



CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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

KIMBERLEY DRISCOLL
MAYOR

February 4, 2022

Decision

City of Salem Board of Appeals

2022 FEB -4, AM 9:20
CITY CLERK
SALEM, MASS

The petition of AGUIMAR DESOUZA at 410 LORING AVENUE (Map 30, Lot 60) (R-1 Zoning District) for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add two (2) dormers to increase the ceiling height and construct two (2) bedrooms and a bathroom. The Petitioner also seeks to add a new gutter system.

A public hearing on the above Petition was opened on January 19, 2022. The public hearing was closed on January 19, 2022.

On January 19, 2022, the following members of the Salem Board of Appeals were present: Peter Copelas, Mike Duffy (chair), Rosa Ordaz, Carly McClain and Paul Viccica.

The petitioner seeks a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add two (2) dormers to increase the ceiling height and construct two (2) bedrooms and a bathroom. The Petitioner also seeks to add a new gutter system.

Statements of Fact:

The petition is date stamped May 20, 2021. The petitioner has requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to add two (2) dormers to increase the ceiling height and construct two (2) bedrooms and a bathroom. The Petitioner also seeks to add a new gutter system.

1. 410 Loring Avenue is owned by Maribel Nunez.
2. The Petitioner's name is Aguimar Desouza
3. 410 Loring Avenue is located in a R1 zoning district. (Map 30, Lot 60)
4. The requested relief, if granted, would allow the Petitioner to construct two (2) dormers to increase the height of the 3rd floor. In addition, the relief

- would allow for two (2) bedrooms and a bathroom to be constructed. A new gutter system would be installed as well.
5. On January 19, 2022, Marcos Serino and Agui Desouza presented the petition for 410 Loring Avenue to the Board.
 6. 410 Loring Avenue is currently used as two-family unit. The homeowners live on the second floor and currently rent out the first floor. The petitioner states that the owner would like to utilize the attic for room to assist with the size of the family and help with accommodations for their child who has special needs.
 7. Maribel Nunez, the homeowner, spoke to why the relief is being requested. Again, it is to increase the space the family has access to, as well as, getting more space for their child who has special needs.
 8. Agui Desouza spoke to the board and explained that they have repeatedly been in communication with the Building Department about their plans and have been following input from the Building Department. He spoke to all the changes that were recommended by the Building Department and have made them in the plans. He was clear that this in no way was going to be an additional unit for possible renters or otherwise.
 9. Chair Duffy opened up the meeting for questions from the board.
 10. At that time, no members of the board had any questions.
 11. There were no (o) letters submitted for approval of the petition from abutters.
 12. There were no (o) members of the public that called in for this petition.
 13. Paul Viccicia and Peter Copelas expressed concern that there was not a plot plan submitted with the plans and elevations and that a plot plan is required for an application.
 14. Mr. Viccica wanted to verify that the porch on the back of the house was not going to increase in size and encroach on any setbacks for the property. Agui Desouza commented that the construction is completely within the same footprint as the existing structure. Also, that they would not be working on the first or second floor decks.
 15. Chair Duffy addressed the statement of grounds from the petitioner and how the construction is a modest and simple structure with minimal impacts on the neighborhood.
 16. 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 December 15, 2021 meeting of the Board of Appeals was held remotely, via the online platform Zoom.

Special Permit Findings:

The Board finds that the proposed modifications will not be substantially more detrimental than the existing nonconforming use to the neighborhood and that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City and the neighborhood:

1. Social, economic, or community needs were served by this petition.
2. Traffic flow and safety, including parking and loading: there will no impact on traffic or parking.
3. Adequate utilities and other public services: The petition will not impact utilities or public services.
4. Impacts on the natural environment, including drainage: No negative impact would be expected.
5. Neighborhood character: The project will be in keeping with and improving the residential neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment. There will be positive fiscal impact on the city or its tax base.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Peter Copelas, Rosa Ordaz, Mike Duffy (chair), Carly McClain and Paul Viccica) and none (0) opposed to grant AGUIMAR DESOUZA a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to construct two (2) dormers to increase the ceiling height and construct two (2) bedrooms and a bathroom. The Petitioner also seeks to add a new gutter system.

Receiving five (5) in favor votes, the petition for a special permit is approved.

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.

A handwritten signature in black ink that reads "Mike Duffy / DC". The signature is written in a cursive style and is positioned above a horizontal line.

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.