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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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August 28, 2012

Decision

City of Salem Zoning Board of Appeals

2012 AUG 28 A 9:36
FILE #
CITY CLERK, SALEM, MASS.

Petition of DEBORAH PLANTE requesting a Variance from Sec. 5.1, Off-Street Parking, and a Special Permit under Sec. 3.3.2, to change from one nonconforming use to another, in order to operate an antiques shop on the property located at 1 PLEASANT ST/117 BRIDGE ST (R2 Zoning District).

A public hearing on the above Petition was opened on August 15, 2012 pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on August 15, 2012 with the following Zoning Board of Appeals members present: Rebecca Curran (Chair), Michael Duffy, Jamie Metsch, 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 August 1, 2012, petitioner requested a Special Permit to operate an antique store at 1 Pleasant Street (aka 117 Bridge Street), and for a Variance from off-street parking regulations in order to have fewer parking spaces than required on the premises.
2. The petitioner represented herself at the hearing. The property owner, Dru Zuretti, was also present.
3. At the hearing, the petitioner stated that her parking needs were minimal; she has, at the most, two cars at a time parked in front of her current antique shop on 45 Bridge Street. Additionally, she stated that the three parking spaces used by the music school at 3 Pleasant Street, on the same property, are generally used only at night and would be available during the day for use by the antique store.

4. At the hearing, no one spoke in favor of or in opposition to 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**:

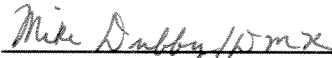
1. Desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance, since the proposed use is in keeping with the character of the neighborhood. The Board finds that the proposed use is not more detrimental to the neighborhood than the current use. Adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighborhood.
2. Special conditions and circumstances exist affecting the parcel or building, which do not generally affect other land or buildings in the same district; owing to the presence of two buildings on the same property, the number of parking spaces required by the zoning ordinance (10) cannot be provided. Petitioner has stated that her business does not require more parking than would be available on the site, and the Board finds that the proposed use would not create the need parking than would be available.
3. Literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the appellant.
4. 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 four (4) in favor (Curran, Metsch, Belair, and Duffy) and none (0) opposed, to grant the requested Special Permit and Variance. A Special Permit under Section 3.3.2 and a Variance under Section 5.1 are granted to allow for the operation of an antique shop at 1 Pleasant Street, as proposed.

The Board of Appeals voted to grant petitioner's request for a Special Permit and 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 Inspection is to be obtained.
6. Petitioner shall obtain street number 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.



Michael Duffy, Member
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.