



DOMINICK PANGALLO  
MAYOR

# CITY OF SALEM, MASSACHUSETTS

## BOARD OF APPEALS

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970  
TEL: 978-619-5685

**July 12, 2023**

### **Decision**

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

The petition of DEAN BOUCHER at 31 BERTUCCIO AVENUE (Map 24, Lot 104) (R1 Zoning District) for a variance per Section *4.1.1 Dimensional Requirements* of the Salem Zoning Ordinance to build a sixteen by forty sq. foot (16"x40") two story single family residence .The relief will be from minimum lot area. Petitioner is seeking to construct on a lot size of two thousand nine hundred thirteen (2,913) sq. feet/ Fifteen thousand sq. feet (15,000) is required. In addition, relief requested is to build into the left side setback at four (4) feet and into the right-side setback at nine (9) feet/ Where ten (10) feet is required. The rear yard setback would be five (5) feet/ Where thirty (30) feet is required.

A public hearing on the above petition was opened on February 15, 2023 and was continued to March 15, 2023.

On February 15, 2023, the following members of the Salem Board of Appeals were present: Rosa Ordaz, Peter Copelas (Chair), Carly, McClain, Paul Viccica, Nina Vyedin and Steven Smalley.

On March 15, 2023, the following members of the Salem Board of Appeals were present: Rosa Ordaz, Peter A. Copelas (Chair), Paul Viccica, Nina Vyedin and Steven Smalley.

On May 17th, 2023, the following members of the Salem Board of Appeals were present: Rosa Ordaz, Peter Copelas (Chair), Paul Viccica, Nina Vyedin.

On June 21<sup>st</sup>, 2023 the following members of the Salem Board of Appeals were present: Peter A. Copelas (Chair), Carly McClain, Paul Viccica, Nina Vyden and Hannah Osthoff.

### **Statements of Fact:**

The petition is date stamped January 26, 2023. The petitioner requests build a two-story single-family residence.

1. 31 Bertuccio Avenue is owned by Dean Boucher.
2. The petitioner was Dean Boucher.
3. 31 Bertuccio Avenue is located in the R1 zoning district. (Map 24, Lot 104).
4. On February 15, 2023, Dean Boucher presented his plans to the board.
5. Mr. Boucher stated that he has been paying taxes on this parcel for approximately fifteen years. He stated that back in the 1950's there was "land lotting" and everyone got land. They (the City) had made the lots up.
6. Mr. Boucher stated that at one time there was a building on the lot he currently owns and that you can tell this because there is a driveway that runs up into the lot.
7. The petitioner felt that if they can push the house into the back of the lot, it will fit and it wouldn't be a bother to any of the neighbors. Mr. Boucher stated that he and his wife want to move back into Salem from a neighboring community.
8. Mr. Boucher's proposed house would be considered a smaller home. He discussed his plans to build a house with measurements of forty feet by thirteen feet. (40' x 13')
9. Paul Viccica stressed that he would like to see the plans for the petition.
10. Mr. Boucher went through the plans for his petition.
11. Mr. Boucher stated that he has approached the neighbors to this property to see if they wanted to buy his land. They did not accept his offer to purchase the land at 31 Bertuccio Road.
12. Chair Copelas stated that having financial difficulties in finding a home in Salem did not qualify as a hardship in terms of zoning. In addition, paying real estate taxes is not relevant to a hardship for a variance.
13. Chair Copelas suggested that Mr. Boucher take some time to get his materials in order, perhaps discuss this matter with a land use professional and make his determination about proceeding with his petition.
14. Mr. Boucher requested to continue to the March 15, 2023 Zoning Board of Appeals meeting.
15. At the March 15, 2023 Zoning Board of Appeals meeting, Mr. Boucher stated that he seeking more time to gather materials and requested a continuance to the May 17th, 2023 meeting.
16. On May 17th, 2023 Mr. Boucher stated to the board that his wife had been in the hospital and was not able to gather the materials for the meeting due to his wife's time in the hospital.
17. Mr. Boucher requested a continuance to the June 21, 2023 meeting.
18. At the June 21, 2023 Salem Zoning Board of Appeals meeting, Dean Boucher made a request to withdraw without prejudice.
19. Nina Vyden made a motion to approve the withdrawal without prejudice.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Peter A. Copelas(Chair), Nina Vyden, Carly McClain, Paul Viccica

and Hannah Osthoff and none (0) opposed to grant DEAN BOUCHER a withdrawal without prejudice.

**Receiving five (5) in favor votes, the petition to withdraw without prejudice is GRANTED.**

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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.

