



CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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2012 APR -4 P 1:23

FILE #
CITY CLERK, SALEM, MASS.

April 4, 2012

Decision

City of Salem Zoning Board of Appeals

Petition of ICECAT, LLC requesting Variances from minimum frontage/lot width in order to allow the subdivision of the property located at 18 FELT ST (R-1) into three lots, one of which would lack the requisite frontage/lot width.

A public hearing on the above Petition was opened on January 18, 2012 pursuant to Mass General Law Ch. 40A, § 11. The hearing was continued to February 15, 2012 and March 21, 2012 and closed on March 21, 2012 with the following Zoning Board of Appeals members present: Rebecca Curran (Chair), Annie Harris, Richard Dionne, Jamie Metsch, Jimmy Tsitsinos and Bonnie Belair. Ms. Curran was not present at the January 18, 2012 meeting, but reviewed all records of the proceedings, including the audio, and signed an affidavit attesting to this.

Petitioner seeks a Variance pursuant to Section 4.1.1 of the City of Salem Zoning Ordinances.

Statements of fact:

1. In a petition date-stamped December 27, 2011, petitioner requested a Variance from lot width and frontage to allow the subdivision of the property located at 18 Felt Street into three single-family house lots.
2. The application date-stamped December 27, 2011 stated that two of the proposed lots would be fully compliant with zoning, but a third would lack the requisite frontage, having 85 feet of frontage instead of 100 feet. This lot also contained a single-family house that would be demolished.
3. Attorney Scott Grover represented the petitioner at the hearing.
4. At the hearing on January 18, 2012, Attorney Grover stated that after the petition was filed, he had received feedback from the neighborhood that there was strong interest in preserving the historic house located on the property. In response, the petitioner had changed the plans to show the existing house would remain rather than be demolished and replaced by a new one.

5. At the meetings on January 18, 2012 and February 15, 2012, several members of the public spoke in favor of granting the Variance under the condition that the house be preserved to appropriate historic standards, and that the old trees on the property also be preserved.
6. At the February 15, 2012 meeting, Attorney Grover presented proposed guidelines for the historic preservation of the house, which he stated were drafted with the assistance of members of the Salem Historical Commission. He stated that the petitioner was willing to accept these as conditions of the requested Variance, as well as guidelines for the protection of the older trees on the site.

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. Owing to the extensive repairs needed and the measures that must be taken to preserve the historic house and the trees on the property, literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the appellant.
2. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance, since the dimensional relief requested is both minimal and consistent with other properties in the neighborhood.
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 concludes:

1. A Variance under Section 4.1.1 is granted to allow for the subdivision of the property into three lots, one of which will have 85 feet of frontage and lot width rather than the requisite 100 feet.


In consideration of the above, the Salem Board of Appeals voted, five (5) in favor (Curran, Harris, Metsch, Dionne, and Belair) and none (0) opposed, 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. 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 shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. 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.
10. The Variance for Lot 3 is conditioned upon the restoration of the structure pursuant to "Historic Restoration Proposal, the Ropes Mansion, 18 Felt Street, Salem, MA," dated February 11, 2012, and attached to this decision as Exhibit A. This lot is subject to the restoration of the house and is not valid unless the house is restored. This condition shall not be construed to affect Lots 1 and 2 shown on the plan submitted herewith.
11. Prior to any construction, a certified arborist selected by owner shall walk the property to determine the viability and safe retention of the four trees identified on the plan submitted with the application and shall develop and submit to the owner a plan including measures necessary for protection of the trees during construction. Additionally, prior to any building permit being issued, the root systems shall: a) be identified; b) be marked clearly in the field with stakes indicating where the root systems begin; and c) in consultation with the City of Salem Tree Warden, a temporary snow fence shall be placed around them so the

measure of the radius of half their height is visibly marked and the trees protected from excavation, blasting, grade changes, and from compaction by heavy machinery or debris from excavation. In the event the certified arborist retained by the owner determines that a lesser radius is necessary for protection of any trees, his determination, and that of the Tree Warden, shall control. Further, subject to the approval of the Tree Warden, selective pruning of the four trees may be conducted but only under the direction and control of the Tree Warden. If during construction any of the four trees to remain are damaged to the extent that said tree cannot survive by the failure of the owner to comply with the arborist's plan referred to above and the conditions set forth herein, then the Tree Warden shall make a determination for replacement of the damaged trees with the same or similar species and size as the damaged trees or where the tree is too large and replacement is not practicable, then the caliper of the tree shall be replicated on an inch per inch basis as determined by the Tree Warden.

12. This decision applies to the main house only, and no other structures on the property.



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.

EXHIBIT A

HISTORIC RESTORATION PROPOSAL

The Ropes Mansion at 18 Felt Street, Salem, MA

February 11, 2012

Exterior

- (1) Original Exterior Wood Elements: Retain all existing clapboard and decorative shingle siding, window trim, corner, soffit, skirt and fascia boards and all other detail elements, replacing with in-kind materials only where necessary.
- (2) Original Slate Roof: Retain existing slate roof, repairing with in-kind materials only where necessary, particularly valley areas, and replacing any missing slate to match in color and shape.
- (3) Historic Windows: Retain and refurbish all existing window sashes, maintaining period glass and replacing any broken panes with glass to match in thickness and color. Particular care shall be taken to safeguard the two bow windows with original curved glass and the arched-top crystal glass window at the north side. Storm windows may be added.
- (4) Wrap-Around Porch: Restore front entry stairs and railings and entire porch balustrade and porch columns, where necessary, to replicate original as best possible ca.1900 photo. Porch roof shall be re-shingled with 3-tab charcoal black asphalt.
- (5) Side Entry: Side entry stairs shall be rebuilt to conform to front entry design (only if side entry stairs are not eliminated).
- (6) Structural Work: Repair compromised structural supports at North elevation in accordance with approved engineering standards.
- (7) Chimney & Foundation: Any necessary repairs shall be made with matching materials. Re-pointing of brick shall be completed with mortar to match existing.
- (8) Painting: All surfaces to be prepared via hand scraping, vs. the use of destructive high velocity water blasting or power sanding. Paint in historically appropriate colors shall be used.
- (9) Original Wood Shutters: All existing shutters shall be retained. At a minimum, it is hoped to reinstall shutters to the windows at the front and left side of the house.
- (10) Venting: Venting for upgraded bathrooms, kitchen, and HVAC shall be hidden from obvious detection everywhere possible or painted to match —Same for condensers, transformers & meters.

(11) Skylights: Any skylights must be located only on areas of the roof not visible from public ways. This would be the same requirement for satellite dishes, solar heating panels, antennas, etc.

(12) Future Additions: Should any future additions to the building be considered, they must be compatible with, and appropriate to, the mansion's Queen Anne Style, and be attached to the rear of the building only.

Oversight

This renovation project will be reviewed by the Salem Historical Commission to ensure compliance with the agreed standards, and to assist the owner in resolving any questions that may arise during the renovation process. This duty may be assigned to one member of the Commission to be appointed by the Chair at the option of the owner.