



CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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KIMBERLEY DRISCOLL
MAYOR

February 4, 2022

Decision

City of Salem Board of Appeals

2022 FEB -4 AM 9:10
CITY CLERK
SALEM, MASS

The petition of TIMOTHY DOGGETT to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector's decision to grant a Building Permit for a two-family residential dwelling at 10 LYNN STREET (Map 26, Lot 609) (R2 Zoning District).

A public hearing on the above Petition was opened on September 22, 2021. The petition was continued on the following dates October 20, 2021, November 17, 2021, December 15, 2021. The public hearing was closed on January 19, 2022.

On January 19, 2022, the following members of the Salem Board of Appeals were present: Peter Copelas, Mike Duffy(chair), Rosa Ordaz, Carly McClain and Paul Viccica.

The petitioner seeks to appeal the Building Commissioner's decision to grant a building permit to construct a two- family residential home at 10 Lynn Street.

Statements of Fact:

The petition is date stamped August 5, 2021. The petitioner seeks to appeal the Building Commissioner's decision to grant a building permit to construct a two- family residential home at 10 Lynn Street. The basis for the appeal is that the owner of 10 Lynn Street was/is not entitled to a two-family Building Permit.

1. 10 Lynn Street is owned by Timothy Doggett.
2. Timothy Doggett was represented by Attorney John Carr.
3. 10 Lynn Street is in a R2 zoning district. (Map 26, Lot 609)
4. The appeal is for the decision of a building permit granted on July 7, 2021.
5. On September 22, 2021 the appeal was continued to October 20, 2021 for the parties to try and resolve the issue outside of the Zoning Board of Appeals.
6. On October 20, 2021 the appeal was continued to November 17, 2021.
7. On November 17, 2021 the appeal was continued to December 15, 2021 due to ongoing discussions with both sides of the petition.

8. On December 15, 2021 the petition was again continued to the January 19, 2022 meeting.
9. On January 19, 2022 Attorney Carr stated that property at 10 Lynn Street had been abandoned pursuant to 3.3.6 of the Salem Zoning Ordinance. Attorney Carr also stated that the previous owners of the property operated it as a single-family home.
10. Chair Duffy opened the meeting up to questions from the Board. There were none at the time.
11. Attorney Bill Quinn represented the owner of the property. Attorney Quinn told the board how they had gone on a home inspection and without question one could tell that this home was a two-family home. He states the home has enclosed private stairways that lead to the second floor on both ends of the building. These stairways were not connected to the first floor in anyway.
12. Attorney Quinn also mentions that there are two kitchens, one on the first floor and one on the second floor. The same with the bathrooms. The property was listed and purchased as a two family.
13. Paul Viccica mentions that he wanted the public record to indicate that there are two kitchens also two boilers in the basement. That there are several duplications in the dwelling that indicate that there are two separate apartments or living/dwelling areas in the residence.
14. Attorney Quinn reiterates that it is a conforming use in a conforming district.
15. Rosa Ordaz inquires if there is documentation on the taxes paid to see if the taxes were for a single-family or two-family. Attorney Quinn did not have that information for the meeting.
16. Building Commissioner, Tom St. Pierre, says that he would like to attest to that he knows that the building was taxed as two family, however, he did not know the amounts. And that the assessor's records indicate that it is two-family.
17. Attorney Carr states that the non-conformity for the property is the parking.
18. The Chair makes a motion to open the meeting to public comment.
19. Fred Biebesheimer of 17 1/2 River Street reads his wife's statement for the record. He then made his own comments. He spoke to how he converted his two-family home to a single-family home, similar to the property at 10 Lynn Street. He also stated that his objection to this decision was strictly based on parking. And that the property has been used as a single family for over 10 years.
20. Justin Whittier, 10 River Street, spoke that he disagreed with Attorney Quinn and stated that there are dimensional requirements that this building did not meet.
21. Chair Duffy spoke to the fact that the house is not a non-conforming use, even if it was abandoned.
22. Attorney Carr reiterates that the non-conformity is the parking for the residence.
23. Chair Duffy looks for a motion to close the public hearing.
24. The motions passed. And the public hearing was closed.

25. Chair Duffy proposes to make a motion on the appeal. He clarifies that an affirmative means that one agrees with the appellant. A no vote would uphold the Building Commissioner's decision.
26. The board voted.
27. 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.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted none (0) in favor and five (5) (Peter Copelas, Rosa Ordaz, Mike Duffy (chair), Carly McClain and Paul Viccica) opposed to the petition of TIMOTHY DOGGETT to appeal a decision of the Building Inspector per M.G.L ch.40A sections 8 and 15. The petitioner is appealing the Building Inspector's decision to grant a Building Permit for a two-family residential dwelling at 10 LYNN STREET (Map 26, Lot 609) (R2 Zoning District).

The administrative appeal was denied.

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.