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MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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2015 MAR -4 A 8: 29
FILE #
CITY CLERK, SALEM, MASS.

March 4, 2015

Decision

City of Salem Board of Appeals

Petition of DIKRAN YAKUBIAN seeking Variances requesting relief from Sec. 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance and a Special Permit per Section 3.3.3 Nonconforming Structures to allow an increase in the number of stories from 2.5 stories to 3 stories. The proposal is for the property located at 410 LORING AVE (Map 30 Lot 60) (R1 Zoning District).

A public hearing on the above Petition was opened on February 18, 2015 pursuant to M.G.L Ch. 40A, § 11. The hearing was closed on this 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 a Special Permit per Sec. 4.1.1 Table of Dimensional Requirements of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition date-stamped January 29, 2015, the Petitioner requested a Variance per Section 4.1.1 Table of Dimensional Requirements and a Special Permit per Section 3.3.3 Nonconforming Structures to allow an increase in the number of stories from 2.5 stories to 3 stories.
2. Attorney Keilty, presented the application on behalf of the petitioner.
3. The petitioner proposes to construct two (2) shed roof dormers and gables on an existing nonconforming structure and increase the number of stories from an existing two and a half (2.5) stories to three (3) stories.
4. The existing roof ridgeline will remain the same height at thirty-three (33) feet.
5. The requested relief, if granted, would allow the Petitioner to reconstruct, extend, alter a non-conforming structure and allow an increase in the number of stories from two and a half (2.5) stories to three (3) stories.
6. At the public hearings no members of the public spoke in favor or in opposition to 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- Variance from the 2.5 stories maximum allowed height of buildings to allow the building to be three (3) stories:

1. Literal enforcement of the provisions of the Ordinance requiring a maximum allowed number of 2.5 stories would be a substantial and unique hardship as the existing third floor cannot be used because it does not meet current building code requirements.
2. The proposed dormers and gables would not be a substantial detriment to the public good.
3. The desired relief may be granted without nullifying or substantially derogating from the intent or purpose of the City of Salem Zoning Ordinance.

Findings for Special Permit:

1. The proposed expansion of a non-conforming use is not more detrimental than the existing use to the impact on the social, economic or community needs served by the proposal.
2. There are no impacts on traffic flow and safety, including parking and loading.
3. The capacity of the utilities is not affected by the project.
4. There are no impacts on the natural environment, including drainage.
5. The proposal conforms to the existing neighborhood character.
6. The potential fiscal impact, including impact on the City tax base is positive.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted four (4) in favor (Rebecca Curran, Mike Duffy, Tom Watkins and Jimmy Tsitsinos) and one (1) (Peter A. Copelas) opposed, to grant a Variance and Special Permits, to allow an increase in the number of stories from 2.5 stories to 3 stories, subject to the following seven (7) standard and two (2) special **terms, conditions, and safeguards:**

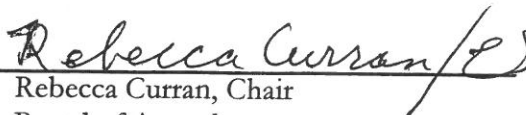
Standard Conditions:

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

Special Conditions:

1. The non-conforming structure shall remain a two (2) unit structure.
2. No kitchen shall be installed on the third (3rd) floor.

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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.