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BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

August 13, 2020

Decision

City of Salem Board of Appeals

Petition of HELEN SIDES and property owner MICHAEL SHERRIFF 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 home by adding a shed dormer at 13 CAMBRIDGE STREET (Map 25, Lot 566) (R2 Zoning District).

A public hearing on the above Petition was opened on June 17, 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 (Alternate), Rosa Ordaz, Steven Smalley (Alternate), and Paul Viccica. Jimmy Tsitsinos was absent. Paul Viccica recused himself for this petition.

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 single-family home by adding a shed dormer at 13 Cambridge Street.

Statements of Fact:

1. In the petition date-stamped May 26, 2020, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to add a shed dormer to a nonconforming single-family house.
2. 13 Cambridge Street is owned by Michael Sherriff. Petitioner Helen Sides is the architect for the proposal.
3. 13 Cambridge Street is a single-family home located in the Residential Two-Family (R2) zoning district. This is an allowed use in the district.
4. The Board of Appeals recently granted a separate special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* for 13 Cambridge Street to expand a nonconforming single-family home by demolishing and replacing an existing rear addition within required side and rear yard setbacks. The approval was voted on in the April 15, 2020 meeting and the decision was filed on July 2, 2020.
5. 13 Cambridge Street is nonconforming to dimensional requirements including minimum lot area, minimum lot area per dwelling unit, minimum depth of front yard, minimum width of side yard (both sides), and minimum depth of rear yard.
6. The proposal is to add a new shed dormer on the right side of the home (if facing the home from Cambridge Street). The proposed dormer will be set below the peak of the gable roof and will be 14' from the front facade. No dwelling units will be added and the footprint will not be modified. The

- dormer is proposed to be located close to the neighboring structure on the right side of the house—per the elevation submitted with the application, one foot (1') away.
7. The requested relief, if granted, would allow the petitioner to add a shed dormer to the nonconforming single-family home at 13 Cambridge Street.
 8. 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 June 17 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
 9. At the June 17, 2020 public hearing on this petition, Paul Viccica recused himself.
 10. At the public hearing, architect and petitioner Helen F. Sides presented the proposal. Ms. Sides noted that in the process of gutting the house, an opportunity arose to make the second floor more usable; adding the dormer allows for access to the main bedroom without walking through a bathroom (which is required in the current configuration). The proposed dormer will have no windows, only skylights. Ms. Sides presented a plot plan and elevation. She noted the proximity to abutters and indicated that the abutting neighbor has been notified and is fine with the proposal.
 11. At the public hearing, Chair Duffy asked if the abutting property has windows in close proximity to the proposed dormer that would allow the neighbor to see into the skylights. Ms. Sides indicates there is currently a skylight in the bathroom that can be seen from the third floor (of the abutting house). The intent is to replace that with a skylight that includes a shade. Chair Duffy also asked if there are any concerns around fire safety. Ms. Sides stated that she spoke with Mr. St. Pierre who had no concerns.
 12. At the public hearing, Mr. Copelas asked if the Historical Commission has reviewed the proposal. Ms. Sides stated they have reviewed and approved the proposal.
 13. The Salem Historical Commission issued a Certificate of Appropriateness for the proposed dormer dated June 18, 2020 after reviewing the proposal in their June 3, 2020 meeting.
 14. At the June 17, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the proposal.
 15. At the June 17, 2020 public hearing, Chair Duffy discussed the special permit criteria and noted that relief could be granted without making the structure more detrimental than the existing structure.

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 nonconforming structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood.

1. Social, economic, or community needs are served by modernizing and expanding this property.
2. Traffic flow and safety, including parking and loading will not be impacted.
3. Adequacy of utilities and other public services: Existing utilities and other public services are adequate.
4. Impacts on the natural environment, including drainage: No negative impact is anticipated.

5. Neighborhood character: The proposal is in keeping with neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: There is the potential for a positive fiscal impact as a result of a possibly increased assessed value.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Rosa Ordaz, Mike Duffy (Chair), Steven Smalley, Carly McClain, 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 single-family home by adding a shed dormer at **13 Cambridge 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.

BJC

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.