



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

120 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TELE: 978-619-5685 ♦ FAX: 978-740-0404

February 29, 2012

## Decision

City of Salem Zoning Board of Appeals

**Petition of MELISSA MACHERNIS requesting a Special Permit to alter an existing nonconforming structure and Variance from minimum lot area per dwelling unit, in order to convert the existing single-family home at 103 FEDERAL ST, Salem, MA, into a two-family home (R2 Zoning District).**

A public hearing on the above Petition was opened on February 15, 2012 pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on February 15, 2012 with the following Zoning Board of Appeals members present: Rebecca Curran (Chair), Annie Harris, Richard Dionne, Jamie Metsch, Jimmy Tsitsinos and Bonnie Belair.

Petitioner seeks a Special Permit pursuant to Section 3.3.5 and a Variance pursuant to Section 4.1.1 of the City of Salem Zoning Ordinances.

### **Statements of fact:**

1. Attorney Scott Grover represented the petitioner at the hearing.
2. In a petition date-stamped January 25, 2012, petitioner requested a Special Permit pursuant to Section 3.3.5 and a Variance pursuant to Sec. 4.1.1 of the Salem Zoning Ordinance to convert the single-family house located on 103 Federal Street to a two-family house.
3. The Board received a letter from residents Betsy and Bill Burns, 22 Beckford St., in support of the petition. At the hearing, a petition in support of the project was submitted with fourteen signatures. One resident spoke in support of the application. No one spoke in opposition.

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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. Special conditions and circumstances exist affecting the parcel or building, which do not generally affect other land or buildings in the same district, since the house is unusually large and is a single-family dwelling in the Residential Two-Family Zoning District.
2. Owing to the large size of the single-family house, literal enforcement of the provisions of this ordinance would involve substantial hardship, financial or otherwise, to the appellant.
3. 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 there are numerous other two-family houses in the neighborhood, and since parking requirements would be fully met on site.
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, Dionne and Belair) and one (1) opposed (Harris), to grant the requested Variance and Special Permit. A Variance under Section 4.1.1 and a Special Permit under Section 3.3.5 are granted to allow conversion of the house to a two-family home.

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. 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 is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. 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.
9. Four (4) parking spaces are to be provided on site.



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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.