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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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December 5, 2013

## Decision

### City of Salem Board of Appeals

Petition of **MICHAEL MCLAUGHLIN** requesting a Special Permit under Section 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance to allow use of the property for auto repair, auto part sales, boat and engine service, and auto body work, at the property located at 62 JEFFERSON AVE (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.

The Petitioner seeks a Special Permit under Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance.

#### Statements of fact:

1. In the petition date-stamped October 30, 2013, the Petitioner requested a Special Permit to allow the following nonconforming uses: auto repair, auto part sales, boat and engine service, and auto bodywork, at the property located at 62 Jefferson Avenue.
2. Mr. Michael McLaughlin, the Petitioner, presented the petition for the property at 62 Jefferson Avenue.
3. Mr. McLaughlin bought the existing auto repair building in 2006. Since that time he has appeared before the Board of Appeals twice to request Special Permits for nonconforming uses for various businesses that he has leased his space to.
4. The Petitioner is appearing to request a Special Permit to allow auto repair, auto part sales, boat and engine service, and auto body work, so that he can lease his space to businesses suited to the building without having to appear before the board for every new tenant. Additionally, the Petitioner has a new tenant that operates a boat repair business, which the Petitioner would like to be allowed under the Special Permit.
5. The property is in an R-1 zoning district. The property is located in an area with other industrial and commercial uses. The building itself is well suited to the types of businesses that the Petitioner is seeking permission to have on the property.
6. The previous Decisions issued granting the two previous Special Permits had specific conditions prohibiting outdoor storage, except storage of cars; towing/repossession of cars after 11pm; operating hours after 11pm (except in cases of emergency); and outdoor auto repairs.
7. Mr. Robert Dunham, 60 Jefferson Avenue, submitted a letter in opposition to the petition. Mr. Dunham submitted photographs supporting his letter, which demonstrated that the Petitioner has been allowing outdoor storage, in violation of the conditions of the previous Special Permit.
8. Auto body work within a residential area has consistently been problematic.

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 proposed change in use to include auto repair, auto part sales, and boat and engine service would not be substantially more detrimental than the existing nonconforming use to the neighborhood, if the conditions of the Special Permit are adhered to.
2. The proposed change in use to allow auto body work would be

On the basis of the above Statements of Fact 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 deny the Special Permit to allow auto body work on the property.

On the basis of the above Statements of Fact 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 Special Permit to allow auto repair, auto part sales, and boat and engine service on the property, 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 requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
3. No auto body work shall be performed
4. No outdoor storage, except storage of cars or boats, is permitted. No more than five (5) cars or boats may be stored on site at a time.
5. The terms of this Board's two previous special permit decisions in March 2009 and September 2005 relative to this property are incorporated herein by reference unless specifically altered by this decision.



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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 Essex South Registry of Deeds.*