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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEAL

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FILE #  
CITY CLERK, SALEM, MASS.

June 3, 2015

## Decision

### City of Salem Board of Appeals

**Petition of M. PERRY MCINTOSH and RICHARD LUECKE, seeking a Variance requesting relief from Sec. 4.1.1 Table of Dimensional Requirements from a side-yard setback to construct a rear deck. The property is located at 2 RIVER STREET (Map 26 Lot 617) (R2 Zoning District)**

A public hearing on the above Petition was opened on May 20, 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: Rebecca Curran (Chair), Peter Copelas, Jimmy Tsitsinos, Tom Watkins and Mike Duffy.

The petitioner is seeking a Variance requesting relief from Sec. 4.1.1 *Table to Dimensional Requirements* from a side-yard setback to construct a rear deck.

1. In the petition date-stamped May 20, 2015, the Petitioner requested a Variance requesting relief from Sec. 4.1.1 *Table of Dimensional Requirements* from side-yard setback of the Salem Zoning Ordinance to construct a rear deck.
2. Perry McIntosh and Richard Luecke, petitioners, presented the petition.
3. The property is an 18<sup>th</sup> century home built with the front façade and side-yard setbacks constructed on the zero (0') foot lot line. The building is an existing dimensionally non-conforming structure.
4. The petitioners proposed to construct a 70 square foot deck and stairway to the backyard serve as a secondary egress to the property.
5. The requested relief, if granted, would allow the Petitioner construct a rear deck and stairway.
6. At the public hearing two (2) members of the public spoke in favor of and no (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 Variance:**

1. Special conditions and circumstances that especially affect the land, building or structure generally not affecting other lands, buildings or structures in the same district include the steep slope and grade of the property and lack of a rear egress from the living quarters of the structure.
2. The literal enforcement of the provisions of the Ordinance would involve substantial hardship to the applicant as the existing structure is on the zero (0') lot line and there is no other option to provide rear access to the structure.

3. 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.

On the basis of the above statements of facts and findings, the Salem Board of Appeals voted five (5) in favor (Rebecca Curran (Chair), Peter Copelas, Jimmy Tsitsinos, Tom Watkins and Mike Duffy) and none (0) opposed, to grant a Variance, to allow the construction of a 70 square foot deck and stairs, 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. A Certificate of Inspection is to be obtained.
6. 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.*