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CITY CLERK, SALEM, MASS.

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June 11, 2014

Decision

City of Salem Board of Appeals

Petition of RAYNALDO DOMINGUEZ requesting a variance from the requirements of Section 3.2.4 *Accessory Buildings and Structures* of the Salem Zoning Ordinance, to allow the expansion of a previously-approved garage such that one wall lies on the southern property line, at the property located at 38 CABOT 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 Variance from the requirements of Section 3.2.4 *Accessory Buildings and Structures* of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition date-stamped April 22, 2014, the Petitioner requested a Variance to allow the expansion of a previously-approved garage in order to move one wall to lie on the southern property line.
2. Mr. Raynaldo Dominguez, petitioner, presented the application for 38 Cabot Street.
3. A Board of Appeals Decision dated June 1, 2011 granted Mr. Dominguez Variances to allow the construction of a 15 x 24-foot garage with a second floor, located within the required minimum side yard setback.
4. The petitioner completed construction of the garage foundation, in the location approved in the June 1, 2011 Board of Appeals decision, and found that the position of the garage in relation to the house made it difficult to back out of the garage. The petitioner proposes to alleviate this difficulty by widening the garage by 3 feet to the south. Widening the garage by 3 feet to the south would locate the garage wall on the south property line.
5. The requested relief, if granted, would allow the Petitioner to relocate one wall of the previously approved garage to the south property line.
6. The submitted application included a letter signed by Mr. Michael P. Kiley, owner of 40 Cabot Street, in favor of the applicant's petition to relocate the garage wall to the south property line. Mr. Kiley's property abuts the south property line.
7. Locating the wall of the garage on the property line would result in portions of the garage structure encroaching on the abutter's property. Keeping the garage wall one foot off of the property line would avoid this condition.
8. During the course of the public hearing it was established that the proposal to change the garage footprint actually required a modification of the June 1, 2011 Decision, rather than a new Variance.

9. 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 – Modification to the June 1, 2011 Board of Appeals Decision

1. The desired relief may be granted without substantial detriment to the public good and 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. Harris, Mr. Dionne, Mr. Copelas, and Mr. Duffy in favor) and none (0) opposed, to grant a modification to the June 1, 2011 Board of Appeals decision, to allow the expansion of the garage to extend within 1 foot of the south side lot line, 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.

Annie Harris / DSM

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.