St. Pierre, Building Commissioner in a letter dated July 11, 2012, advising the Board that the proposed use requiring a Class II License was consistent with the uses allowed on the site by the 2001 Variance.
5. At the hearing, several residents spoke in support of overturning the decision of the Building Commissioner, citing concerns about the impacts of auto maintenance on the neighborhood.

6. At the hearing, the owner of Salter Motor Sports, LLC, represented by Attorney Joseph Correnti, stated his opposition to overturning the decision of the Building Commissioner and questioned the jurisdiction of the Board of Appeals to hear the appeal.
7. The Board of Appeals, through counsel, also reserved the right to raise jurisdictional questions on appeal, if any.

The Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition submitted, makes the following **findings**:

1. The Board of Appeals has no jurisdiction over actions taken by the Salem Licensing Board.
2. The only issue before the Board of Appeals is the validity of Mr. St. Pierre's decision that Salter Motor Sports, LLC's proposed activities requiring a Used Car Dealers License Class II are consistent with the use allowed under the 2001 Variance.
3. The Board finds that Mr. St. Pierre's decision that the occasional sale of classic cars, which use requires the Used Car Dealers License Class II, is consistent with the existing use of that site and the prior variance.

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 none (0) in favor and five (5) opposed (Curran, Harris, Dionne, Duffy and Metsch), to affirm the appeal of the Building Commissioner's decision. The appeal is denied, and the decision of the Building Inspector is upheld.



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.