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CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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June 7, 2021

Decision

City of Salem Board of Appeals

Petition of PHILIP GILLESPIE 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 structure by constructing an 18' by 51' one-story addition in the required side-yard setback at 21 CHESTNUT STREET (Map 25, Lot 444) (R1 Zoning District).

A public hearing on the above Petition was opened on May 19, 2021 pursuant to M.G.L. Ch. 40A, § 11 and closed on that date with the following Zoning Board of Appeals members present: Mike Duffy (Chair), Peter Copelas, Rosa Ordaz, Paul Viccica, and Carly McClain (Alternate). Board members Jimmy Tsitsinos and Steven Smalley (Alternate) were absent.

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 two-family structure by constructing an 18' by 51' one-story addition in the required side-yard setback at 21 Chestnut Street.

Statements of Fact:

1. In the petition date-stamped April 6, 2021, the petitioner requested a special permit per Section 3.3.5 of the Zoning Ordinance to “construct a roughly 18 ft x 51 ft one story addition to the residence at 21 Chestnut Street”.
2. 21 Chestnut Street is owned by the petitioner Philip Gillespie.
3. 21 Chestnut Street is a single-family residential structure in the Residential One-Family (R1) zoning district.
4. Per the plot plan submitted with the initial application, the property is nonconforming to dimensional requirements including minimum width of side yard. The existing structure shares a party wall with the adjacent property at 23 Chestnut Street. The plot plan indicates the side yard setback along this party wall to be \pm one (1) foot. The proposed extension continues along the existing party wall, decreasing the rear yard setback from \pm 57 feet to \pm 43 feet.
5. The proposal is to modify the existing structure by removing a single-story portion of the existing structure towards the rear of the structure and replacing it with a single-story addition.
6. 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 19, 2021 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

7. At the May 19, 2021 public hearing, petitioner Philip Gillespie was represented by architect Helen Sides.
8. Prior to the opening of the hearing, board member Paul Viccica recused himself from participating in this petition.
9. At the May 19, 2021 public hearing, representative Helen Sides discussed the proposal. Ms. Sides noted that the project was issued a Certificate of Appropriateness from the Salem Historical Commission. Ms. Sides described how the proposed addition replaces a previous addition, and would extend along an existing party wall. Ms. Sides notes that the proposed addition will not extend above the top of the existing party wall, and it will not extend beyond the end of the party wall towards the rear of the lot.
10. At the May 19, 2021 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
11. At the May 19, 2021 public hearing, Chair Duffy discussed how the proposal meets the criteria for special permit (noted below).

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 increase the space inside the existing home.
2. Traffic flow and safety, including parking and loading: No 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, there is a slightly larger roof area, but the runoff is contained to the petitioner's property.
5. Neighborhood character: The project is in keeping with the neighborhood character and is in the rear of the property where it is not very visible from the public way. The applicant received a Certificate of Appropriateness from the Salem Historical Commission.
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 and employment during construction.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Peter Copelas, Carly McClain (Alternate), Rosa Ordaz, Mike Duffy (Chair)) and none (0) opposed to grant to Philip Gillespie 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 structure by constructing an 18' by 51' one-story addition in the required side-yard setback at **21 Chestnut 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. Any modification to the approved plans and dimensions must receive the prior approval of the Board of Appeals unless such changes are deemed insignificant by the Building Commissioner in consultation with 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.