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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

October 29, 2013

## Decision

### City of Salem Board of Appeals

**Petition of MARC TRANOS requesting Variances under Section 5.1 Off-Street Parking of the Salem Zoning Ordinance to grant relief from: the maximum allowed entrance and exit drive width of 20 feet, prohibition of parking spaces within 5 feet of the street line, and encroachment upon the required 2 foot minimum setback of a parking lot and associated entrance and exit drives from all lot lines at 47 MEMORIAL DRIVE (R1 Zoning District).**

A public hearing on the above Petition was opened on October 16, 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: Mr. Duffy (acting Chair), Mr. Dionne, Mr. Watkins, and Mr. Tsitsinos.

The Petitioner seeks Variances from Section 5.1 *Off-Street Parking* of the Salem Zoning Ordinance.

#### Statements of fact:

1. In the petition date-stamped September 25, 2013, the Petitioner requested Variances to keep a newly-constructed driveway in its current configuration, at the property located at 47 Memorial Drive.
2. Mr. Marc Tranos presented the petition for the property at 47 Memorial Drive.
3. Mr. Tranos stated that due to the topography of the site, rain water flows across the street and into the front yard of 47 Memorial Drive. The rain water collects against the side of the house and seeps through the foundation. Mr. Tranos consulted with various professionals about correcting this situation, and was advised to adjust the height and pitch of the front yard to direct the rain water off of the property, and to install an impermeable surface.
4. Mr. Tranos and the Building Inspector each stated that Mr. Tranos had contacted the Building Inspector regarding the project, and the Building Inspector had informed Mr. Tranos that the proposed project could be completed without seeking zoning relief. Mr. Tranos proceeded with the project, and learned after construction was complete that zoning relief was in fact required.
5. The requested relief, if granted, would allow the Petitioner to keep his newly-expanded driveway in its current configuration with: an entrance and exit drive width at the street lot line greater than the maximum 20-foot width at the street lot line set in the Zoning Ordinance, a parking space within 4 feet of the street line, and the location of a parking lot and associated entrance/exit drives immediately adjacent to the eastern lot line (at the property boundary shared with 49 Memorial Drive).
6. At the public hearing, Mr. Tony Marfongelli of 49 Memorial Drive, Ms. Linda Morin of 44 Memorial Drive, and Ms. Kimberly Smith of 45 Memorial Drive each posed questions on various aspects of the project. Ms. Morin also mentioned her disapproval of the applicant proceeding with work prior to obtaining the necessary permits. No written comments regarding the petition were received prior to the public hearing.

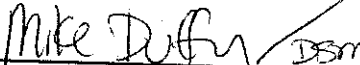
The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petitions, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

**Findings:**

1. The erosion of the front yard, caused by rain water overflow from the street onto the property, results in pooling of water against the foundation of the house and intrusion of water into the basement of the property. This creates a unique condition in which a literal enforcement of the *Off-Street Parking* requirements under the City of Salem's Zoning Ordinance, specifically the maximum allowed entrance and exit drive width at the street lot line of 20 feet, prohibition of parking spaces within 5 feet of the street line, and encroachment upon the required 2 foot minimum setback of a parking lot and associated entrance and exit drives from all lot lines, would be a substantial hardship to the appellant.
2. The desired relief may be granted without substantial detriment to the public good.
3. The desired relief may be granted without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinance.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (4) in favor (Mr. Duffy – Acting Chair, Mr. Dionne, Mr. Watkins, and Mr. Tsitsinos in favor) and none (0) opposed, to approve the Variances from; the maximum allowed entrance and exit drive width at the street lot line of 20 feet to allow 33 feet, prohibition of parking spaces within 5 feet of the street line to allow a parking space within four (4) feet of the street lot line, and encroachment upon the required 2 foot minimum setback of a parking lot and associated entrance and exit drives from all lot lines to allow no setback (0 feet) on the eastern lot line only, subject to the following **terms, conditions, and safeguards**:

1. The Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.

  
Mike Duffy, Acting 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.*