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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

Petition of RYAN MCSHERA (PITMAN & WARDLEY ARCHITECTS) requesting a Variance from the maximum number of stories allowed in order to build a 2-story addition on the single-family home at 9 WINTER ISLAND RD (R-1 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 Variance pursuant to Section 4.1 of the City of Salem Zoning Ordinances.

Statements of fact:

1. In a petition date-stamped August 1, 2012, petitioner requested a Variance from number of stories in order to construct an addition containing a third story, where a maximum of 2 ½ stories is allowed.
2. Petitioner was represented by Attorney William Quinn at the hearing.
3. At the hearing, no one spoke in favor of or in opposition to the petition. The Board received one letter in support of the project from William J. Wharff, 11R Winter Island LLC.

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:

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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 renovation to the house is in keeping with the character of other houses in the neighborhood. The Board noted that care was taken to avoid impacting views of neighbors.
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 size and shape of the lot, as well as the location of the front and side yard setbacks, and the 100-foot coastal bank buffer zone on the property, developing horizontally would have been more difficult, and so literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the appellant.
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 four (4) in favor (Curran, Metsch, Belair, and Duffy) and none (0) opposed, to grant the requested Variance. A Variance under Section 4.1 is granted to allow for proposed addition to the house as shown on the submitted plans (dated August 15, 2012).

The Board of Appeals voted to grant petitioner's request for 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 is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
7. 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 of 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.



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.