



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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**August 8, 2022**

## **Decision**

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

The petition of ROBERT W. BURKINSHAW, TRUSTEE OF THE ROBERT W. BRUKINSHAW TRUST at 122 DERBY STREET (Map 41, Lot 12) (B1 Zoning District), for a Special Permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to extend and structurally change a portion of the second floor and to reconstruct a portion of the building's "shed" to a one and a half (1½) story structure.

A public hearing on the above petition was opened on June 15, 2022 and continued to July 27, 2022 and was closed on July 27, 2022.

On July 27, 2022, the following members of the Salem Board of Appeals were present: Carly McClain, Mike Duffy, Paul Viccica, Peter Copelas (Vice Chair) and Steven Smalley.

#### **Statements of Fact:**

The petition is date stamped May 13, 2022. The petitioner seeks a Special Permit per Section Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to extend and structurally change a portion of the second floor and to reconstruct a portion of the building's "shed" to a one and a half (1½) story structure.

1. 122 Derby Street is owned by Robert W. Burkinshaw, Trustee of the Robert W. Burkinshaw Trust
2. The petitioner was Robert W. Burkinshaw.
3. The petitioner was represented by attorney Thomas J. Flannagan.
4. 122 Derby Street is located in the B1 zoning district. (Map 41, Lot 12).
5. The requested relief, if granted, would allow the Petitioner to extend and structurally change a portion of the second floor and to reconstruct a portion of the building's "shed" to a one and a half (1½) story structure.
6. On July 27, 2022, Thomas Flannagan, attorney, presented to the board.

7. The petitioner would like to construct an additional half story on the right side of the property. The left side of the structure is two stories and the petitioner would like to fill in the rest of the building by adding the second story to make a full structure. The reason is to be able to store supplies and confectionary product on site. Currently there is no storage or supply space on site.
8. The proposed structure would not create any new nonconformities. Nor would it change any use of the premises. All current work would be done within the current footprint of the property.
9. Chair Duffy opened the meeting up to comments from the board.
10. Paul Viccica clarified that there were no residents living in the second story of the property. There are none, nor will there be any residents living there.
11. The meeting was opened up to public comment.
12. Nina Vyden, 27 Daniels Street, fully supported the petition.
13. Paul Viccica wanted to make sure that the property was not going to be built into other people's property based on the property lines. It was confirmed that the property was going to be built on the existing footprint. The footings are already in place.
14. Peter Copelas made a motion to approve the petition.
15. The July 27, 2022 meeting of the Board of Appeals was held remotely, via the online platform Zoom in accordance with Chapter 107 of the Acts of 2022.

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 ROBERT W. BURKINSHAW, TRUSTEE OF THE ROBERT W. BRUKINSHAW TRUST to extend and structurally change a portion of the second floor and to reconstruct a portion of the building's "shed" to a one and a half (1½) story 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. 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.

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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.