



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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**August 4, 2021**

## **Decision**

### **City of Salem Board of Appeals**

**Petition of WALKER SIMONS for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and expand a nonconforming single-family home by expanding an existing first-floor porch in the required front yard setback at 19 WOODSIDE STREET. (Map 17, Lot 191) (R2 Zoning District).**

A public hearing on the above Petition was opened on July 21, 2021, pursuant to M.G.L. Ch. 40A, § 11 and closed on that date with the following members present: Mike Duffy (Chair), Peter Copelas, Paul Viccica, Rosa Ordaz, Carly McClain, and Steven Smalley (Alternate).

The petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and expand a nonconforming single-family home by expanding an existing first-floor porch in the required front yard setback at 19 Woodside Street.

#### **Statements of Fact:**

1. In the petition date-stamped May 32 [sic], 2021, the petitioner requested a special permit per Section 3.3.5 to “extend existing porch which is within the 15’ [front yard] setback” at 19 Woodside Street.
2. 19 Woodside Street is owned by petitioner Walker Simons.
3. 19 Woodside Street is a single-family home in the Residential Two-Family (R2) zoning district.
4. The property is nonconforming to dimensional requirements including minimum lot area, lot area per dwelling unit, lot frontage, depth of front yard, and width of side yard.
5. The proposal is to modify the existing structure by expanding an existing first-floor porch along the same nonconforming distance within the required front yard setback.
6. The plot plans submitted to the Board (dated March 3, 2020) show the proposal would extend the existing first-floor porch along the front and eastern side of the dwelling, maintaining roughly the same nonconforming distance within the required front yard setback.

7. In an email to Staff Planner Lev McCarthy dated July 1, 2021, petitioner Walker Simon provided a written Statement of Grounds relating to the special permit request. This was added to the project file.
8. The requested relief, if granted, would allow the petitioner to expand a nonconforming single-family home by expanding an existing first-floor porch in the required front yard setback.
9. Due to the ongoing COVID-19 pandemic and related precautions and An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency signed into law by Governor Baker on June 16, 2021, the July 21, 2021, meeting of the Board of Appeals was held remotely, via the online platform Zoom.
10. At the July 21, 2021, public hearing, petitioner Walker Simons discussed the proposal, noting that the existing porch required repairs, and would be a good opportunity to expand the porch so it wraps around the northeast side of the home and increases access to the backyard. Mr. Simons described how the proposal was in keeping with the criteria for special permits as listed in Section 9.4 *Special Permits* of the Zoning Ordinance.
11. At the July 21, 2021, public hearing, Board Member Peter Copelas stated he had visited the site, and noted that some construction was already underway. Mr. Copelas asked how construction had started before acquiring the special permit. Mr. Simons described a miscommunication between the project architect, contractor, and petitioner that had let to construction starting without the required special permit. Mr. Simons stated he stopped construction when the Salem Building Department notified him that a special permit was required.
12. At the July 21, 2021, public hearing the petitioner, Walker Simons stated that the proposed extension would be no closer to the street than the existing porch.
13. At the July 21, 2021, public hearing, two (2) members of the public spoke in favor of the petition. No (0) members of the public spoke in opposition to the petition.
14. At the July 21, 2021, public hearing, the Board discussed the proposal. Chair Duffy noted that the proposal is a relatively minor change to 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 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 proposal improves the house and adds additional usable outdoor space.
2. Traffic flow and safety, including parking and loading: No impact is expected.
3. Adequate utilities and other public services already service the structure. No impact is expected.
4. Impacts on the natural environment, including drainage: No negative impact is expected; this is a small change to a relatively large site.
5. Neighborhood character: The project is in keeping with the neighborhood character. The applicant and neighbors who spoke in support stated that the proposal was in keeping with the neighborhood's character. The proposed changes maintain the existing Greek Revival architectural style.
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.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Rosa Ordaz, Steven Smalley (Alternate), Paul Viccica, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed to grant to Walker Simons the requested special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to alter and expand a nonconforming single-family home by expanding an existing first-floor porch in the required front yard setback at 19 Woodside 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, as amended. 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.