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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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2014 SEP 10 P 12: 58
FILE #
CITY CLERK, SALEM, MASS.

September 10th, 2014

Decision

City of Salem Board of Appeals

Petition of ERIC EASLEY, requesting a variance to allow the addition of two 14-foot dormers onto the third floor of the existing building, which exceeds the maximum allowed building height of 2.5 stories, as set forth in Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance. The property is located at 19 NICHOLS ST (R1 Zoning District).

A public hearing on the above Petition was opened on August 27, 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. Watkins, Mr. Copelas (Alternate), and Mr. Tsitsinos (Alternate).

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

Statements of fact:

1. In the petition date-stamped July 24th, 2014, the Petitioner requested a Variance from the provisions of Section 4.1.1 *Table of Dimensional Requirements* of the Salem Zoning Ordinance to allow the addition of two 14-foot dormers onto the third floor of the existing building, which exceeds the maximum allowed building height of 2.5 stories
2. Mr. Easley, petitioner, presented the petition for the property at 19 Nichols Street.
3. The existing building was previously illegally in use as a four-unit residence. It is a legal pre-existing nonconforming three-family residence.
4. The property owner proposes to improve conditions in the third floor unit to bring the structure up to building code.
5. The requested relief, if granted, would allow the Petitioner to construct an addition of two 14-foot long dormers onto the third floor of the existing building to bring the third-floor unit up to building code standards.
6. At the public hearing, one member of the public expressed their opposition to the petition and submitted a letter and photographs to the Board. Concerns included inadequate parking, noise, and the intended use. The resident was also concerned that the dormers had already been partially constructed before going before the Board. Another member of the public asked about the adequacy of the on-site parking. No members of the public spoke in favor of the petition.
7. Mr. St. Pierre clarified that the construction prior to Board approval was a misunderstanding. Construction was stopped and Mr. Easley applied to the Board.
8. Mr. Easley stated that an existing shed had been removed from the driveway to allow space for 6 cars. Mr. St. Pierre reminded the Board that the petitioner was not proposing changes to parking, therefore no relief was needed.

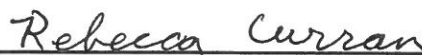
The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed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

Findings

1. Literal enforcement of the provisions of the Ordinance requiring a maximum allowed building height of 2.5 stories would be a substantial and unique hardship as the existing third floor legal unit does not meet current building code requirements.
2. The proposed two 14-foot long dormers would not be a substantial detriment to the public good, particularly as the petitioner has created more space for on-site parking.
3. 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. Tsitsinos, Mr. Copelas and Mr. Duffy) and none (0) opposed to grant the requested Variance to allow the addition of two 14-foot dormers onto the third floor of the existing building, 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.
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. 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.



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.