



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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

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FILE #  
CITY CLERK, SALEM, MASS.

October 2, 2013

## Decision

### City of Salem Board of Appeals

**Petition of FRANK LANZILLO requesting an Appeal to the Decision of the Building Inspector in order to be relieved from the requirement to construct a garage on the property located at 11 HUBON ST (R2).**

A public hearing on the above Petition was opened on September 18, 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. Dionne, Mr. Duffy, Ms. Harris, Mr. Watkins, Mr. Eppley (Alternate), and Mr. Tsitsinos (Alternate).

The Petitioner seeks an Appeal of the Decision of the Building Inspector, and petitions the Board to allow a Modification to the Approved Plan from the Board's Decision on 18 Thorndike Street, filed on February 29, 2012.

#### **Statements of fact:**

1. Attorney Sam Vitali, representing Mr. Frank Lanzillo, presented the petition for the property at 11 Hubon Street (R2 – Residential Two Family Zone).
2. In the petition, date-stamped August 22, 2013, the Petitioner requests an Appeal of the Decision of the Building Inspector, and petitions the Board to allow a Modification to the Approved Plan from the Board's Decision on 18 Thorndike Street, filed on February 29, 2012, in order to be relieved from the requirement to build a garage on the property.
3. The requested relief, if granted, would allow the Petitioner to develop the lot without a garage, but the number of off-street parking spaces would remain equal to the number of spaces shown in the previously Approved Plan (as recorded in the Decision dated February 29, 2012).
4. At the public hearing for this petition Mr. Patrick DeIulis, 6 Seemore Street, spoke in favor of the application. In hearings starting in October 2011 and ending February 2012, Mr. DeIulis presented the successful Petition requesting Variances necessary for the subdivision of 18 Thorndike Street. This subdivision led to the creation of 11 Hubon Street, which is subject to the Conditions set forth in the Board of Appeal's Decision on the 18 Thorndike Street subdivision application, dated February 29, 2012. Mr. DeIulis stated his understanding that the map approved with his Petition in February 2012 demonstrated the maximum build-out footprint that would be permitted. He expressed his support of the current Petition, which would effectively decrease the building density of the development.

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:

**§9.4 Special Permits**

**§9.4.2 Criteria, Subsections 1 through 6**


1. The proposed Modification to the Approved Plan, relieving the Petitioner from the requirement to build a garage, will result in a lower building density in the neighborhood. Potential future owners of the property can pursue the construction of a garage should they so choose, but may also maintain the property as proposed, with more open space.
2. The proposed plan would not diminish the number of off-street parking spaces that would have been provided by the garage had it been constructed.
3. The character of the neighborhood will not be negatively impacted by permitting the Petitioner to not construct a garage. The resulting smaller building footprint will in fact decrease building density in the neighborhood. Many properties in the City of Salem do not have garages.

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 Salem Board of Appeals **concludes**:

1. A Modification to the Approved Plan from the Board's Decision on 18 Thorndike Street, filed on February 29, 2012, is granted as conditioned.
2. In permitting the Modification to the Approved Plan, to relieve the requirement for construction of a garage, the Salem Board of Appeals requires certain appropriate terms, conditions and safeguards as noted below.

In consideration of the above, the Salem Board of Appeals voted five (5) in favor (Ms. Curran – Chair, Mr. Dionne, Mr. Duffy, Ms. Harris, and Mr. Watkins in favor) and none (0) opposed, to approve the Variance to the minimum depth of rear yard requirement, subject to the following **terms, conditions, and safeguards**:

1. The Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. The Petitioner shall be relieved from the requirement to construct a garage at 11 Hubon Street, but shall comply with all other Conditions recorded in the Board's Decision on 18 Thorndike Street, dated February 29, 2012.

  
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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.*