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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

February 4, 2015

## Decision

### City of Salem Board of Appeals

**Petition of DOUGLAS and JEAN KARAM seeking Variances from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* lot area, width, coverage, and setback requirements of the Salem Zoning Ordinance to allow the construction of an accessory structure that is physically separated, but held in common ownership with 25 Winter Island Road. The proposal is for the property located at 24 WINTER ISLAND ROAD (R1 Zoning District).**

A public hearing on the above Petition was opened on January 21, 2015 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, Mr. Tsitsinos (alternate).

The Petitioner seeks Variances from the provisions of Sec. 4.1.1 *Table of Dimensional Requirements* lot area, width, coverage, and setback requirements of the Salem Zoning Ordinance.

#### Statements of fact:

1. In the petition date-stamped November 24, 2014, the Petitioner requested Variances to allow the construction of an accessory structure that is physically separated, but held in common ownership with 25 Winter Island Road.
2. Attorney Grover, presented the petition on behalf of the application for 24 Winter Island Road.
3. The petitioners are requesting relief from the provisions of the Salem Zoning Ordinance to allow the construction of a garage and storage shed on the vacant parcel located at 24 Winter Island Road.
4. The proposed structure could be considered an accessory structure to the dwelling located at 25 Winter Island Road, the Zoning Ordinance describes an accessory building as "a subordinate building located on the same lot as the main or principal use of the land."
5. The proposed accessory structure located at 24 Winter Island Road is incidental to the main use of the land located at 25 Winter Island Road by a the roadway, but both parcels are held in common ownership and have historically been held together with one deed.
6. The applicant assumed that the dimensional requirements of Sec. 4.1.1 apply to the structure as opposed to the less stringent provisions of Sec. 3.2.4 relating to accessory structures. Therefore, the petitioner requests Variances from the lot area, width, lot coverage and setback requirements of the R-1 Zoning District where the property is located to be considered a building rather than an accessory structure.
7. The requested relief, if granted, would allow the Petitioner to construct a garage and shed storage area located on 24 Winter Island Road.
8. A petition of support was submitted as part of the records for this petition.

9. At the public hearing one (1) member of the public spoke in favor of and none (0) 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 for Variances:**

1. The lot located at 24 Winter Island Road is unique because it is physically separated, but held in common deed with 25 Winter Island Road. Therefore the special conditions and circumstances that especially affect the land, building, or structure involved, does not generally affect other lands, buildings and structures in the same district.
2. The literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant as the literal enforcement of the zoning provisions would prohibit any structure from being placed on this parcel.
3. The desirable relief may be granted without substantial detriment to the public good, and without nullifying or substantially derogating from the intent of the district or the purpose of the ordinance as the proposed structure is in keeping with the neighborhood as the structure is consistent with other accessory storage uses and storage sheds on the properties in close vicinity to 24 Winter Island Road.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Rebecca Curran, Peter A. Copelas, Mike Duffy, Tom Watkins and Jimmy Tsitsinos) and none (0) opposed, to grant Special Permits, to allow the reconstruction of a rear addition and to allow a reduction in minimum lot size per dwelling unit, 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.
8. The properties of 24 and 25 Winter Island Road shall remain deeded together in perpetuity.
9. The accessory structure shall not be used as a dwelling unit.
10. No bathroom shall be installed in the accessory structure located at 24 Winter Island Road.

  
Rebecca Curran, Chair  
Board of Appeals

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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.*