



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

120 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TELE: 978-745-9595 ♦ FAX: 978-740-9846

FILE #
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December 5, 2013

Decision

City of Salem Board of Appeals

Petition of RICHARD TURNER requesting Variances under Section 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance to grant relief from the maximum allowed height of buildings in feet and the maximum allowed height of buildings in stories, and a Special Permit under Section 3.3.3 Nonconforming Structures to allow an extension of an existing nonconforming structure, for the construction of a roof deck; and a Special Permit under Section 3.3.3 Nonconforming Structures to allow the reconstruction of two existing nonconforming garages, at the property located at 18 OCEAN TERRACE (R1 Zoning District).

A public hearing on the above Petition was opened on November 20, 2013 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on that date with the following Salem Board of Appeals members present: Ms. Curran (Chair), Mr. Duffy, Mr. Watkins, and Mr. Tsitsinos (Alternate).

The Petitioner seeks a Variance pursuant to Sec. 4.0 *Dimensional Requirements* of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition, date-stamped October 30, 2013, the Petitioner requests Variances to exceed the maximum allowed height of buildings in feet and the maximum allowed height of buildings in stories, a Special Permit for the extension of an existing nonconforming structure, and a Special Permit to reconstruct two existing nonconforming garages.
2. During the hearing, it was found that the reconstruction of the garages would require another Special Permit under Section 3.2.4 *Accessory Buildings and Structures* for construction of the garages within 5 feet of the side lot line.
3. The Petitioner, Mr. Richard Turner, presented the petition for the property at 18 Ocean Terrace (R1 Residential One-Family Zoning District).
4. At the time of the hearing it had not yet been determined by the Building Inspector whether a secondary egress from the proposed roof deck would be required.
5. The land on the parcel is sloped such that very little flat space exists on the parcel. The Petitioner would like to expand the outdoor space that each living unit has access to, and providing space for all three units on the ground around the house is not feasible. The existing decks for each living unit are about 9'x15'.
6. The Board received a letter from John DeFelice, abutter, in opposition to the petition.
7. At the public hearing for this petition Ms. Kathy Bruin of 8 Shore Avenue and Ms. Karen Russell of 6 Shore Avenue asked questions pertaining to the view from 18 Ocean Terrace into their properties, and the delineation and screening of the property boundaries.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petitions, including the application narrative and plans, and the Petitioner's

presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Findings:

1. The sloped topography of the property imposes a hardship where there is not adequate space for outdoor gatherings for each unit in the building.
2. The desired relief may be granted without substantial detriment to the public good.
3. The desired relief – both the Variances and the Special Permits - may be granted, as amended, without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinance.
4. The reconstruction of the garages will be an improvement to the neighborhood.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (4) in favor (Ms. Curran – Chair, Mr. Duffy, Mr. Watkins, and Mr. Tsitsinos in favor) and none (0) opposed, to approve the Variances to exceed the maximum allowed height of buildings in feet and the maximum allowed height of buildings in stories, the Special Permit for the extension of an existing nonconforming structure, and the Special Permit to reconstruct two existing nonconforming garages, subject to the following **terms, conditions, and safeguards**:

1. The 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 Inspection 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. The Petitioner shall develop and implement a landscape plan in consultation with the abutters to address the need for delineation and privacy screening.
9. Construction of the deck shall be per the approved plans submitted with the application, with the alteration that there shall be no “penthouse” or any construction that exceeds 42 inches, and any second egress required by the building code shall not exceed the 42-inch height of the deck rail.



Rebecca Curran, Chair
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 Uses, South Registry of Deeds.