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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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May 1, 2013

## Decision

### City of Salem Zoning Board of Appeals

Petition of RICHARD JAGOLTA, requesting a modification of a special permit per Sec. 3.3.2 of the Salem Zoning Ordinance, in order to allow the first floor unit of a two-family building to be split into a residential and commercial unit at the property located at 18 BRIDGE ST (R2 Zoning District).

A public hearing on the above Petition was opened on February 20, 2013 pursuant to Mass General Law Ch. 40A, § 11. The hearing was continued on February 20, 2013 and March 20, 2013, and was closed on April 17, 2013 with the following Zoning Board of Appeals members present: Annie Harris (Vice Chair), Richard Dionne, Mike Duffy, Tom Watkins and Jimmy Tsitsinos (Alternate). The Board of Appeals members absent from the hearing included Rebecca Curran (Chair) and David Eppley (Alternate).

Petitioner seeks a Special Permit pursuant to Section 3.3.2 *Nonconforming Uses* of the City of Salem Zoning Ordinances.

#### Statements of fact:

1. Richard Jagolta presented the petition for the property at 18 Bridge Street (R2 Zoning District).
2. In the petition, January 29, 2013, the petitioner requested the modification of a Special Permit per Sec. 3.3.2. of the Salem Zoning Ordinance in order to allow the first floor unit of a two-family building to be split into a residential and commercial unit at the property located at 18 Bridge Street. At the April 17, 2013 regular meeting, the petitioner provided supplementary plans and documentation for consideration.
3. The petitioner is requesting the modification of the Special Permit so the property may contain two residential rental units and one commercial rental unit.
4. At the first hearing for this petition one member of the public was in attendance and spoke in opposition to the petition. Written comments submitted by Mr. Kelly (18 Bridge Street, Salem) and Mr. Wyman (14 Bridge Street, Salem) supporting the petition were presented at the public hearing. Ms. Harris read comments of Mr. Kelly and Wyman into the record.

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. The desired Special Permit modification may be granted without detriment to the public good and safety and without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinance.
2. The proposed use would not be more detrimental to the neighborhood than the current use configuration.
3. In permitting such change, the Board 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. The petitioner's Special Permit modification request to allow the first floor unit of a two-family building to be split into a residential and commercial unit is granted as conditioned.

In consideration of the above, the Salem Board of Appeals voted to approve the Special Permit modification request. All the members voted in favor, with a 5-0 vote in favor (Ms. Harris (Vice Chair), Mr. Dionne, Mr. Watkins, Mr. Duffy and Mr. Tsitsinos (Alternate)) and none opposed. The Board of Appeals voted to grant petitioner's request for a Special Permit subject to the following **terms, conditions, and safeguards**:

1. Structure is limited to two residential units and one commercial unit.
2. The use of the commercial unit shall be limited to Business or Professional Offices and/or Service.
3. The commercial unit shall not exceed 550 sq. ft.
4. The Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
5. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
6. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
7. Petitioner shall obtain a building permit prior to beginning any construction.
8. Exterior finishes of the new construction shall be in harmony with the existing structure.
9. A Certificate of Occupancy is to be obtained.
10. A Certificate of Inspection is to be obtained.
11. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
12. 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.

  
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Annie Harris, Vice 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.*