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2020 APR 28 PM 1:33

April 28, 2020

Decision

City of Salem Board of Appeals

Petition of THOMAS J. PELLETIER 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 two-family home by adding a rear shed dormer at 138 NORTH STREET (Map 27, Lot 272) (R2 and ECOD Zoning Districts).

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 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by adding a rear shed dormer.

Statements of Fact:

1. In the petition date-stamped February 18, 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 expand a nonconforming two-family home by adding a rear shed dormer at 138 North Street.
2. 138 North Street is a two-family home in the Residential Two-Family (R2) zoning district. The two-family residential use is allowed in the R2 district.
3. 138 North Street also includes a residential unit in a carriage house, as authorized in a previous Zoning Board of Appeals decision.
4. Between the primary structure and the accessory carriage house structure, the property is nonconforming to all setbacks. The property is also nonconforming to minimum lot area and minimum lot area per dwelling unit.
5. The proposal is to add a shed dormer to the rear of the primary building (rear relative to North Street – the addition is proposed to be located on the “driveway side of the building,” as described on the application). The dormer is proposed to be 21’1” x 14’4”.
6. The requested relief, if granted, would allow the petitioner to expand a nonconforming two-family home by adding a rear shed dormer.
7. The April 1, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
8. At the April 1, 2020 meeting of the Board of Appeals, petitioner Thomas Pelletier discussed the petition. Mr. Pelletier explained that the proposed shed dormer is to provide headroom for an existing

master bedroom on the third floor. Mr. Pelletier presented floor plans and elevations. Mr. Pelletier noted that there are existing shed dormers in the neighborhood.

9. At the April 1, 2020 public hearing, the Board discussed the proposal. Paul Viccica asked whether a chimney would be removed. Mr. Pelletier confirmed that a chimney associated with fireplaces that no longer function will be removed. Peter Copelas asked about the number of units in the building, noting that is a large two-family house and there are four electric meters, which could indicate three units. Mr. Copelas noted that there is a carriage house on site but wanted to make sure there are only two units in the main building. Mr. Pelletier explained that the primary dwelling used to be a three-family home but was reduced to a two-family home when a unit was created in the carriage house.
10. At the April 1, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
11. At the April 1, 2020 public hearing, Chair Duffy discussed the special permit criteria.

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.

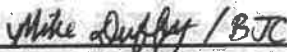
1. Social, economic, or community needs are served by the proposal by making the property more useful and having better headroom in the master bedroom.
2. Traffic flow and safety, including parking and loading: No impact is anticipated.
3. Adequacy of utilities and other public services: Existing utilities and public services are adequate.
4. Impacts on the natural environment, including drainage: No negative impacts are anticipated.
5. Neighborhood character: This type of dormer (shed dormer) exists in the neighborhood and is consistent with neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: In increasing the usability of the property, the proposal may have a positive fiscal impact, including on the City tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Mike Duffy (Chair), Steven Smalley, Rosa Ordaz, Paul Viccica, and Peter A. Copelas) 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 expand a nonconforming two-family home by adding a rear shed dormer at 138 North 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. 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.



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.