



# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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KIMBERLEY DRISCOLL  
MAYOR

**September 30, 2022**

## Decision

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

The petition of JOHN AND MARCY HAUBER at 52 SCHOOL STREET (Map 27, Lot 4) (R2 Zoning District), for a Special Permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures and The Dimensional Table* of the Salem Zoning Ordinance to add a two (2) story unit and two (2) two-car garages to create a two (2) family building and four (4) garage parking spaces. The proposed lot area per dwelling is 6,378 where 7,500 is required. The existing and proposed side yard setback is 3.4' where 10' is required. The existing front yard setback is 6.3' where 15' is required.

A public hearing on the above petition was opened on August 17, 2022 and continued to September 21, 2022 and was closed on September 21, 2022.

On September 21, 2022, the following members of the Salem Board of Appeals were present: Mike Duffy (Chair), Paul Viccica, Peter Copelas and Steven Smalley.

### **Statements of Fact:**

The petition is date stamped June 29, 2022. The petitioner seeks a Special Permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures and The Dimensional Table* of the Salem Zoning Ordinance to add a two (2) story unit and two (2) two-car garages to create a two (2) family building and four (4) garage parking spaces.

1. 52 School Street is owned by John and Marcy Hauber.
2. The petitioners were John and Marcy Hauber.
3. 52 School Street is located in the R2 zoning district. (Map 27, Lot 4).
4. The requested relief, if granted, would allow the Petitioner to add a two (2) story unit and two (2) two-car garages to create a two (2) family building and four (4) garage parking spaces.
5. On August 17, 2022, due to lack of a quorum, the petition was continued to September 21, 2022.
6. On September 21, 2022, Scott Grover, attorney, presented to the board.

7. The petitioner's current property is around one hundred fifty (150) years old. The property is in significant need of restoration. The parcel of land is approximately thirteen thousand square feet (13,000) which is considerably larger than other parcels in the immediate area.
8. Attorney Grover expressed that in order to restore the house, a significant amount of funds are required. The petitioners are proposing to construct a townhome style structure connected to the existing house via the garages.
9. Attorney Grover stated that within the zoning ordinance the creation of a second unit is allowed by right and the only dimensional relief needed is for lot area per dwelling unit. The other relief is from the side setback.
10. Attorney Grover stated that in the R2 Zoning district seven thousand five hundred square feet (7,500) is required and the proposal is for six thousand three hundred seventy-eight square feet (6,378). The existing setback is three and four tenths' feet (3.4) and the proposed side setback will be five feet (5). In all other respects, the addition will comply with all setbacks and dimensional requirements.
11. Attorney Grover went over the criteria to acquire a special permit.
12. Architect Dan Ricciarelli presented the plans to the board.
13. Chair Duffy opened the meeting up to comments from the board.
14. Peter Copelas expressed his appreciation for the thought put into the design for the project.
15. Chair Duffy opened the meeting up to public comments.
16. Marlin Nabors, 8 Chandler Street, expressed his concern for losing his space as a direct abutter to the property at 52 School Street. He stated that he didn't hear a compelling reason to move this petition forward.
17. Chair Duffy responded to Mr. Nabors, explaining that this is a special permit and therefore the board has to determine if the project is substantially more detrimental to the neighborhood than the existing non-conforming structure as well as impact on the community.
18. Janet Polakiewicz, 60 School Street, expressed her concern over the congestion in the area of the proposed construction. She expressed her concerns if there was a fire and how the fire could spread very quickly in that area with all of the trees. She felt that it was a hazard to have this construction there at 52 School Street.
19. Mike Becker, 48 School Street, fully supported the proposal.
20. Attorney, Scott Grover, addressed the public comments. He mentioned that the construction would be further back in the setback than it is currently. Furthermore, the addition in the back of the property is not near other properties that abut the parcel of land. He stated that on the Chandler Street side they are in full compliance of the dimensions required for the R2 Zoning District.
21. Richard and Carol Champigny, 10 Chandler Street, expressed that they did not want this building in their neighborhood. They do not see the benefit to the community by the approval of this petition. They felt that this will be detrimental to the neighborhood. They expressed their concern over a safety standpoint on how firetrucks and emergency services would access the property with all the congestion in the neighborhood.

22. Attorney Grover responded and made clear that they had no intention of removing any of the trees in on the property. The trees will be maintained to preserve the character of the neighborhood.
23. Paul Viccica stressed that he felt there was a very large significant tree on the property that he felt would need to come down due to the location of the proposed structure.
24. Chair Duffy expressed again that the new construction would be within the zoning setbacks. He also expressed that the proposed building would be further away in the setbacks than the current structure.
25. Paul Viccica made a motion to approve the petition.
26. The September 21, 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 four (4) in favor (Steven Smalley, Mike Duffy(Chair), Paul Viccica and Peter Copelas) and none (0) opposed to grant JOHN AND MARCY HAUBER at 52 SCHOOL STREET(Map 27, Lot 4) (R2 Zoning District), a Special Permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures and The Dimensional Table* of the Salem Zoning Ordinance to add a two (2) story unit and two (2) two-car garages to create a two (2) family building and four (4) garage parking spaces.

**Receiving four (4) 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
8. 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.

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.
10. Petitioner shall schedule Assessing Department inspections of the property, at least annually, prior to project completion and a final inspection upon project completion.

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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.

