



# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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KIMBERLEY DRISCOLL  
MAYOR

2022 MAR - 1 PM 12: 10  
CITY CLERK  
SALEM, MASS

**March 1, 2022**

## Decision

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

The petition of RAFAEL CAMPUSANO at 20 WISTERIA STREET (Map 32, Lot 196)(R2 Zoning District), for a special permit per Section 3.3.5 Non-conforming Single-and Two-family Residential Structures to add a dormer of +/- 37 feet by 12 feet on the rear & left side of the existing building. This dormer will increase the existing non-conformity of the building by encroaching onto the side and rear setbacks within the existing building footprint.

A public hearing on the above Petition was opened on January 19, 2022. It was continued to February 16, 2022 and was closed on February 16, 2022.

On February 16, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy(chair), Rosa Ordaz, Carly McClain, Paul Viccica and Steven Smalley.

The petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a dormer of +/- 37 feet by 12 feet on the rear & left side of the existing building. This dormer will increase the existing non-conformity of the building by encroaching onto the side and rear setbacks within the existing building footprint.

### **Statements of Fact:**

The petition is date stamped October 6, 2021. The petitioner has requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a dormer of +/- 37 feet by 12 feet on the rear & left side of the existing building.

1. 20 Wisteria Street is owned by the Petitioner, Rafael Campusano.
2. Rafael Campusano was represented by Darguin Fortuna, Architect.
3. 20 Wisteria Street is located in the R2 zoning district. (Map 32, Lot 196)
4. The requested relief, if granted, would allow the Petitioner to construct dormers to increase the living space on the third (3<sup>rd</sup>) floor of the home.
5. On February 16, 2022, Darguin Fortuna presented the petition for 20 Wisteria Street to the Board.

6. 20 Wisteria Street is currently used as two-family unit. 20 Wisteria is already a non-conforming structure in the R2 zoning district.
7. The petitioner would like to build a dormer to add to the livable space for the second floor into the attic. The dormer would wrap around the back of the property to allow for the stairs (egress), which connect from the floor below to fit within the footprint of the structure.
8. The relief for the petition would allow for a stand-alone first floor unit and the second-floor unit would include the attic space as part of the second unit.
9. There was one (1) letter submitted (Stephen and Tracy Kapantais, 23A and Rosemary Kapantais, 23 Wisteria Street) in opposition to the petition.
10. There was one (1) member of the public, Stephen Kapantais, 23A Wisteria Street that called in and made a comment about the procedure of the open meeting.
11. Chair Mike Duffy and Rosa Ordaz responded to the comment by stating that requested relief was explicit in the advertisement about what the petitioner was seeking and did not change when it was requested under a special permit and no longer the variance.
12. There would be no construction outside of the current building's footprint.
13. The board moved to close the public comments. The motion passed.
14. Chair Duffy discussed the special permit criteria.
15. 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 December 15, 2021 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 be in keeping with and improving the residential neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment. There will be 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 ( Rosa Ordaz, Mike Duffy (chair), Carly McClain, Paul Viccica and Steven Smalley) and none (0) opposed to grant RAFAEL CAMPUSANO a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add a dormer on the rear & left side of the existing building

**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. 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.
10. 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. The third floor will not be used as a separate residential unit. The third floor will only be part of the second-floor unit living space.

A handwritten signature in black ink that reads "Mike Duffy / DL". The signature is written in a cursive style and is positioned above a horizontal line.

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.