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CITY CLERK
SALEM, MASS

August 11, 2020

Decision

City of Salem Board of Appeals

Petition of BRITTANY HOCKMAN 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 constructing a 24' by 14', 2.5-story addition and a 20' by 10' deck at 15 OSGOOD STREET (Map 36, Lot 260) (R2 Zoning District).

A public hearing on the above Petition was opened on May 20, 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.

The petitioner seeks a special permit per Sections 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand a nonconforming two-family home by constructing a 24' by 14', 2.5-story addition and a 20' by 10' deck at 15 Osgood Street.

Statements of Fact:

1. In the petition date-stamped April 27, 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 24' by 14', 2.5-story addition and a 20' by 10' deck at 15 Osgood Street.
2. 15 Osgood Street is owned by petitioner Brittany Hockman.
3. 15 Osgood Street is a two-family home in the Residential Two-Family (R2) zoning district. This is an allowed use in the district.
4. The property is nonconforming to dimensional requirements including minimum lot area, lot area per dwelling unit, depth of front yard, and width of side yard (on the right side of the house facing the house from the street; the southeastern side).
5. The proposal is to expand the nonconforming two-family home by constructing a 24' by 14', 2.5-story addition and a 20' by 10' deck. The proposed addition is located to the rear of the existing structure and will not increase the infringement on the right-side setback. The addition meets height requirements. The addition is proposed to take the place of an existing deck. The proposed new deck will be located closer to the rear lot line than the existing one but will still be located more than 30 feet from the lot line, thus meeting the rear setback requirement.
6. The site plan submitted with the application notes that the existing shed will be "relocated (in accordance with accessory structure requirements)."

7. The requested relief, if granted, would allow the petitioner to expand the nonconforming two-family home at 15 Osgood Street by adding a 24' by 14', 2.5-story addition and a 20' by 10' deck.
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 May 20, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
9. At the May 20, 2020 public hearing, petitioner Brittany Hockman discussed the petition. She presented a site plan and elevations. Ms. Hockman explained that the expansion is occurring along a nonconforming side yard setback but will not increase the infringement on the setback. Ms. Hockman also presented floor plans. She noted that there are homes of similar sizes nearby. Ms. Hockman presented her statement of grounds for granting the special permit.
10. At the May 20, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition. The Board received two letters in support of the petition: one from Susan Tuvell of 17 Osgood Street (next to 15 Osgood Street) and one from Kelley J. Rice and Tom J. Philbin of 6 Planters Street (abutting the rear of 15 Osgood Street).
11. At the May 20, 2020 public hearing, Chair Duffy noted that the statement of grounds fully addressed the special permit criteria and stated that the Board can accept those findings.

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 the proposal. The proposal will improve the appeal of the house to the current occupancy, adding a bedroom to each unit and a bathroom in the upstairs unit. This will allow a family to remain in the home as they plan to expand their family and move their elderly parent into one of the two apartments. This proposal meets the need for family housing.
2. Traffic flow and safety, including parking and loading are not expected to be impacted. The addition will not impact the sidewalks, driveway, or street. Parking on site will increase due to the removal of a garden bed and small set back of the current fence line at the end of the driveway. The stairs to the driveway will have the same footprint as existing and will not encroach on the parking spaces.
3. Adequacy of utilities and other public services: Existing utilities and public services are adequate. The addition will not impact the ability for utilities or public services to access meters as the proposed addition follows the existing footprint down the property line where the access to meters is. There will be no negative impact on the ability to access these. The interior staircase remodel will allow an easier and safer access to the basement where additional meters are for utility workers.
4. Impacts on the natural environment, including drainage: No impact is anticipated. The current basement is dry and will not need a drainage system for the addition section.
5. Neighborhood character: The aesthetic of the addition fits nicely with the surrounding properties, as there are other properties of comparable size and style. Neighbors expressed their support.

6. Potential fiscal impact, including impact on City tax base and employment: The proposed addition will positively impact the appeal of Osgood Street and will increase the value of the property, which will increase 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 (Paul Viccica, Steven Smalley, Peter A. Copelas, Mike Duffy (Chair), and Rosa Ordaz) 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 constructing a 24' by 14', 2.5-story addition and a 20' by 10' deck at **15 Osgood 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 structures.
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. 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.