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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
CITY CLERK, SALEM, MASS.

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June 10, 2014

Decision

City of Salem Board of Appeals

Petition of RODNEY SINCLAIR requesting a special permit per Section 9.4.2 *Special Permits – Criteria* and Sec. 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance, to allow the operation of a real estate consulting office in a building currently in a nonconforming use, at the property located at 107 FEDERAL STREET (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 a Special Permit per Section 9.4.2 *Special Permits – Criteria* and Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition date-stamped April 30, 2014, the Petitioner requested a Special Permit to allow the operation of a real estate consulting office in a building currently in a nonconforming use.
2. Mr. Rodney Sinclair, petitioner, presented the petition for the property at 107 Federal Street.
3. A draft list of special conditions was submitted to the Board by the applicant. This list of conditions was prepared in collaboration with concerned abutters.
4. The requested relief, if granted, would allow the Petitioner to operate a real estate consulting office at the property.
5. Three letters in opposition to the petition were submitted to the Board, and were read into the public record at the hearing.
6. At the public hearing, two abutters expressed their support of the petition contingent on the special conditions discussed at the hearing, and a third abutter expressed their support of the petition.

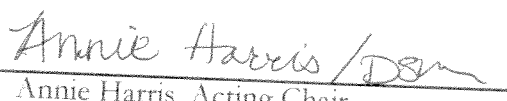
The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petitions, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

Findings

1. The proposed nonconforming use is no more detrimental than the previous nonconforming use of the property.
2. The scope of the proposed use, with the conditions set by the Board, is consistent with the scope of the previous use allowed by Special Permit, and as such, the proposed use does not constitute a substantial detriment to the public good, it does not nullify or substantially derogate from the intent or purpose of the zoning ordinance.

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 Permit to allow the operation of a real estate consulting office in a building currently in a nonconforming use 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. A Certificate of Occupancy is to be obtained.
5. A Certificate of Inspection is to be obtained.
6. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
7. The petitioner shall be limited to the office use for a non-retail real estate consulting business only, subject to the other conditions of this Special Permit, and such business shall be limited to the first floor of the site only.
8. There shall be no advertisements posted on the premises.
9. The real estate business shall not include any retail or commercial sales or real estate brokerage sales activity of any kind on the premises.
10. There shall never be any more than three (3) people affiliated with the business on-site at any one time.
11. The hours of operation will be limited to Monday to Friday from 10:00am to 7:00pm and shall not include holidays.
12. This Special Permit shall expire with this business (Sinclair Development Solutions) and any other business seeking to occupy this space is required to apply for a new Special Permit.


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.