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MAYOR

CITY OF SALEM, MASSACHUSETTS

BOARD OF APPEALS

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August 21, 2023

Decision

City of Salem Board of Appeals

The petition of ARSLAN KHUDAYNAZAR at 54 CHARLES STREET (Map 32, Lot 134) (R2 Zoning District) for a Special Permit per Section *3.3.5 Nonconforming Single- and Two-Family Structures* of the Salem Zoning Ordinance to enlarge and convert a nonconforming single-family dwelling to a two-family dwelling by adding a two-story (2) addition and deck at the rear of the structure.

A public hearing on the above petition was opened on August 16, 2023 and was closed on August 16, 2023.

On August 16, 2023, the following members of the Salem Board of Appeals were present: Peter Copelas (Chair), Carly McClain, Paul Viccica, Rosa Ordaz and Hannah Osthoff.

Statements of Fact:

The petition is date stamped June 29, 2023. The petitioner proposes to convert a single-family residence into a two-family residence. Petitioner also proposes to construct a deck.

1. 54 Charles Street is owned by Arslan Khudaynazar
2. The petitioner was Arslan Khudaynazar
3. The representative was Attorney Bill Quinn.
4. 54 Charles Street is located in the R2 zoning district. (Map 32, Lot 134).
5. On August 16, 2023, Bill Quinn presented the plans to the board.
6. The petitioner lives with his family in the home. He would like to create two units so that his family can live together in a space that is more conducive for the size of the family.
7. The petitioner would like to live on the first floor with his parents. They would rent out the second-floor unit.

8. The petitioner proposes to demolish the back wall of the home and then add a two-story addition to the property. With the proposed addition, the petitioner would also like to build a deck.
9. The property is existing nonconforming.
10. Darguin Fortuna, architect, reviewed the proposed plans for the site.
11. While discussing the plans for the second unit, Peter Copelas inquired about the stairwell that would serve as an egress for the second unit.
12. Chair Copelas inquired if the new stairs would be going into the side setback.
13. Attorney Quinn stated that the stairs would be in the side setback by a few feet.
14. Paul Viccica expressed his concern about the proposed stairway increasing the nonconformity of the side setback.
15. Mr. Viccica stated that he thought the stairway would be better on the other side of the property located near the driveway. He felt this made more sense due to the proximity of the home to property line. He felt that adding the stairs so close the neighbor's property was not the best option.
16. Mr. Viccica stated that he felt that the stairs would be better at the back of the home to not increase the nonconformity of the home.
17. Darguin Fortuna stated that he felt that Mr. Viccica's option was a good solution to improve the plan for the home.
18. Chair Copelas stated he felt that the stairs should be on the side of the driveway and not on the other side of the home where the neighbor's property was already very close.
19. Mr. Viccica stated that he felt the better option for the site would be to not increase the nonconformity of the home by having the stairs on the right side of the home, but to have them either at the back of the home or on the driveway side of the home.
20. Chair Copelas opened the meeting to public comment.
21. There were none.
22. Attorney Quinn reviewed the criteria for a special permit.
23. Paul Viccica made a motion to approve the petition.

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), Carly McClain, Rosa Ordaz, Hannah Osthoff and Paul Viccica and none (0) opposed to grant ARSLAN KHUDAYNAZAR at 54 CHARLES STREET a Special Permit per Section *3.3.5 Nonconforming Single- and Two-Family Structures* of the Salem Zoning Ordinance to enlarge and convert a nonconforming single-family dwelling to a two-family dwelling by adding a two-story (2) addition and deck at the rear of the structure.

Receiving five (5) in favor votes, the petition for a Special Permit is GRANTED.

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. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
8. 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.
9. Petitioner shall schedule Assessing Department inspections of the property, at least annually, prior to project completion and a final inspection upon project completion.

Special Conditions:

1. Design and construct the rear deck stair so as to not create a greater non-conforming side setback than what exists: +/- five feet.

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.