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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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CITY CLERK, SALEM, MASS.

January 29, 2014

## Decision

### City of Salem Board of Appeals

Petition of LAWRENCE AND DEBORAH CALLAHAN requesting a Variance under Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance to grant relief from the required minimum depth of front yard, and Special Permits under Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures of the Salem Zoning Ordinance to allow the reconstruction of an existing nonconforming structure in continued non-conformity with the required minimum depth of front yard, minimum depth of rear yard, minimum width of side yard, and maximum lot coverage by all buildings, for the property located at 129 COLUMBUS AVENUE (R1 Zoning District).

A public hearing on the above Petition was opened on January 15, 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. Duffy, Mr. Dionne, Ms. Harris, Mr. Watkins, and Mr. Tsitsinos (Alternate).

The Petitioner seeks a Variance pursuant to Sec. 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance, and Special Permits pursuant to Section 3.3.5 Nonconforming Single- and Two-Family Residential Structures.

#### Statements of fact:

1. In the petition, date-stamped December 23, 2013, the Petitioner requests a Variance to grant relief from the minimum required depth of front yard, and Special Permits to allow the reconstruction of an existing nonconforming structure in continued non-conformity with the required minimum depth of front yard, minimum depth of rear yard, minimum width of side yard, and maximum lot coverage by all buildings.
2. Mr. Richard Griffin, Architect, presented the petition on the applicant's behalf.
3. The petitioner proposes to reconstruct an existing single family dwelling on the existing foundation. The proposed reconstruction includes the addition of a 1'-8" overhang on the south-west side of the house, and the extension of the front porch by 5'-4" such that the porch will run along the entire front of the house and tie into the south-west side of the house.
4. The existing building is a non-conforming structure as it encroaches on the required front, rear, and side setbacks, and exceeds the maximum allowed lot coverage. The existing building was constructed in 1895, and the lot was established in 1931, which predates Salem's Zoning Ordinance.
5. The existing house is in poor condition, and it would be more costly to repair the existing house than to rebuild it.
6. At the public hearing for this petition, several abutters spoke in favor of the petition. No members of the public spoke 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:**

1. The existing size of the lot, which predates the Salem Zoning Ordinance, creates a unique condition in which a literal enforcement of the *Dimensional Requirements* under the City of Salem's Zoning Ordinance would be a substantial hardship to the appellant.
2. The desired relief may be granted without substantial detriment to the public good. The proposed design, with the wrap-around porch, will be more in keeping with the Willows neighborhood architecture than the existing structure.
3. The desired relief – both the Variance and the Special Permits - may be granted without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinance. The applicant will be making very minor additions to the existing building footprint.
4. The public comments received during the hearing demonstrate that the proposed reconstruction will remove a structure that negatively impacts the neighborhood with its poor condition, and replace it with a new structure that is in keeping with the character of the neighborhood.
5. The proposed plan will utilize the existing driveway, and add an on-site parking space (for a total of two on-site spaces).
6. There will be no additional impact on utilities or other public services from the existing use. The existing structure is a single-family house. The proposed structure is a single-family house, with very minor additions to the existing building footprint.
7. The impact of the proposed structure on the environment will be the same as the existing structure.
8. The proposal is for an improved property, which will increase the City's tax base.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Ms. Curran – Chair, Mr. Dionne, Mr. Duffy, Ms. Harris, and Mr. Watkins) and none (0) opposed, to approve the Variance from the required minimum depth of front yard, and to approve the Special Permits to allow the reconstruction of an existing nonconforming structure in continued non-conformity with the required minimum depth of front yard, minimum depth of rear yard, minimum width of side yard, and maximum lot coverage by all buildings, 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 the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.

7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.



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.*