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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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April 28, 2020

## Decision

### City of Salem Board of Appeals

2020 APR 28 PM 1:32

CITY CLERK  
SALEM, MASS

**Petition of ZIAD NABBOUT for a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to expand a nonconforming three-family home by expanding an existing dormer horizontally at 101 LEACH STREET (Map 33, Lot 540) (R2 Zoning District).**

A public hearing on the above Petition was opened on April 1, 2020 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Salem Board of Appeals members present: Peter A. Copelas, Mike Duffy (Chair), Carly McClain, Rosa Ordaz, Steven Smalley, and Paul Viccica. Board member Jimmy Tsitsinos was absent.

The petitioner seeks a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to expand a nonconforming three-family home by expanding an existing dormer horizontally.

#### Statements of Fact:

1. In the petition date-stamped February 21, 2020, the petitioner requested a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to expand a nonconforming three-family home by expanding an existing dormer horizontally.
2. 101 Leach Street is owned by petitioner Ziad Nabbout.
3. 138 Bridge Street is a three-family home in the Residential Two-Family (R2) zoning district. This multifamily residential use is nonconforming in the R3 zoning district.
4. The existing structure is nonconforming to minimum lot area, lot area per dwelling unit, maximum height of buildings (stories), and front, rear, and both side yard setbacks.
5. The gable roof currently has a dormer on the right and left side (if viewing the structure from Leach Street).
6. The proposal is to extend the existing dormer on the right side of the house (viewing from Leach Street) horizontally towards the rear, to reach the end of the structure. The dormer will not be extended towards the street.
7. The requested relief, if granted, would allow the petitioner to expand a nonconforming three-family home by expanding an existing dormer horizontally.
8. No new dimensional nonconformities would be created under this proposal.
9. The April 1, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
10. At the April 1, 2020 meeting of the Board of Appeals, petitioner Ziad Nabbout discussed the petition. He noted that he is hoping to extend the existing dormer in the rear right corner of the house in order

to make better use of the kitchen. He noted that this change is on the back of the building, facing the water. Mr. Nabbout stated there should be no impact to traffic or neighborhood character. Mr. Nabbout presented drawings and photos of the proposal.

11. At the April 1, 2020 public hearing, the Board sought clarification regarding whether the dormer would be extended in both directions. Mr. Nabbout explained that the dormer would only be extended towards the rear of the property. Mr. Copelas noted that one image [submitted with the application] indicated that the proposal was to extend the dormer towards the front and the back of the house. Mr. Nabbout stated that he was planning to do that, but in his application for the special permit, it is just the back corner of the house.
12. At the April 1, 2020 public hearing, Mr. Nabbout presented a photo of a house across the street with a similar dormer.
13. At the April 1, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
14. At the April 1, 2020 public hearing, Chair Duffy discussed the special permit criteria. He noted that this is a relatively minor change.
15. At the April 1, 2020 public hearing, Paul Viccica stated that he wanted to make sure it was clear that the petitioner has amended the drawings submitted to the Board so that the dormer is only expanding on the north or water side of the building and not as shown on the submitted drawing.

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 are served by the proposal by making a more useful kitchen for the property.
2. Traffic flow and safety, including parking and loading: No impact is anticipated.
3. Existing utilities and other public services are adequate.
4. Impacts on the natural environment, including drainage: No impacts are anticipated.
5. Neighborhood character: The proposal is in keeping with neighborhood character. Other properties nearby have similar features.
6. Potential fiscal impact, including impact on City tax base and employment: The addition and a more usable kitchen space may have a positive fiscal impact, including on City tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Carly McClain, Paul Viccica, Rosa Ordaz, Mike Duffy (Chair), and Peter A. Copelas) and none (0) opposed to grant the requested Special Permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance to expand a nonconforming three-family home by expanding an existing dormer horizontally at **101 Leach Street**, 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, as amended. 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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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.