

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

March 28, 2013

## Decision

### City of Salem Board of Appeals

**Petition of JOEL GREEN, requesting a modification of a Special Permit per Sec. 3.3.2 of the Salem Zoning Ordinance, in order to allow the elimination of a condition applied to a Special Permit issued in 1979 for the property located at 310 Lafayette Street (R3 Zoning District).**

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

Petitioner seeks modification of a Special Permit per Sec. 3.3.2 *Nonconforming Uses* of the City of Salem Zoning Ordinances.

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

1. Mr. Green, petitioner, presented the petition for the property at 310 Lafayette Street (R3 Zoning District).
2. In the petition, dated February 27, 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 elimination of a condition applied to a Special Permit issued in 1979 for the property at 310 Lafayette Street.
3. The petitioner is requesting the modification of the Special Permit so the property may be sold to a chiropractic associate interested in the practice and property.
4. There was no public present at the meeting to speak in opposition or support to the requested Special Permit modification. A written comment submitted by Mr. Turiel, Ward 5 Councilor, supporting the petition was received prior to the public hearing. Ms. Curran read the comments of Mr. Turiel into the record.


The Board of Appeal, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition and testimony submitted, makes the following **findings**:

1. The desired Special Permit modification may be granted without detriment to the remaining Special permit conditions, the public good and without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinances.
2. The literal enforcement of the Condition #3 would prevent the current property owner from selling the medical practice to chiropractic associate that is proposing to continue the medical use on the parcel.

On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the documents and testimony, the Board of Appeals **concludes**:

1. The petitioner's Special Permit modification request to eliminate Condition #3 on the Special Permit issued by the Board of Appeals in 1979 is granted.

In consideration of the above, the Salem Board of Appeals voted to approve the Special Permit modification being requested. The four members voted in favor, with a 4-0 vote (Ms. Curran (Chair), Ms. Harris, Mr. Dionne, and Mr. Watkins) in favor and none (0) opposed. Board of Appeals members Mike Duffy, David Eppley (Alternate) and Jimmy Tsitsinos (Alternate) were not present for the hearing.

  
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Rebecca Curran, Chair  
Salem 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.*