

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

March 4, 2013

## Decision

### City of Salem Zoning Board of Appeals

Petition of JOHANNA KERR, requesting a special permit per Sec. 3.3.2 of the Salem Zoning Ordinance, in order to allow the operation of a kennel at the property located at 63 Jefferson Avenue (I and RC Zoning Districts).

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).

Petitioner seeks a Special Permit pursuant to Section 3.0 *Use Regulations* of the City of Salem Zoning Ordinances.

#### Statements of fact:

1. Johanna Kerr, petitioner, presented the petition for the property at 63 Jefferson Avenue (I and RC Zoning Districts)
2. In the petition packet, dated January 30, 2013, the petitioner requested a Special Permit to allow the development and operation of an Animal Kennel on the property located at 63 Jefferson Avenue. A site plan of the property where the Special Permit is being requested was submitted as supplementary materials to the meeting packet provided to member of the Board of Appeals.
3. According to the petition, the development and operation of an Animal Kennel in an Industrial Zoning District requires the approval of a Special Permit from the Board of Appeals.
4. There were a number of Salem residents present at the public hearing that spoke in favor of the petition request. None of the public present opposed the Special Permit being requested. Additionally, no written comments from the public were received prior to the public hearing.

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 may be granted without detriment to the public good and without nullifying or substantially derogating from the authority, purpose, and scope of the City of Salem Zoning Ordinances.
2. In permitting this Special Permit, the Board of Appeals required certain conditions and safeguards as noted below.

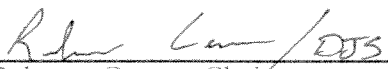
On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the Plans, Documents and testimony, the Zoning Board of Appeals **concludes**:

1. The petitioner's Special Permit request for a Animal Kennel may be granted in accordance with Section 3.0 *Use Regulations* of the City of Salem Zoning Ordinances.

In consideration of the above, the Salem Board of Appeals voted to approve the requested Special Permit, five (5) votes (Ms. Curran (Chair), Ms. Harris, Mr. Dionne, Mr. Watkins, and Mr. Tsitsinos (Alternate) in favor 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. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. Exterior finishes of the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.
8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. 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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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.*