



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TEL: 978-619-5685

June 7, 2021

Decision

City of Salem Board of Appeals

Petition of MARLENE WARNER for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming single-family structure by constructing a one-story addition and a deck in the required rear-yard setback at 10 Bradford Street (Map 17, Lot 40) (R2 Zoning District).

A public hearing on the above Petition was opened on May 19, 2021 pursuant to M.G.L. Ch. 40A, § 11 and closed on that date with the following Zoning Board of Appeals members present: Mike Duffy (Chair), Peter Copelas, Rosa Ordaz, Paul Viccica, and Carly McClain (Alternate). Board members Jimmy Tsitsinos and Steven Smalley (Alternate) were absent.

The petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family structure by constructing a one-story addition and a deck in the required rear-yard setback at 10 Bradford Street.

Statements of Fact:

1. In the petition date-stamped March 29, 2021, the petitioner requested a special permit per Section 3.3.5 of the Zoning Ordinance to “construct a 13.5 ft x 13 ft one story addition and a 12 ft x 13.5 ft deck to our single family residence at 10 Bradford St”.
2. 10 Bradford Street is owned by the petitioner Marlene Warner.
3. 10 Bradford Street is a single-family residential structure in the Residential Two-Family (R2) zoning district.
4. Per the plot plan submitted with the initial application, the property is nonconforming to dimensional requirements including minimum depth of front yard and minimum depth of rear yard. The required minimum depth of rear yard in the R2 zoning district is thirty (30) feet. The plot plan shows the existing rear deck is 19.3 feet from the rear lot line, and the proposed expansion would reduce the depth of rear yard to 18.8 feet.
5. The proposal is to modify the existing structure by removing an existing rear-deck, and replace it with a single-story addition and new deck. 10 Bradford Street is a single-family residential structure, and the proposal does not change this use.
6. 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 May 19, 2021 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

7. At the May 19, 2021 public hearing, petitioner Marlene Warner was represented by architect Helen Sides.
8. Prior to the opening of the hearing, board member Paul Viccica recused himself from participating in this petition.
9. At the May 19, 2021 public hearing, representative Helen Sides discussed the proposal.
10. At the May 19, 2021 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
11. At the May 19, 2021 public hearing, Chair Duffy discussed how the proposal meets the criteria for special permit (noted below).

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearings, 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 modifications will not be substantially more detrimental than the existing nonconforming structure to the neighborhood:

1. Social, economic, or community needs are served by this proposal. The work will provide additional living space for the petitioners.
2. Traffic flow and safety, including parking and loading: No impact is expected.
3. Adequate utilities and other public services already service the structure.
4. Impacts on the natural environment, including drainage: No negative impact is expected, including drainage. The expansion is essentially within the existing structure's footprint.
5. Neighborhood character: The project is in keeping with the neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: There is a potential positive fiscal impact, including enhancing the City's tax base by enhancing the value of the property by making it more livable and better functioning.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Mike Duffy (Chair), Peter Copelas, Rosa Ordaz, Carly McClain (Alternate)) and none (0) opposed to grant to Marlene Warner the requested special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming one-family structure by constructing a one-story addition and a deck in the required rear-yard setback at **10 Bradford 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. 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 approved plans and dimensions must receive the prior approval of the Board of Appeals unless such changes are deemed insignificant by the Building Commissioner in consultation with the Board of Appeals.


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.