



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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July 31, 2012

## Decision

City of Salem Zoning Board of Appeals

**Petition of DAVID CUTLER requesting a Special Permit under Sec. 3.3.5 in order to reconstruct a nonconforming single-family house on the property located at 95 MASON ST (R-2 Zoning District).**

A public hearing on the above Petition was opened on July 18, 2012 pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on July 18, 2012 with the following Zoning Board of Appeals members present: Rebecca Curran (Chair), Annie Harris, Richard Dionne, Bonnie Belair, and Jimmy Tsitsinos.

Petitioner seeks a Special Permit pursuant to Section 3.3.5 of the City of Salem Zoning Ordinances.

### Statements of fact:

1. In a petition date-stamped July 2, 2012, petitioner requested a Special Permit reconstruct the nonconforming single-family house on 95 Mason Street in the same footprint, but with the height increased by an additional story.
2. At the hearing on July 18, 2012, two residents asked questions about the petition, one of whom spoke in support. No one opposed the petition at the hearing.

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 house replaces a structure that was in very poor condition. Additionally,

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the new house was designed with input from the Historical Commission, and its design is consistent with 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 voted five (5) in favor (Curran, Dionne, Belair, Harris, and Tsitsinos) and none (0) opposed, to grant the requested Special Permit. A Special Permit under Section 3.3.5 is granted to allow for the proposed reconstruction as shown on the submitted plans.

The Board of Appeals voted 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.
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. The driveway on 93 Mason Street is to be repaired as follows: asphalt is to be removed and replaced with Lynn-pack or ¾ inch crushed stone, and then a final coat is to be applied to close off the driveway. This driveway is to be completed prior to issuance of a Certificate of Occupancy for the house on 95 Mason Street.
8. The exterior of house shall be clad in clapboards or hardy board.



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.