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CITY CLERK, SALEM, MASS.

March 10, 2014

Decision

City of Salem Board of Appeals

Petition of JEFFREY PERAS requesting a Variance pursuant to the provisions of Section 3.3.4 *Nonconforming Uses and Structures – Variance Required*, to grant relief from the requirements of Section 4.1.1 *Table of Dimensional Requirements*, to allow remodeling of a kitchen and construction of a deck at the property located at 379 LAFAYETTE STREET (R1 & ECOD Zoning District).

A public hearing on the above Petition was opened on February 19, 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. Duffy, Ms. Harris, Mr. Watkins, Mr. Copelas (Alternate), and Mr. Tsitsinos (Alternate).

The Petitioner seeks a Variance from Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition date-stamped January 29, 2014, the Petitioner requested a Variance to allow the remodeling of a kitchen. The kitchen remodel requires a Variance as the proposed kitchen encroaches on the 10-foot minimum required width of side yard.
2. After submission of the application Mr. Thomas St. Pierre, Zoning Enforcement Officer, determined that the proposed deck would also require a Variance, as it exceeded the allowed 30% maximum lot coverage by all buildings. The proposed structure, inclusive of the proposed deck, would result in 31% lot coverage by all buildings.
3. Mr. Jeff Peras presented the petition for the property at 379 Lafayette Street.
4. The existing mudroom, which would be demolished for the construction of the new kitchen area, lies approximately 4.5 feet from the side lot line at the narrowest point. The proposed remodeled kitchen would lie approximately 5.5 feet from the side lot line at the narrowest point.
5. The requested relief, if granted, would allow the Petitioner to remodel the kitchen such that it extends to within 5.5 feet of the side lot line, and to construct a rear deck that would result in a 31% total lot coverage by all buildings.
6. At the public hearing, no members of the public spoke in support of or opposition to the petition. Written comments from six abutters were submitted 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 – Variance from the required minimum width of side yard to allow remodeling of the kitchen: and from the 30% maximum lot coverage by all buildings to allow the construction of a deck:

1. The angled shape of the lot and the location of the building on the lot create a hardship. The rear lot line is square to Naples Road and Lafayette Street, but the southern lot line is at an irregular angle. The existing structure is located toward the southern side of the lot such that it encroaches on the required minimum 10-foot width of side yard.
2. Literal enforcement of the provisions of the Ordinance would be a substantial hardship. The proposed deck configuration exceeds the maximum allowed lot coverage by all buildings requirement by only 1%.
3. The renovation results in a greater setback from the side lot line than the existing configuration of the structure thus making it less nonconforming than the existing house. . 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 five (5) in favor (Mr. Watkins, Ms. Curran, Mr. Dionne, Ms. Harris, and Mr. Duffy in favor) and none (0) opposed, to grant the requested Variances to allow the remodeling of the kitchen and construction of a rear deck, 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 Inspection 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.