



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK  
SALEM, MASS

August 11, 2021

## Decision

### City of Salem Board of Appeals

**Petition of LEE DEARBORN, JR 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 two-family residential structure by constructing an attached 17.9' by 7.7' single-story shed in the required side-yard setback at 32 BUFFUM STREET (Map 27, Lot 59) (R2 Zoning District).**

A public hearing on the above Petition was opened on July 28, 2021, pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following members present: Mike Duffy (Chair), Peter Copelas, Paul Viccica, and Rosa Ordaz. Carly McClain 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 residential structure by constructing an attached 17.9' by 7.7' single-story shed in the required side-yard setback at 32 Buffum Street.

#### **Statements of Fact:**

1. In the petition date-stamped June 28, 2021 the petitioner requested a special permit per Section 4.1.1. *Table of Dimensional Requirements* of the Salem Zoning Ordinance to "build an attached garden shed addition on the north side of the home," at 32 Buffum Street.
2. 32 Buffum Street is owned by petitioner Lee Dearborn, Jr.
3. 32 Buffum Street is a two-family home in the Residential Two-Family (R2) zoning district.
4. The property is nonconforming to dimensional requirements including minimum width of side yard.
5. The proposal is to expand the existing structure by constructing an attached shed to the northern side of the existing structure, within the required side yard setback.
6. The requested relief, if granted, would allow the petitioner to expand a nonconforming single-family home by constructing an attached 17.9' by 7.7' single-story shed in the required side-yard setback.

7. Due to the ongoing COVID-19 pandemic and related precautions and An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency signed into law by Governor Baker on June 16, 2021, the July 28, 2021, meeting of the Board of Appeals was held remotely, via the online platform Zoom.
8. At the July 28, 2021, public hearing, petitioner Lee Dearborn, Jr. discussed the proposal, noting that the layout of the house and the existing landscaping limited where placing a garden shed would be practical. Mr. Dearborn stated that the location for the proposed shed is the rear of the two side-by-side residential dwelling units. He stated this shed is an opportunity to enclose the trash and cover up the unsightly heat pumps and external HVAC systems. He explained that the shed is designed with pergola rafters and lattice panel walls to allow for proper air circulation for the heat pumps and trash.
9. At the July 28, 2021, public hearing, Rosa Ordaz asked if the petition would change the on-site car parking. Mr. Dearborn replied that no, the two nonconforming on-site parking would not change.
10. At the July 28, 2021, public hearing Peter Copelas noted that the proposed shed has a pergola roof that extends beyond the exterior wall of the shed. Mr. Copelas noted the shed wall was shown to be 4'4" from the side lot line, while the pergola is only 1'3" from the lot line. Mr. Dearborn replied that decreasing the pergola width to increase the side yard setback is possible. Mr. Dearborn stated that the property owners use the other three sides of the structure. He stated that placing the storage shed where it is proposed would both help cover the unsightly heat pumps, and would help maintain the use of the other three sides of the structure.
11. At the July 28, 2021 public hearing Mr. Copelas asked if the petitioner had spoken to the neighbors about the proposal. Mr. Dearborn stated he had spoken to the neighbors, and had only had a positive response.
12. At the July 28, 2021 public hearing Building Commissioner Tom St. Pierre, pointed out that the shed would enclose one of the doors that provides egress for one of the dwelling units. Mr. St. Pierre expressed concern that storing materials in the shed could block that egress. Mr. Dearborn stated he could alter the proposed design to create a physical separation between the egress area and space used for storage.
13. At the July 28, 2021 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
14. At the July 28, 2021 public hearing, the Board discussed the proposal. Chair Duffy noted that the proposal is a relatively minor request.

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: It will enhance the use of the property, allowing the owners to shield the heat pumps and trash and recycling bins that are located along the side of the house.
2. Traffic flow and safety, including parking and loading: No impact is expected.
3. Adequate utilities and other public services already service the structure. No impact is expected.
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. The expansion is well designed.
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.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted four (4) in favor (Mike Duffy (Chair), Peter Copelas, Rosa Ordaz, and Steven Smalley) and none (0) opposed to grant to Lee Dearborn, Jr. 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 residential structure by constructing an attached 17.9' by 7.7' single-story shed in the required side-yard setback at 32 Buffum 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 plans and dimensions must be approved by the Board of Appeals, unless such changes are deemed a minor field change by the Building Commissioner in consultation with the Chair of the Board of Appeals.

**Special Conditions:**

1. Petitioner shall maintain clear means of egress to Unit 2 that is separated from the proposed garden shed and is built per plans approved by the Building Commissioner.

  
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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.