



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

98 WASHINGTON STREET ♦ SALEM, MASSACHUSETTS 01970
TEL: 978-619-5685

CITY CLERK
SALEM, MASS

2020 AUG 12 PM 12:42

August 12, 2020

Decision

City of Salem Board of Appeals

Petition of ALAN AND KENDRA LEFLEUR for a special permit per Section 3.2.8 *Accessory Living Areas* and 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 an accessory living area to the rear of the existing structure at 208 JEFFERSON AVENUE (Map 24, Lot 77) (R3 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.

The petitioner seeks a special permit per Section 3.2.8 *Accessory Living Areas* and 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 an accessory living area to the rear of the existing structure at 208 Jefferson Avenue.

Statements of Fact:

1. In the petition date-stamped May 27, 2020, the petitioner requested a special permit per Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance to allow the addition of an accessory living area.
2. The application was filed by Attorney Scott M. Grover, representing the petitioners.
3. 208 Jefferson Avenue is a single-family home owned by petitioners Alan and Kendra LeFleur. (As noted during the meeting, the advertisement misspelled the applicants' name as LaFleur; the correct spelling is LeFleur.)
4. 208 Jefferson Avenue is a single-family home located in the Residential Multifamily (R3) zoning district. This is an allowed use in the R3 district.
5. 208 Jefferson Avenue is nonconforming to minimum lot area, lot frontage, lot width, depth of front yard, and width of side yard (on the left side of the house if facing from Jefferson Avenue).
6. The proposal is to add an accessory living area to the rear of the existing structure (beyond the footprint of the existing home). The existing garage on the site will be removed.
7. Because the property is nonconforming, expanding this single-family home also requires relief by special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures*. Planner Brennan Corrison informed Attorney Grover of this situation and Attorney Grover submitted an amended application dated June 10, 2020 requesting the special permit per Sections 3.2.8 and 3.3.5 and making reference to "the alteration of an existing non-conforming structure."

8. The requested relief, if granted, would allow the petitioner to expand a nonconforming single-family home by adding an accessory living area to the rear of the existing structure at 208 Jefferson Avenue.
9. 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.
10. At the June 17, 2020 public hearing, Attorney Scott Grover, representing petitioners Alan and Kendra LeFleur, discussed the proposal. Attorney Grover noted that the proposed accessory living area is to allow Ms. LeFleur's mother to move into the property for financial and companionship reasons. Attorney Grover noted that all conditions required under Section 3.2.8 of the Zoning Ordinance are satisfied with respect to size and means of access to the unit. The other element of the relief is a special permit to change a nonconforming structure: the expansion requires a special permit to alter a nonconforming structure under Section 3.3.5. Attorney Grover stated that the addition will not increase any nonconformities and will not be any more detrimental to the neighborhood than the existing single-family residence. He discussed the general special permit criteria and noted that the character of the home will be unaffected.
11. At the June 17, 2020 public hearing, project architect Dan Ricciarelli discussed the design. He presented photographs of existing conditions and floor plans of existing and proposed conditions. He noted that the porch will be removed but the existing vestibule will be used for access from the house into the accessory living area. Mr. Ricciarelli presented plans. He noted that the proposal meets the requirements of the ordinance: the square footage will be 610 square feet, under the ordinance's maximum of 800 (plus 5%); and there will be one bedroom, under the maximum of two. He noted that the addition will contain a small kitchen, full bathroom, single bedroom, and mudroom entry. Mr. Ricciarelli also presented rear and side elevations, noting that the windows and clapboards will match the existing structure. The addition will mirror the appearance of the front of the building. There will be storage underneath the living area. He noted again that the proposal meets the requirements of Section 3.2.8, including area, number of bedrooms, entrances, and utility use.
12. At the June 17, 2020 public hearing, Chair Duffy asked about the requirement that the application be signed by 100% of record ownership and that a copy of the deed be included with the application. He noted that we may be missing the deed. Attorney Grover noted that Mr. Corrison located the deed and added it to the file. Building Commissioner Tom St. Pierre asked Mr. Ricciarelli about the sliding door in the back and asked if a second egress can be added with another set of stairs to comply with the building code. Mr. Ricciarelli responded in the affirmative.
13. At the June 17, 2020 public hearing, Mr. Copelas asked about the status of the proposal if it is approved and the new accessory dwelling unit ordinance is approved. Attorney Grover indicated that if the current proposal is approved, they could not avail themselves of the new ordinance without some kind of modification. He noted that the property owners do not wish to wait for the new ordinance.
14. At the June 17, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
15. At the June 17, 2020 public hearing, Chair Duffy discussed the criteria for the accessory living area special permit as well as the general special permit criteria. He noted that the criteria for Section 3.2.8 have been satisfied.

16. At the June 17, 2020 public hearing, Mr. Corriston noted that the advertisement inadvertently misspelled the applicants' name as LaFleur, rather than LeFleur.

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 purpose, procedure and requirements of Section 3.2.8 *Accessory Living Areas* of the Salem Zoning Ordinance have been fulfilled. This use will not be substantially more detrimental than the existing use to the neighborhood. The Board also finds that the proposed nonconforming structure will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

1. Social, economic and community needs served by the proposal: This accessory living area would fulfill community needs set forth in Section 3.2.8 of the Salem Zoning Ordinance. It would fulfill a community need by providing a home for an older member of the community to live with her family.
2. Traffic flow and safety, including parking and loading will not be impacted. There is sufficient parking space for multiple vehicles on the property. The existing garage will be removed, making more room for surface parking.
3. Adequacy of utilities and other public services: Existing utilities and other public services are adequate. Utilities for the accessory living area will be through the utility systems that serve the main residence, as required by Section 3.2.8.
4. Impacts on the natural environment, including drainage: No negative impact is anticipated.
5. Neighborhood character: The proposal is in keeping with the neighborhood character and the existing structure.
6. Potential economic and fiscal impact, including impact on City services, tax base, and employment: The economic and fiscal impact is likely to be positive as a result of higher assessed value for the property.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Carly McClain, Paul Viccica, Peter A. Copelas, Rosa Ordaz, and Mike Duffy (Chair)) and none (0) opposed to grant the requested Special Permit per Section 3.2.8 *Accessory Living Areas* and 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 an accessory living area to the rear of the existing structure at **208 Jefferson Avenue**, 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. 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.



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.