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BOARD OF APPEALS

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CITY CLERK
SALEM, MASS

December 2, 2020

Decision

City of Salem Board of Appeals

Petition of DANNY CERQUEIRA and property owner ELIZABETH SULLIVAN for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* from maximum height of buildings (stories) to expand a nonconforming single-family home by adding a third-floor dormer at 1 AMANDA WAY (Map 9, Lot 308) (R1 Zoning District).

A public hearing on the above Petition was opened on November 18, 2020 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Zoning Board of Appeals members present: Peter A. Copelas, Mike Duffy (Chair), Rosa Ordaz, Jimmy Tsitsinos, Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate).

The petitioner seeks a variance per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* from maximum height of buildings (stories) to expand a nonconforming single-family home by adding a third-floor dormer at 1 Amanda Way.

Statements of Fact:

1. In the petition date-stamped October 27, 2020, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to build a dormer that “will not exceed the existing ridge of the house” at 1 Amanda Way.
2. 1 Amanda Way is owned by Elizabeth Sullivan and Daniel Sullivan. The petitioner was Danny Cerqueira, their contractor. Owner Daniel Sullivan represented himself at the public hearing.
3. 1 Amanda Way is a single-family home located in the Residential One-Family (R1) zoning district.
4. The property is nonconforming to dimensional requirements including at least minimum lot area (15,000 sq ft required in R1 district; 11,896 sq ft provided).
5. The proposal is to add a dormer to the existing structure, which is currently 2.5 stories. The dormer will be located on the rear of the building if looking at the building from Amanda Way. Adding the dormer would take the height of the structure from 2.5 stories to 3 stories, exceeding the maximum allowed height (stories) in the R1 zoning district (2.5 stories allowed; 3 stories proposed).
6. The requested relief, if granted, would allow the petitioner to expand a nonconforming one-family home by adding a dormer to the existing structure.
7. 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 November 18, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

8. At the November 18, 2020 public hearing, property owner Daniel Sullivan discussed the proposal. Mr. Sullivan explained that the new dormer would not extend beyond the footprint or roofline of the existing structure. Mr. Sullivan provided plans and renderings of the proposed changes. He explained that adding the proposed dormer would make space for an additional bathroom, which would accommodate his growing family.
9. At the November 18, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
10. At the November 18, 2020 public hearing, Paul Viccica asked about the height of the building in stories and staff planner Brennan Corriston confirmed the current height is 2.5 stories, but the height would increase to 3 stories by adding the dormer. There were no other questions from the Board.
11. At the November 18, 2020 public hearing, Chair Duffy discussed how the proposal meets the criteria for special permit (as noted below), noting that this is a rather modest request for dimensional relief.

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 work will make better use of the attic level including adding space for an additional bathroom, which would accommodate a growing family.
2. Traffic flow and safety, including parking and loading: No negative impact is expected.
3. Adequate utilities and other public services already service the structure.
4. Impacts on the natural environment, including drainage: No negative impact is expected.
5. Neighborhood character: The project is in keeping with the neighborhood character.
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.

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, Jimmy Tsitsinos, Mike Duffy (Chair), and Peter Copelas) and none (0) opposed to grant to **Suzanne Biscaia** a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to modify and expand a nonconforming single-family home by adding a second story (bringing height to 2.5 stories), removing the existing side deck, and building a rear deck at **25 Cushing 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
7. 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.