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CITY CLERK
SALEM, MASS

December 1, 2020

Decision

City of Salem Board of Appeals

Petition of TIMOTHY DAIGLE for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance from minimum width of side yard to expand a nonconforming single-family home by adding a second-story rear shed dormer within the required side yard setback to the single-family home at 7 HAYES ROAD (Map 22, Lot 172) (R1 Zoning District).

A public hearing on the above Petition was opened on October 21, 2020 pursuant to M.G.L Ch. 40A, § 11 and closed on that date with the following Board members present: Peter A. Copelas, Mike Duffy (Chair), Jimmy Tsitsinos, Paul Viccica, and Steven Smalley (Alternate). Rosa Ordaz and Carly McClain (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 from minimum width of side yard to expand a nonconforming single-family home by adding a second-story rear shed dormer within the required side yard setback to the single-family home at 7 Hayes Road.

Statements of Fact:

1. In the petition date-stamped September 29, 2020, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* to “expand a nonconforming single-family home” at 7 Hayes Road. The proposal is to “add a shed dormer to the second floor of the back of [the] home.”
2. 7 Hayes Road is owned by petitioner Timothy Daigle as well as Alexa Williamson.
3. 7 Hayes Road is a single-family home in the Residential One-Family (R1) zoning district. This is an allowed use in the district.
4. 7 Hayes Road is nonconforming to dimensional requirements including at least minimum lot area and minimum width of side yard.
5. The proposal is to modify and expand this nonconforming single-family home by adding a rear, second-story shed dormer. The dormer would fall partly within the existing nonconforming left-side setback.
6. The requested relief, if granted, would allow the petitioner to expand a nonconforming single-family home by adding a second-story rear shed dormer within the required side yard setback at 7 Hayes Road.

7. 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 October 21, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
8. Due to an issue with the Zoom webinar platform preventing access via Zoom toll-free dial-in numbers, no testimony was heard on petitions in the September 16, 2020 meeting. Applicants were informed of the opportunity to request to continue to a special meeting to be held later in the month (determined during the September 16 meeting to be September 29, 2020) or to the regularly scheduled meeting on October 21, 2020.
9. At the October 21, 2020 public hearing, petitioner Timothy Daigle discussed the proposal. He noted that the home has an unfinished attic space and that he would like to add a shed dormer to make it more livable. He expressed that this is the last home on the street that has not created livable space on the second floor. He stated that the proposal would improve the look of the home and the neighborhood overall. Chair Duffy asked whether anything else would change under the proposal, and asked whether the setbacks are already nonconforming. Mr. Daigle confirmed.
10. At the October 21, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the proposal.
11. At the October 21, 2020 public hearing, Chair Duffy asked how the space would be used. Mr. Daigle noted it would be a master bedroom with bathroom and what could be a small bedroom but will be a small office. 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 work will make attic space usable, livable space.
2. Traffic flow and safety, including parking and loading: No negative impact is expected.
3. Adequate utilities and other public services already service the structure.
4. Impacts on the natural environment, including drainage: No significant impact is expected.
5. Neighborhood character: The project is in keeping with the neighborhood character; others in the neighborhood have made similar second-story additions.
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.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Jimmy Tsitsinos, Paul Viccica, Peter Copelas, Mike Duffy (Chair), and Steven Smalley) and none (0) opposed to grant to **Timothy Daigle** a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance from minimum width of side yard to expand a nonconforming single-family home by adding a second-story rear shed dormer within the required side yard setback to the single-family home at **7 Hayes Road**, 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, 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.