



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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

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CITY CLERK
SALEM, MASS

June 13, 2022

Decision

City of Salem Board of Appeals

The petition of RAYMOND F. McSWIGGIN, at 12 WOODSIDE STREET (Map 17, Lot 200) (R2 Zoning District), for a Special Permit per Section 3.3.5 *Nonconforming Single- and Two-family Residential Structures* of the Salem Zoning Ordinance to construct an extension of the existing porch to provide a roof over the stairs in order to prevent them from icing over in the winter. The entire proposed porch will be enclosed.

A public hearing on the above petition was opened on May 25, 2022 and was closed on May 25, 2022.

On May 25, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy (chair), Carly McClain, Paul Viccica, Peter Copelas and Steven Smalley.

Statements of Fact:

The petition is date stamped March 18, 2022. The petitioner seeks Special Permit per Section 3.3.5 *Nonconforming Single- and Two-family structures* of the Salem Zoning Ordinance to construct an extension of the existing porch to provide a roof over the stairs.

1. 12 Woodside Street is owned by Raymond McSwiggin.
2. The petitioner was Raymond McSwiggin, Trustee of McSwiggin Trust.
3. The representative was Lauren Weeks.
4. 12 Woodside Street is located in the R2 zoning district. (Map 17, Lot 200)
5. The requested relief, if granted, would allow the Petitioner to construct an extension of an existing porch with a roof that also covers the stairs.
6. On May 25, 2022, Lauren Weeks, Seaside Legal Solutions, presented to the board.
7. 12 Woodside Street is a nonconforming structure on a nonconforming lot.
8. The enclosure of the front porch would be a minor expansion and would increase the nonconformity of the front yard setback.
9. Lauren Weeks discussed the proposed plans for the enclosed porch.
10. Lauren Weeks addressed the criteria for a special permit.

11. Chair Duffy opened the meeting up to comments from the members of the board.
12. Paul Viccica inquired about the proposed expansion and how it appeared to be right at the sidewalk line.
13. Ms. Weeks responded by stating that they are not moving any closer to the sidewalk than where the current steps are located on the property.
14. Peter Copelas inquired about how there was currently a 3.9-foot distance from the façade of the house to the sidewalk and with the proposal they would construct the porch in that 3.9 feet of space.
15. Ms. Weeks confirmed that was correct.
16. Mr. Copelas stated that by covering of the stairs was, in essence, expanding the front porch area of the structure.
17. Ms. Weeks confirmed that was true.
18. Paul Viccica expressed his concerns about the change to the neighborhood with the porch construction extending to the sidewalk.
19. Ms. Weeks stated she understood and shared with the board that at 8 Woodside Street their property also came out to the sidewalk. This was two (2) houses down from 12 Woodside Street.
20. The plans showed that the proposed construction was more than covering the stairs it was really an expansion of usable space for the dwelling.
21. Paul Viccica stated that the expansion of the porch was concerning due to the proximity to the sidewalk (public way) with its pitched roof. The rainwater would go right on to the sidewalk. He inquired if there were gutters for the porch.
22. Ms. Weeks responded that currently, there were not gutters on the porch or plans for the new porch.
23. Ms. Weeks shared that they are not directly at the sidewalk. The plans are for the structure to be six (6) inches away from the sidewalk.
24. Chair Duffy opened the meeting up to public comment.
25. Raymond F. McSwiggin, 12 Woodside Street, stated that there were gutters on the porch roof.
26. Chair Duffy inquired if the plan was to maintain gutters on the expansion of the new porch roof. Mr. McSwiggin confirmed that was true.
27. There were no further public comments.
28. Chair Duffy expressed his understanding of the concerns for the proximity of the proposed structure and the rainwater runoff.
29. Chair Duffy went through the submitted responses addressing the Special Permit criteria.
30. Peter Copelas made motion to approve the petition. It was seconded by Carly McClain.
31. Due to the ongoing COVID-19 pandemic and related precautions and Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, the May 25, 2022 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

Special Permit Findings:

The Board finds that the proposed modifications will not be substantially more detrimental than the existing nonconforming use to the neighborhood and that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City and the neighborhood:

1. Social, economic, or community needs were served by this petition.
2. Traffic flow and safety, including parking and loading: there will no impact on traffic or parking.
3. Adequate utilities and other public services: The petition will not impact utilities or public services.
4. Impacts on the natural environment, including drainage: No negative impact would be expected.
5. Neighborhood character: The project will not have a negative impact on the residential neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment. There will be a positive fiscal impact on the city or its tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Steven Smalley, Mike Duffy (chair), Carly McClain, Paul Viccica and Peter Copelas) and none (0) opposed to grant Raymond McSwiggin a Special Permit per Section 3.3.5 *Nonconforming Single- and Two-family Residential Structures* of the Salem Zoning Ordinance to construct an extension of the existing porch to provide a roof over the stairs in order to prevent them from icing over in the winter. The entire proposed porch will be enclosed.

Receiving five (5) in favor votes, the petition for a special permit is approved.

Standard Conditions:

1. 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 the new construction shall be in harmony with the existing structure.
6. A Certificate of Occupancy is to be obtained.
7. A Certificate of Inspection is to be obtained.

8. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
9. All construction shall be done per the plans and dimensions submitted to and approved by this Board. Any modification to the plans and dimensions must be approved by the Board of Appeals unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

Special Conditions:

1. Gutters and downspouts will be installed to ensure rainwater does not flow onto the public way.
2. The structure will be no closer than twelve (12) inches to the public way (sidewalk).

Mike Duffy / DL

Mike Duffy, 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.