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MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK  
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April 28, 2020

## Decision

### City of Salem Board of Appeals

**Petition of FLORA TONTHAT for a special permit per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to modify a nonconforming bed & breakfast by adding a one-story covered entry and a one-story box-bay window addition at the same nonconforming distance within a required yard at 30 NORTHEY STREET (Map 36, Lot 20) (R2 Zoning District).**

A public hearing on the above Petition was opened on April 1, 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, Rosa Ordaz, Steven Smalley, and Paul Viccica. Board member Jimmy Tsitsinos was absent.

The petitioner seeks a special permit per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to modify a nonconforming bed & breakfast by adding a one-story covered entry and a one-story box-bay window addition at the same nonconforming distance within a required yard.

#### Statements of Fact:

1. In the petition date-stamped January 29, 2020, the petitioner requested a special permit per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to modify a nonconforming bed & breakfast by adding a one-story covered entry and a one-story box-bay window addition at the same nonconforming distance within a required yard.
2. 30 Northey Street is a bed & breakfast located in the Residential Two-Family (R2) zoning district.
3. The property is currently nonconforming to dimensional requirements including minimum lot area and minimum front yard setback and minimum side yard setback (on only the left side of the building when looking at the plot plan).
4. Per the Statement of Grounds submitted with the application, the proposal is to add "a pergola glass covered entry and a box-bay window," which "are designed to improve the use of the building and continue to enhance the architectural features of the home."
5. The proposed entry addition is on the side of the building that is not nonconforming to side yard setback. The proposed box-bay window is being added on the side that is nonconforming to side yard setback, but it does not extend as far out to the lot line as the building does (in other words, the setback is not being further reduced).
6. Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance states, in part, that "the extension of an exterior wall at or along the same nonconforming distance within a required yard shall require a special permit and not a variance from the Board of Appeals."

7. The April 1, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
8. At the April 1, 2020 meeting of the Board of Appeals, architect Lee Dearborn, Jr. discussed the petition and presented plans and elevations. Mr. Dearborn explained that the proposal will help make the facade of the building better match its historic appearance, as a door had previously been removed and inappropriately replaced by a window. Mr. Dearborn also noted that the new entry will eventually allow for a ramp for wheelchair access to the building. Mr. Dearborn stated that the proposal would allow Flora Tonthat (the petitioner) to continue to live at and operate the bed and breakfast.
9. At the April 1, 2020 public hearing, the Board discussed the proposal. Peter Copelas stated that he is familiar with the building and the plans are a nice improvement: the Federalist front portion of the building will be restored. He stated that the existing second entrance does not look like it belongs there, so replacing that entrance with the window and moving the stairs cleans up that look. He stated that the new entrance is attractive.
10. At the April 1, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
11. At the April 1, 2020 public hearing, Chair Duffy discussed the special permit criteria. He noted that this is a relatively minor dimensional change.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, 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 nonconforming structure is not substantially more detrimental than the existing nonconforming structure to the neighborhood.


1. Social, economic, or community needs are served by the proposal.
2. Traffic flow and safety, including parking and loading: No impact is anticipated.
3. Adequacy of utilities and other public services: The building already has adequate utilities.
4. Impacts on the natural environment, including drainage: No impacts are anticipated.
5. Neighborhood character: The proposal is consistent with the neighborhood character, including the architectural style.
6. Potential fiscal impact, including impact on City tax base and employment: There may be a positive fiscal impact on the City tax base and in general.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Steven Smalley, Paul Viccica, Rosa Ordaz, Mike Duffy (Chair), and Peter A. Copelas) and none (0) opposed to grant the requested Special Permit per Section 3.3.4 *Variance Required* of the Salem Zoning Ordinance to modify a nonconforming bed & breakfast by adding a one-story covered entry and a one-story box-bay window addition at the same nonconforming distance within a required yard at **30 Northey 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. 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.