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MAYOR

# CITY OF SALEM, MASSACHUSETTS

## BOARD OF APPEALS

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**August 14, 2023**

### **Decision**

### **City of Salem Board of Appeals**

The petition of ITALO DE SOUZA at 296 HIGHLAND AVENUE (Map 8, Lot 29) (R1,B2,ECOD Zoning District) to *Appeal the Decision of the Building Inspector*. Petitioner wishes to have a permanent free standing internally illuminated sign. Internally illuminated signs are not allowed in the Entrance Corridor Overlay District.

A public hearing on the above petition was opened on May 17, 2023 and was continued to June 21<sup>th</sup>, 2023 and continued again to July 19, 2023. The petition was closed on July 19, 2023.

On May 17, 2023, the following members of the Salem Board of Appeals were present: Peter Copelas (Chair), Steven Smalley, Paul Viccica, Nina Vyedin and Hannah Osthoff.

On June 21, 2023, the following members of the Salem Board of Appeals were present: Peter Copelas (Chair), Carly McClain, Paul Viccica, Nina Vyedin and Hannah Osthoff.

On July 19, 2023, the following members of the Salem Board of Appeals were present: Peter Copelas (Chair), Carly McClain, Paul Viccica, Nina Vyedin, Rosa Ordaz and Hannah Osthoff.

### **Statements of Fact:**

The petition is date stamped March 15, 2023. The petitioner proposes to have an internally illuminated sign in the Entrance Corridor Overlay District.

1. 296 Highland Avenue is owned by Italo De Souza
2. The petitioner was Italo De Souza.
3. The representative was Andrew Layman.

4. 296 Highland Avenue is located in the R1,B2,ECOD zoning district. (Map 14, Lot 155)
5. On May 17, 2023, Andy Layman requested a continuance to the next Salem Zoning Board meeting on June 21, 2023 due to a four-member board.
6. Paul Viccica made a motion to approve the request to continue.
7. On June 21, 2023, Italo de Souza made a request to continue to the July 19<sup>th</sup>, 2023 meeting.
8. Nina Vyden made a motion to approve the continuance request.
9. On July 19, 2023, Andy Layman presented to the board.
10. City staff made the Salem Zoning Board aware that there was no overturning of any other city board in terms of deciding for this petition. This petition was an appeal of a building inspector's decision and not another city board.
11. Chair Copelas also clarified for the petitioner that the board was well within the authority to rule on this petition.
12. A letter from the City Solicitor was read to reiterate the jurisdiction the sign committee and the ZBA have for this petition. Pursuant to Section 8.2.6 of the Salem Zoning Ordinance, A sign review committee, comprised of the following members, shall be established for the purpose of reviewing all signage proposed for the ECOD; Building Commissioner or designee; and City Planner or designee; and representative of the Salem Redevelopment Authority. The sign review committee shall review the size, location, type of material and design of all signs located within an ECOD. The sign review committee shall follow the Salem Sign Ordinance, except that the sign review committee shall be allowed to limit the size of all signs within an ECOD to one-half (1/2) the size which is allowed in the underlying zone. Approval by a simple majority of this committee is required prior to a sign permit being granted by the City.
13. The petitioner and the board reviewed the decision from the sign committee which specifically stated that the sign review committee voted pursuant to section 8.2.6 of the zoning ordinance. That vote failed with one in favor and two against. As noted by the ordinance, approval by a simple majority is required for the sign permit to be granted by the City.
14. The proposed sign at 296 Highland Avenue did not pass with a majority vote and therefore was denied.
15. The petitioner was allowed to appeal the decision of the building commissioner acting in the role of the sign committee. This is why the ZBA was hearing the appeal.
16. Andy Layman inquired why this sign proposal was denied compared to most businesses on Highland Avenue that also have internally illuminated signs.
17. Chair Copelas stated that the majority of signs on Highland Avenue were either already in place before the enactment of the ECOD zoning district or they have gone with the option that is provided to the petitioner which is to reface the existing sign.

18. Chair Copelas reiterated that the petitioner could have their internally illuminated sign if they wanted to refinish the existing sign. The sign ordinance takes affect because this is a request for a "new" sign not an existing one.
19. Mr. Layman expressed that the proposed sign fits in very well with the character of Highland Avenue. The proposed sign would be no different then what is already along Highland Avenue.
20. Chair Copelas opened the meeting up to comments from the board.
21. Rosa Ordaz asked the petitioner to explain why they wanted to go through the appeal process for a new sign when they have the option to reface the old one and have an illuminated sign.
22. Mr. Layman reviewed the plans for the sign and explained that the current sign is old and dilapidated and does not fit the artwork and logo for the new sign.
23. Chair Copelas reiterated the steps this petition took to arrive in front of the Board of Appeals on July 19, 2023 and why they were ruling on the petition.
24. Mr. Layman stated that the city's Building Commissioner did vote in favor of the sign. Mr. Layman reiterated that it is the Building Commissioner who regulates the ordinances for the City of Salem.
25. Chair Copelas opened the meeting to public comment.
26. Mike Becker, 19 Bradley Street, stated he was in favor of the sign being approved.
27. Chair Copelas reviewed what a yes vote means – overturning the decision of the building commissioner, or a no- upholding the denial of the sign permit, for the members of the public and the board.
28. Carly McClain made a motion to approve the petition.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted one (1) (Carly McClain) in favor and four (4) (Peter A. Copelas(Chair), Nina Vyden, Rosa Ordaz, and Paul Viccica opposed to deny ITALO DE SOUZA at 296 HIGHLAND AVENUE an Appeal the Decision of the Building Inspector.

**Receiving four (4) not in-favor votes, the petition for An Appeal of the Building Inspector is DENIED.**

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Peter A. Copelas/ 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.