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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
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June 10, 2014

Decision

City of Salem Board of Appeals

Petition of JOSEPH & MARIA GAGNON, requesting special permits per Sec. 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* and Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow the renovation of an existing nonconforming single-family residence into a two-family residence, with less than the required minimum lot area per dwelling unit, at the property located at 105 BROADWAY (R2 Zoning District).

A public hearing on the above Petition was opened on May 21, 2014 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. Harris (acting Chair), Mr. Dionne, Mr. Duffy, Mr. Watkins, and Mr. Copelas (Alternate).

The Petitioner seeks Special Permits per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* and Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition date-stamped April 28, 2014, the Petitioner requested a Special Permit per Sec 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance, to change an existing nonconforming single-family residence to a two-family residence, and a Special Permit per Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, to allow less than the required minimum lot area per dwelling unit at an existing non-conforming property.
2. Mr. Joseph Gagnon, petitioner, presented the petition for the property at 105 Broadway.
3. The petition proposes to renovate and rehabilitate an existing single-family residence to be a two-family residence. There would be no change to the footprint or dimensions of the existing building.
4. The submitted plans include the addition of a driveway and three off-street parking spaces on the property.
5. The required minimum lot area per dwelling unit for the R2 zone is 7,500 square feet. The existing lot is nonconforming, as it is only 5,000 square feet in size, with one residential unit.
6. The proposal would increase the number of residential units to two (2), which would decrease the lot area per dwelling unit from 5,000 square feet (existing) to 2,500 square feet (proposed).
7. The requested relief, if granted, would allow the Petitioner to renovate the existing non-conforming single-family residential structure into a non-conforming two-family residential structure, and would allow a lot area per dwelling unit of 2,500 square feet.
8. At the public hearing, one abutter spoke in support of the petition.


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 slight increase in density does not outweigh the project's beneficial impacts.
2. The proposal serves a community need – it is transforming a house that is derelict and putting it to good use.
3. There will be no additional impact on traffic flow or safety – the proposal addresses traffic and parking considerations.
4. The utilities and public services to the building will be adequate.
5. The proposal would make the property more in keeping with the neighborhood character.
6. There are no negative impacts on the natural environment, including view.
7. The proposal will have a positive economic and fiscal impact.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Mr. Watkins, Ms. Harris, Mr. Dionne, Mr. Copelas, and Mr. Duffy in favor) and none (0), to grant the requested Special Permits to allow the renovation of an existing nonconforming single-family residence into a two-family residence, with 2,500 square feet of lot area per dwelling unit, subject to the following **terms, conditions, and safeguards**:

1. The 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 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 shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
9. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board



Annie Harris, 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.