



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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

September 1, 2021

Decision

City of Salem Board of Appeals

Petition of MATHEW POLUMBO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance from maximum height of buildings (stories) to expand a nonconforming two-family home by adding a dormer at 90 BROADWAY (Map 32, Lot 43) (R2 and ECOD Zoning Districts).

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 from maximum height of buildings (stories) to expand a nonconforming two-family home by adding a dormer at 90 Broadway.

Statements of Fact:

1. In the petition date-stamped June 29, 2021, the petitioner requested a special permit per Section 3.3.5 of the Zoning Ordinance in order to, "alter and [sic] existing 2-family residential structure".
2. 90 Broadway is owned by the petitioner Mathew Polumbo.
3. 90 Broadway is a two-family home in the Residential Two-Family (R2) zoning district and Entrance Corridor Overlay District (ECOD). This is a conforming use in the R2 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 modify the existing structure by adding a shed dormer to the southern side of the existing gable roof.
6. The plans submitted to the board (prepared by Seger Architects and dated June 28, 2021) show the proposed shed dormer would not extend beyond the existing structure's footprint or above the existing structure's roof line.

2021 SEP -1 AM 11:21
CITY CLERK
SALEM, MASS.

7. The requested relief, if granted, would allow the petitioner to expand a nonconforming two-family home by adding a shed dormer to the existing gable roof, converting what was an existing two and one-half (2.5) story home into a three (3) story home. The maximum height of buildings (stories) in the Residential Two-Family (R2) zoning district is two and one-half (2.5). The applicant correctly requested a special permit according to Section 3.5.5. *Nonconforming Single- and Two-Family Residential Structures* to alter an existing nonconforming structure.
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, Mathew Polumbo, was represented by attorney Bill Quinn. Mr. Quinn discussed the proposal. Mr. Quinn described how the steep pitch of the existing roof diminishes the livability of the third floor. He stated the proposed shed dormer would not extend beyond the existing structure's footprint, or above the existing structure's roof ridge line. Mr. Quinn stated the structure has two residential dwelling units, and the proposal would not change that use.
10. At the August 18, 2021, public hearing Sanir Lutfija of Seger Architects presented the plans and drawings.
11. At the August 18, 2021, public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
12. At the August 18, 2021, public hearing, the Board discussed the proposal. Chair Duffy stated that the proposal seemed to be a straightforward request. 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 increase the use of the house and specifically make the third floor of the house more usable.
2. Traffic flow and safety, including parking and loading: No impact is expected since there is no increase in bedrooms or dwelling units.

3. Adequate utilities and other public services already service the structure.
4. Impacts on the natural environment, including drainage: No negative impact is expected; the proposal will not increase the overall height or footprint of the existing structure.
5. Neighborhood character: The project is in keeping with the neighborhood character. This is a rather minor expansion.
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 five (5) in favor (Mike Duffy (Chair), Carly McClain, Paul Viccica, Rosa Ordaz, Steven Smalley (Alternate)) and none (0) opposed** to grant to Mathew Polumbo a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance from maximum height of buildings (stories) to expand a nonconforming two-family home by adding a dormer at **90 Broadway**, 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.