



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK  
SALEM, MASS

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March 4, 2020

## Decision

### City of Salem Board of Appeals

**Petition of MATTHEW PALUMBO AND ROSEMARIE DURNING for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and enlarge the nonconforming two-family home at 1-3 LUSSIER STREET (Map 32, Lot 185) (R2 Zoning District) by adding a third-floor dormer.**

A public hearing on the above Petition was opened on February 19, 2020 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Peter Copelas, Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica. Board members Mike Duffy (Chair) and Carly McClain were absent. Peter Copelas served as Acting Chair.

The petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and enlarge a nonconforming two-family home.

#### Statements of Fact:

1. In the petition date-stamped January 28, 2020, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and enlarge the nonconforming two-family home at 1-3 Lussier Street by adding a third-floor dormer.
2. The petition was submitted by Attorney William Quinn representing the petitioner.
3. 1-3 Lussier Street is owned by petitioners Matthew Palumbo and Rosemarie Durning.
4. 1-3 Lussier Street is currently used as a two-family home. This is an allowed use in the R2 zoning district.
5. The property is nonconforming to dimensional requirements including at least minimum lot area, minimum lot area per dwelling unit, minimum depth of front yard, and minimum width of side yard (south elevation, where the dormers are proposed).
6. The proposal is to add two dormers on the south elevation of the house.
7. The building will remain a two-family home. Per the Statement of Grounds submitted with the petition, no dwelling units are being added. The dormers are being added "to enlarge the third-floor space to accommodate one or two additional bedrooms."
8. The dimensional requirements affected by the proposal are maximum height of buildings (stories) and minimum depth of side yard. The side yard setback will not be decreased, but the dormers are proposed within the required 10' side yard setback.

9. The building footprint is not proposed to change under this proposal. The peak height of the building will not increase.
10. The requested relief, if granted, would allow the petitioner to alter and enlarge the nonconforming two-family home at 1-3 Lussier Street by adding a third-floor dormer.
11. At the February 19, 2020 meeting of the Board of Appeals, Attorney William Quinn discussed the petition. He noted that the proposal is to increase the size of the two-family dwelling by adding a dormer to the third level. No dwelling units are being added.
12. At the February 19, 2020 public hearing, architect John Seger of Seger Architects showed photographs and elevations. He showed photographs of 1-3 Lussier Street and the building on its left and its right. Mr. Seger discussed neighborhood architectural context, noting that the buildings are typically 2.5-story two-family homes with different types of dormers. Mr. Seger noted that there is an existing dormer on the other side of 1-3 Lussier Street. He provided a correction to the elevations that had been submitted to the Board; this affected Sheet A-1 only and was labeled "02.19.2020 REVISION 1 – DORMER ELEVATION." Mr. Seger noted that the two dormers are pulled back from the roof edge. The dormers are also set down from the peak of the roof. One of the existing skylights will remain in between the two proposed dormers.
13. At the February 19, 2020 public hearing, Attorney Quinn discussed the special permit criteria. He noted that this will be a better living space for people; with no additional units, there will be no traffic or parking impact, and there are three parking spaces on-site; the community needs housing and this is a way to improve housing; existing utilities and services are adequate; the extent of additional roofline is relatively small and should not require any additional drainage abatement; the design is consistent with the neighborhood; and the increased value of the building should increase tax revenue.
14. At the February 19, 2020 public hearing, Jimmy Tsitsinos asked whether stairwells are existing and whether a kitchen is being added. Mr. Seger answered that the stairwells are existing, and they are actually taking a kitchen away from the third floor.
15. At the February 19, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
16. At the February 19, 2020 public hearing, Paul Viccica stated that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, makes the following **findings** that the proposed project meets the provisions of the City of Salem Zoning Ordinance:

**Special Permit Findings:**

The Board finds that the proposed nonconforming structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood.

1. Social, economic, or community needs served by the proposal: The need for improved, code-compliant family housing is served by this proposal.
2. Traffic flow and safety, including parking and loading are unaffected: no dwelling units are being added and three (3) parking spaces are provided on-site.
3. Adequate utilities and other public services already service the property.
4. Impacts on the natural environment, including drainage: No impact is anticipated. The footprint of the property is not changing. The dormers will add minimal new roof area.

5. Neighborhood character: The proposed addition is designed to be consistent with and complementary to the design of the existing structure and those in the neighborhood. No negative impact to neighborhood character is anticipated.
6. Potential fiscal impact, including impact on City tax base and employment: The proposal will increase the assessed value of the property, positively impacting the City tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Peter Copelas (Acting Chair), Rosa Ordaz, Jimmy Tsitsinos, and Paul Viccica) and none (0) opposed to grant the requested Special Permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and enlarge the nonconforming two-family home at **1-3 Lussier Street** by adding a third-floor dormer, subject to the following **terms, conditions, and safeguards**:

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. All construction shall be done per the plans and dimensions submitted to and approved by this Board. No change, extension, material corrections, additions, substitutions, alterations, and/or modification to an approval by this Board shall be permitted without the approval of this Board, unless such change has been deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

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Peter Copelas, Acting 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.