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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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August 4, 2014

## Decision

### City of Salem Board of Appeals

**Petition of EVANGELOS FRANGIAS, requesting a Variance per Sec. 3.3.4 *Variance Required* and a Special Permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance, to allow an addition to the rear of the existing nonconforming building to accommodate an additional garage bay, at the property located at 119 BOSTON STREET (B2 Zoning District).**

A public hearing on the above Petition was opened on June 18, 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. Curran (Chair), Mr. Dionne, Mr. Watkins, and Mr. Copelas (Alternate).

The Petitioner seeks a Variance per Section 3.3.4 *Variance Required* and a Special Permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance.

#### Statements of fact:

1. In the petition date-stamped May 23, 2014, the Petitioner requested a Variance and a Special Permit to allow the addition of an additional garage bay to the rear of an existing nonconforming building.
2. Attorney George Atkins presented the petition for the property at 119 Boston Street.
3. The proposed addition would infill an "L" at the rear of the existing building. It would be 15'-8" wide by 45'-0" long, and 17'-0" in height. The existing building is 14'-0" in height.
4. The existing building does not meet the 30-foot minimum depth of rear yard requirement of the zoning code – it is located only five (5) feet from the rear lot line. The rear wall of the proposed addition would be seven (7) feet from the rear lot line.
5. The property is currently a commercial garage and will remain a commercial garage.
6. The requested relief, if granted, would allow the Petitioner to add a garage bay measuring 15'-8" wide by 45'-0" long by 17'-0" high to the existing nonconforming building.
7. At the public hearing, no members of the public spoke in favor of or in opposition to the petition.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, 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 – Special Permit:

1. This is an expansion of an existing use
2. Community needs served by the proposal are similar to the existing condition of the property. It is an expansion of an existing use.
3. Traffic flow and safety, including parking and loading, is not changed significantly. The creation of indoor parking and work space will minimize outdoor storage.

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4. Adequacy of utilities and other public services will remain the same.
5. The impact on the neighborhood character is minimal, as the additional garage bay is in keeping with the existing character of the building and is located in the rear of the building.
6. Impacts on the natural environment including view are minimal since the additional garage bay is located in the rear of the building.
7. The potential economic and fiscal impact, including impact on City services, tax base, and employment, is positive since the result is an improved building.

**Findings – Variance:**

1. The situation and configuration of the building, located at the rear of the lot and set into a steep hill, is unique and creates a hardship. The proposed location for the addition is logical – it is infilling the existing building. If the addition were constructed at any other location on the property it would impede the workings of the property.
2. Literal enforcement of the provisions of the Ordinance would be a substantial hardship.
3. The proposal is an expansion of an existing use, and the desired relief may be granted without substantial detriment to the public good.
4. The desired relief may be granted without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinance.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (4) in favor (Mr. Watkins, Ms. Curran, Mr. Dionne, and Mr. Copelas in favor) and none (0) opposed, to grant the requested Special Permit and Variance to allow the addition to the rear of the existing nonconforming building to accommodate an additional garage bay, 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 is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board



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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.*