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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #
CITY CLERK, SALEM, MASS.

March 4, 2015

Decision

City of Salem Board of Appeals

Petition of DUARTE MACHADO requesting a Special Permit per Sec. 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance, in order to allow an existing nonconforming use of a commercial storefront to be converted to a non-conforming one bedroom apartment at the property located at 98 BOSTON STREET (Map 16, Lot 145) (B2 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 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 a Special Permit from the requirements of Section 3.3.2 *Nonconforming Uses* of the Salem Zoning Ordinance.

Statements of fact:

1. In the petition date-stamped January 29, 2015, the Petitioner requested a Special Permit to allow an existing nonconforming use of a commercial storefront to be partially converted to a nonconforming use of a one (1) unit apartment.
2. The petitioner presented the application.
3. The proposed one (1) unit apartment will be located in a portion of the first floor.
4. The proposed apartment is approximately 650 square feet.
5. There are no proposed changes to the windows or façade of the current structure.
6. A total of nine (9) parking spaces are currently available for the mixed-use building.
7. The requested relief, if granted, would allow the Petitioner to convert a portion of a previously existing commercial storefront to a one (1) unit apartment use.
8. At the public hearing no (0) members of the public spoke in favor or in opposition of the petition.

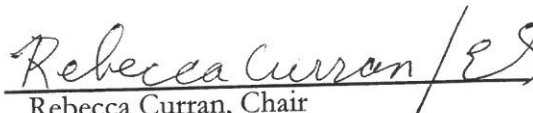
The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed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

Findings for Special Permit:

1. This change in use shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.
2. The proposed use is not more detrimental there is no impact on the social, economic or community needs served by the proposal.
3. There are no impacts on traffic flow and safety, including parking and loading.
4. The capacity of the utilities is not affected by the project.
5. There are no impacts on the natural environment, including drainage.
6. The proposal conforms to the existing neighborhood character.
7. 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 (Ms. Curran, Mr. Watkins, Mr. Copelas, and Mr. Tsitsinos in favor) and none (0) opposed, to grant a Special Permit per Sec. 3.3.2 Nonconforming Uses of the Salem Zoning Ordinance, in order to allow an existing nonconforming use of a commercial storefront to be partially converted to another nonconforming use of a one (1) unit apartment at the property, 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 Occupancy shall be obtained
7. A Certificate of Inspection shall 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.