



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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March 6, 2013

Decision

City of Salem Zoning Board of Appeals

Relative to the Petition of ROBERT F CUMMINGS, JR, appealing the June 12, 2012 cease and desist order issued by the Assistant Building Inspector relative to the property located at 146 Bridge Street (R2 Zoning District).

FILE # 2012-011
CITY CLERK, SALEM, MASS
2013 MAR -6 A

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

Statements of fact:

1. Petitioner Robert F. Cummings JR., filed and presented a petition appealing the cease and desist order dated June 12, 2012 ("Order") relative to property located at 146 Bridge Street.
2. In the petition packet, dated January 29, 2013, the petitioner submitted evidence supporting his Appeal.
3. According to the petitioner, the issues being raised by neighbors concerning noise are more a matter of disgruntled neighbors than a zoning violation.
4. At the hearing, the Building Commissioner and the Board of Appeals noted that the property had a long history of grandfathered pre-existing nonconforming uses. Based upon the discussion of prior uses of the property, the use of the garages for storage and parking of vehicle was determined to be a grandfathered use.
5. There were a number of Salem residents present at the public hearing that spoke in favor and against the petitioner's requested appeal. No written comments from the public were received prior to the public hearing.

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

1. While the use of the garages on the property for the storage or parking of vehicles is a legally existing nonconforming use, automotive repairs including those requiring excessive idling and engine revving are not permitted on the property.
2. The desired Appeal of the cease and desist order can not be granted without causing detriment to the public good and without nullifying or substantially derogating the authority, purpose, and scope of the City of Salem Zoning Ordinances.

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 Zoning Board of Appeals **concludes**:

1. The cease and desist order issued by the Building Commissioner is upheld as no outside automotive repair including, idling and revving vehicles, is permitted on the property; provided, however that the use of the garage for storage and vehicle parking is a grandfathered pre-existing nonconforming use that may continue on the property.

In consideration of the above, the Salem Board of Appeals voted to deny the requested Appeal, five (5) in favor (Ms. Curran (Chair), Ms. Harris, Mr. Dionne, Mr. Watkins, Mr. Eppley (Alternate) and Mr. Tsitsinos (Alternate) and none (0) opposed.



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.