



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS BOARD OF APPEALS

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

2020 DEC 30 AM 11:30
CITY CLERK
SALEM, MASS

December 28, 2020

Decision

City of Salem Board of Appeals

Petition of JOEL AND CATHY VOTTO for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance from minimum depth of front yard to expand an existing single-family home by constructing an attached two-car garage within the front yard setback at 9 WINTER ISLAND ROAD (Map 44, Lot 20) (R1 Zoning District).

A public hearing on the above Petition was opened on December 16, 2020 pursuant to M.G.L. Ch. 40A, § 11 and closed on that date with the following Zoning Board of Appeals members present, Mike Duffy (Chair), Rosa Ordaz, Paul Viccica, Carly McClain (Alternate), and Steven Smalley (Alternate). Board members Peter A. Copelas and Jimmy Tsitsinos were absent.

The petitioner seeks a variance per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* from minimum depth of front yard to expand an existing single-family home by constructing an attached two-car garage within the front yard setback at 9 Winter Island Road.

Statements of Fact:

1. In the petition date-stamped November 24, 2020, the petitioner requested a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* and a variance per "Section 4.0 *Dimensional Requirements*".
2. On November 23, 2020 the petitioner's representative, Susan St. Pierre, emailed Staff Planner, Brennan Corrison asking whether the proposal would necessitate a special permit or a variance. Mr. Corrison explained that the proposal will only require a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* and no variance is required.
3. 9 Winter Island Road is owned by petitioners Joel Votto and Cathy Votto. The petitioners were represented by Susan St. Pierre.
4. 9 Winter Island Road is a single-family home located in the Residential One-Family (R1) zoning district.
5. The property is nonconforming to dimensional requirements including at least minimum lot area.
6. The proposal is to build an attached twenty four (24) foot by thirty (30) foot two-car garage of the west side of the existing home. Section 4.1.1 *Table of Dimensional Requirements* of the



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Zoning Ordinance requires a minimum depth of front yard of 15 feet in the Residential One-Family (R1) zoning district. The submitted application and plans show the proposed garage would be five point three (5.3) feet from the front lot line.

7. The requested relief, if granted, would allow the petitioner to expand a nonconforming one-family home by building an attached two-car garage to the existing home.
8. 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 16, 2020 meeting of the Board of Appeals was held remotely, via the online platform Zoom.
9. At the December 16, 2020 public hearing, property owner Joel Votto and Susan St. Pierre discussed the proposal. The petitioners provided photos of the existing house and plans of the proposed changes. Mr. Votto and Ms. St. Pierre explained that a portion of the property falls under Chapter 91 jurisdiction, where "you cannot put any water-dependent structures or facilities of private tenancy". Mr. Votto explained that other homes in the neighborhood have garages "with very little setback". Susan St. Pierre showed aerial images of the neighborhood, showing how many of the other homes in the neighborhood are very close to the front lot lines.
10. At the December 16, 2020 public hearing, Mike Duffy noted that the east side of the house consists of a master bedroom, so constructing the garage off that side of the house would not make sense. Chair Duffy stated that the presence of the Chapter 91 line constrains greatly what can be done on the property.
11. Chair Duffy read the Statement of Hardship from the petition date-stamped November 24, 2020.
12. At the December 16, 2020 public hearing, no (0) members of the public spoke in favor of or in opposition to the petition.
13. At the December 16, 2020 public hearing Paul Viccica noted that there is precedent to encroach on the front yard setback since there are many houses in the neighborhood that are close to the lot line. Chair Duffy noted that the petition date-stamped November 24, 2020, the petitioner included a Statement of Hardship even though the Legal Advertisement only indicates a special permit. Susan St. Pierre explained that initially the petitioners were unsure whether they were seeking a variance or a special permit so they applied for both. St. Pierre explained that after consulting with City of Salem Planning staff, it was decided they only needed to pursue a special permit.



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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. A majority of the properties on the street have much less than a fifteen-foot setback.
2. Traffic flow and safety, including parking and loading: No negative impact is expected, and the addition of a garage will allow the owners to park their vehicles in a garage.
3. Adequate utilities and other public services already service the structure. There is adequate space on the property of trash and recycling bins.
4. Impacts on the natural environment, including drainage: The addition of the garage will create impervious area, but it will replace an existing driveway that is already impervious. Landscaping will be added.
5. Neighborhood character: The addition of the garage is in character with the rest of the neighborhood that already includes some garages.
6. Potential fiscal impact, including impact on City tax base and employment: There is no fiscal impact other than the improvement of the property.

On the basis of the above statements of fact and findings, the Salem Board of Appeals voted five (5) in favor (Rosa Ordaz, Carly McClain, Steven Smalley, Mike Duffy (Chair), and Paul Viccica) and none (0) opposed to grant to **Joel and Cathy Votto** for a special permit per Section 3.3.5 *Nonconforming Single- and Two-Family Residential Structures* of the Salem Zoning Ordinance from minimum depth of front yard to expand an existing single-family home by constructing an attached two-car garage within the front yard setback at **9 Winter Island 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.

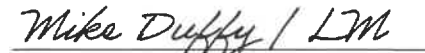


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2. All construction shall be done as per the plans and dimensions submitted to and approved by the building commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner 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. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
7. 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.