



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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CITY CLERK  
SALEM, MASS.

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September 1, 2021

## Decision

### City of Salem Board of Appeals

**Petition of AISHA STRAUSS for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand an existing single-family home by adding a second story above the existing garage and expanding an existing side porch at 7 RIVERWAY ROAD (Map 31, Lot 244) (RC Zoning District).**

A public hearing on the above petition was opened on August 18, 2021, pursuant to M.G.L Ch. 40A, § 11, and closed on that date with the following board members present: Mike Duffy (Chair), Paul Viccica, Rosa Ordaz, Carly McClain, and Steven Smalley (Alternate). Peter Copelas was 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 an existing single-family home by adding a second story above the existing garage and expanding an existing side porch at 7 Riverway Road.

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

1. In the petition date-stamped July 29, 2021, the petitioner requested a special permit per Section 3.3.5. of the Zoning Ordinance to, “[expand] an existing nonconforming structure”.
2. 7 Riverway Road is owned by the petitioner, Aisha Strauss.
3. 7 Riverway Road is a single-family home in the Residential Conservation (RC) zoning district. This is a conforming use in the RC district.
4. The property is nonconforming to dimensional requirements including minimum lot area, minimum lot area per dwelling unit, minimum depth of front yard, and minimum width of side yard.
5. The proposal is to expand the existing structure by adding a second story above the existing garage and expanding an existing side porch.
6. The plans submitted to the board (prepared by Livermore Architecture, Inc. and dated 07/15/21) show that the proposed second story above the garage would not extend above the existing roof ridge height, and the proposed porch would extend approximately three (3) feet and seven (7) inches closer than the existing porch towards the side lot line.

7. The requested relief, if granted, would allow the petitioner to expand an existing single-family home by adding a second story above the existing garage and expanding an existing side porch at 7 Riverway Road.
8. 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 August 18, 2021, meeting of the Board of Appeals was held remotely, via the online platform Zoom.
9. At the August 18, 2021, public hearing the petitioner was represented by architect Stephen Livermore of Livermore Architecture, Inc. (office at 53 Mason Street, Suite 204, Salem, MA). Mr. Livermore discussed the proposal, noting the proposal is to add a second story above the existing garage to make space for a master bedroom, and expand the existing porch outward about four (4) feet.
10. At the August 18, 2021, public hearing, board member Carly McClain noted that the application materials indicate the porch expansion will utilize existing footings. The petitioner's architect, Stephen Livermore, confirmed this was true. Mr. Livermore stated that a previous owner had decreased the size of the porch, and this proposal would use those old footings that were left in the ground and return the porch to a prior footprint.
11. At the August 18, 2021, public hearing, the petitioner, Aisha Strauss, stated she had discussed the proposal with the City of Salem's Conservation Agent, Kate Kennedy. Prior to the start of the public hearing on August 18, 2021, Ms. Strauss had submitted to the board a copy of an email from Ms. Kennedy that stated in part: "With the existing original foundation this will not require further conservation commission review".
12. At the August 18, 2021, public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
13. At the August 18, 2021, public hearing, the Board discussed the proposal. Chair Duffy stated that although the proposal would increase the usable space inside the structure the proposal is not increasing the footprint into any of the required front, side, or rear setbacks. 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. This adds internal usable space to an existing residential property. The proposal would not diminish the existing residential use and would enhance the value of this property.
2. Traffic flow and safety, including parking and loading: No impact is expected. The use and parking will remain the same.
3. Adequate utilities and other public services already service the structure.
4. Impacts on the natural environment, including drainage: No negative impact is expected; there is no increase to the footprint of the house and no indication that there will be a negative effect. The applicant provided testimony and material evidence that the Conservation Agent reviewed the proposal and deemed it did not require any review by the Conservation Commission.
5. Neighborhood character: The project is in keeping with the neighborhood character.
6. Potential fiscal impact, including impact on City tax base and employment: There is a potential positive fiscal impact by increasing the value of the property.

On the basis of the above statements of fact and findings, the Salem Board of Appeals **voted five (5) in favor (Paul Viccica, Mike Duffy (Chair), Rosa Ordaz, Steven Smalley, Carly McClain) and none (0) opposed** to grant to Aisha Strauss a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance to expand an existing single-family home by adding a second story above the existing garage and expanding an existing side porch at **7 Riverway 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. Unless this Decision expressly provides otherwise, any zoning relief granted does not empower or authorize the Petitioner to demolish or reconstruct the structure(s) located on the subject property to an extent of more than fifty percent (50%) of its floor area or more than fifty percent (50%) of its replacement cost at the time of destruction. If the structure is demolished by any means to an extent of more than fifty percent (50%) of its replacement cost or more than fifty percent (50%) of its floor area at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the Ordinance.
10. All construction shall be done per the plans and dimensions, submitted to and approved by this Board, as amended. Any modification to the plans and dimensions must be approved by the Board of Appeals, 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 / LM*

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.