



CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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

KIMBERLEY DRISCOLL
MAYOR

February 1, 2021

Decision

City of Salem Board of Appeals

2022 FEB - 2 AM 9: 34
CITY CLERK
SALEM, MASS

**Petition of OCELOT OPERATIONS, LLC for a special permit per Section 3.3.3
Nonconforming Structures of the Salem Zoning Ordinance from maximum height of
buildings (stories) to expand an existing, nonconforming multifamily dwelling at 2
HOWARD STREET (Map 35, Lot 153) (R2 Zoning District).**

A public hearing on the above Petition was opened on January 20, 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), Rosa Ordaz, Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate).

The petitioner seeks to expand an existing, nonconforming multifamily dwelling by extending the third story.

Statements of Fact:

1. In the petition date-stamped December 22, 2020, the petitioner requested a special permit per Section 3.3.3 *Nonconforming Structures* to, “add an addition at the third story to create larger units on that level”.
2. 2 Howard Street is owned by Ocelot Operations, LLC. The petitioner was represented by Sanir Lutfija of Seger Architects, LLC, and Mike Becker.
3. 2 Howard Street is a multifamily dwelling located in the Residential Two-Family (R2) zoning district.
4. The property is nonconforming to dimensional requirements including at least minimum depth of rear yard.
5. Multifamily Dwelling is a nonconforming use in the Residential Two-Family (R2) zoning district.
6. The proposal is to extend the third story to create larger units on that story. The extension will be located on the rear of the building if looking at the building from Howard Street. The existing structure is three stories, and the proposed extension would not increase the current height in feet or height in stories.
7. In the petition date-stamped December 22, 2020, the petitioner writes that the proposed extension, “will not be exceeding the current height and number of stories,” and the extension “will not extend past the existing footprint and will align new walls vertically”.

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 January 20, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
9. At the January 20, 2020 public hearing, representatives Sanir Lutfija and Mike Becker discussed the proposal. Mr. Lutfija described how the proposed extension would be built on top of an existing portion of the structure that was an addition constructed around 1900. He explains the proposal it to expand existing units, and the extension will not exceed the existing footprint or height. Mr. Lutfija stated the building provides the city with affordable units, and the extension will include some life safety improvements. He explained the addition would expand existing units, facilitating egress for both units on the third floor. The exterior of the proposed extension would match the existing structure. Mr. Lutfija and Mr. Becker emphasized the undesirable conditions of the existing third floor units and stated the proposal would expand those units and relieve those conditions.
10. Mr. Viccica asked for details on what would go in the interior space created by this extension. The plans provided with the original application do not show any details for the interior of the extension. Mr. Becker acknowledged that there is not a final plan for the interior space. He reiterated that it will be used to expand existing units.
11. At the January 20, 2021 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
12. At the January 20, 2021 public hearing there were no other questions from the Board.
13. At the January 20, 2021 public hearing, Chair Duffy discussed how the proposal meets the criteria for special permit (as 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 current structure provides low-income housing in the downtown area. The proposed addition would improve the existing units.
2. Traffic flow and safety, including parking and loading: The number of units and bedrooms will not increase, so there are no expected negative impacts.
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 and is in keeping with the existing building.

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 improving these existing units.

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, Carley McClain, Mike Duffy (Chair), and Rosa Ordaz) and none (0) opposed to grant to **Ocelot Operations, LLC** a special permit per Section 3.3.3 *Nonconforming Structures* of the Salem Zoning Ordinance from maximum height of buildings (stories) to expand an existing, nonconforming multifamily dwelling at **2 Howard 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. 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, 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.